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A motion to reconsider was laid on the table.

**ESTABLISHING A COMMISSION ON STRUCTURAL ALTERNATIVES FOR FEDERAL COURTS OF APPEAL**

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 908) to establish a Commission on Structural Alternatives for the Federal Courts of Appeals, as amended.

The Clerk read as follows:

H.R. 908

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

**SECTION 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.**

(a) **ESTABLISHMENT.**—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) **FUNCTIONS.**—The functions of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal Court of Appeals system, with particular reference to the Ninth Circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

**SEC. 2. MEMBERSHIP.**

(a) **COMPOSITION.**—The Commission shall be composed of 10 members appointed as follows:

(1) One member appointed by the President of the United States.

(2) One member appointed by the Chief Justice of the United States.

(3) Two members appointed by the Majority Leader of the Senate.

(4) Two members appointed by the Minority Leader of the Senate.

(5) Two members appointed by the Speaker of the House of Representatives.

(6) Two members appointed by the Minority Leader of the House of Representatives.

(b) **APPOINTMENT.**—The members of the Commission shall be appointed within 60 days after the date of the enactment of this Act.

(c) **VACANCY.**—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(d) **CHAIR.**—The Commission shall elect a Chair and Vice Chair from among its members.

(e) **QUORUM.**—Six members of the Commission shall constitute a quorum, but 3 may conduct hearings.

**SEC. 3. COMPENSATION.**

(a) **IN GENERAL.**—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

(b) **PRIVATE MEMBERS.**—Members of the Commission from private life shall receive \$200 for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

**SEC. 4. PERSONNEL.**

(a) **EXECUTIVE DIRECTOR.**—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) **STAFF.**—The Executive Director, with the approval of the Commission, may appoint and fix the compensation of such additional personnel as the Executive Director determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS-15 of the General Schedule under section 5108 of title 5, United States Code.

(c) **EXPERTS AND CONSULTANTS.**—The Executive Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) **SERVICES.**—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services to the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services to the Commission on a reimbursable basis.

**SEC. 5. INFORMATION.**

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance the Commission determines necessary to carry out its functions under this Act. Each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

**SEC. 6. REPORT.**

No later than 18 months following the date on which its sixth member is appointed in accordance with section 2(b), the Commission shall submit its report to the President and the Congress. The Commission shall terminate 90 days after the date of the submission of its report.

**SEC. 7. CONGRESSIONAL CONSIDERATION.**

No later than 60 days after the submission of the report, the Committees on the Judiciary of the House of Representatives and the Senate shall act on the report.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Commission such sums, not to exceed \$900,000, as may be necessary to carry out the purposes of this Act. Such sums as are appropriated shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule the gentleman from North Carolina [Mr. COBLE] and the gentlewoman from California [Ms. LOFGREN], each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. COBLE].

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

[Mr. COBLE asked and was given permission to revise and extend his remarks.]

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 908, a bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals.

An amended version of this bill is presented for passage under suspension of the rules. The amendment to the reported bill makes the following changes:

It reduces the time established in the bill, as introduced, in which the commission must come to a conclusion to 18 months from the appointment of the sixth member of the commission as opposed to 2 years from enactment.

Second, due to the reduction in time, funding for the commission is reduced from \$1.3 million to \$900,000, \$500,000 of which has already been appropriated.

And third, the size of the commission will be reduced from 12 members to 10 members with 2 members being appointed by each of the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House. Additionally the President and the Chief Justice of the Supreme Court will appoint one member each.

H.R. 908 was introduced in response to recurring attempts to divide the largest of the Federal judicial circuits, the ninth.

□ 1430

However, if properly implemented, the commission proposal represents a sound approach to a problem of national concern, and that is the explosive growth in the caseload of all of the courts of appeals.

The time is right, it seems to me, for a careful, objective study aimed at determining whether that structure can adequately serve the needs of the 21st century. The task of the commission would be to carry out that study.

The proposed commission would be the first of its kind since the Commission on Revision of the Federal Court Appellate System, also known as the Hruska Commission, which completed its work in 1975, or more than two decades ago. Needless to say, dramatic changes have taken place in the work of the Federal courts in those two decades, but there have been no structural alterations except for the division of the old fifth circuit and the creation of the Court of Appeals for the Federal Circuit.

As I have indicated, under the amended version of H.R. 908, the commission will have 18 months to carry out its work. It also includes a requirement that the initial appointments to the commission be made within 60 days of the date of enactment. That will help to assure that the process will not be delayed unduly. The study is a responsible method to evaluate any prospective split in the ninth circuit and is generally overdue.

Now, Mr. Speaker, I want to add as well that this is not to be exclusively restricted to the ninth circuit. This commission, hopefully, will examine the entire system and come back with a recommendation that the commission deems appropriate.

Many people have been involved in this. We have compromised here and there. It was initially designed to be a 2-year study. That has been reduced to 18 months. So many people have given and taken on this, and I think it is, in its present form, a good bill and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

H.R. 908, as the chairman has just outlined, creates a commission to study the structural alternatives for the Federal appellate court system. With the expanding caseload in our Federal courts, there is concern throughout the Nation and in the circuits, and nowhere has that concern been greater than in the ninth circuit, composed of my home State of California, as well as the States of Oregon, Washington, Idaho, Montana, Nevada, Arizona, Alaska, and Hawaii.

As the chairman has mentioned, increases in the number of filings in the Federal courts have greatly outpaced the growth in the Federal judiciary and has greatly enlarged the caseload of each judge, often to more than manageable levels. As we approach the next century, I think it is entirely appropriate to examine the structure of the Federal judiciary, and I strongly support this legislation.

While it is true that the initial impetus for this bill were proposals to split the ninth circuit, the proposed commission actually has a broader mandate, as the chairman has just outlined, than studying the ninth circuit. In fact, as we enter the 21st century, we need to take a look at the entire range of possibilities.

Certainly the commission could make a recommendation to split one of the circuits, to reconfigure the circuits and the Congress could follow the Commission's recommendation or be free to choose another alternative. But whatever we intend to do, I know that we will be better off with the expert advice that this commission will provide to us. It is always better to have good, thoughtful, expert advice than to simply move forward, especially in dealing with the judiciary.

So I am happy to join the chairman of the committee and my colleagues on

the Committee on the Judiciary in urging support for the passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. COBLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], the chairman of the House Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time. I am strongly in support of H.R. 908. It was reported unanimously by the Committee on the Judiciary and addresses in a comprehensive manner and in a bipartisan manner some of the concerns that exist about the Federal court system.

This bill creates a Commission on Structural Alternatives for the Federal Courts of Appeals. In 1990, the Federal Courts Study Committee that had been created by statute in 1988 concluded the appellate courts were experiencing a crisis of volume. The study committee expressed the view that—

Within as few as 5 years, the Nation would have to decide whether or not to abandon the present circuit structure in favor of an alternative structure that might better organize the more numerous appellate judges needed to grapple with the swollen caseload.

The committee's report presented several structural alternatives, but did not endorse any of them. Instead, it called for further inquiry and discussion. The proposed commission would thus take up where the Federal Court Study Committee left off.

It is important to note that recent statistics reflect the fact that in fiscal 1996, the number of appeals filed in the 12 regional courts of appeals rose 4 percent to 51,991. This is an all-time high in filings, with eight circuits reporting increases. Clearly, this study the committee proposed in H.R. 908 could not be more timely.

The goal of the commission will be to study the entire Federal appellate court system, but, of course, with a particular view toward addressing the problems facing the largest and most diverse circuit we have, the ninth. The bipartisan structure of the commission is designed to guarantee a fair process, give credibility to the commission's recommendations and ensure the integrity of the Federal court system. We cannot subject something as important as the structure of our courts to political gamesmanship or predetermine the commission's recommendations.

Problems do exist in the size and makeup of the ninth circuit, and the committee is convinced that the commission established in this bill will examine these problems in an equitable fashion. The study called for in H.R. 908 is a responsible method to evaluate the structure of the Federal appellate courts and make recommendations that can provide a sound foundation for congressional action in the future, and so I strongly urge my colleagues to vote in favor of H.R. 908.

Mr. COBLE. Mr. Speaker, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I want to thank my good friend, the gentleman from North Carolina [Mr. COBLE], for yielding me this time and for working so hard. I do believe I had something to do with this working on a compromise between the gentleman from Montana [Mr. HILL], and of course the chairman of the committee itself.

I strongly support H.R. 908, but I want to talk about the ninth circuit itself. It is an empire. A lot of people do not understand this. It covers a land mass the size of Western Europe, including nine States and two territories. It serves over 15 million people, more than our largest city, larger than New York or Los Angeles. It is a monstrous responsibility, and it is a court that is overburdened at this time.

If I can say another thing about Alaska. Sometimes I think one of the reasons it is overburdened is they take cases that mean very little. We have a highway that we would like to extend 2½ miles, that everybody agrees with in the State of Alaska, including the State itself and all those people in the small community, with a railroad that goes through a tunnel at this time. And because the trustees of Alaska filed a suit, the ninth circuit decided to hold up construction for 6 months.

Now, this is an example of a court being out of touch with the people of America and the people they represent. Not judicially. They had to review.

So I suggest one thing. I would like to split the court. This bill does not do that. I am the extreme. I think the court should be split at this time so it serves the people as a whole, not to guard massive cities. But I cannot do this.

So this bill right now is a compromise to set up the commission to establish what I think they will find out, that I am correct, that the court should be split. It is the right thing, and I urge the passage of this legislation.

Mr. COBLE. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. HILL].

Mr. HILL. Mr. Speaker, I rise today in strong support of House Resolution 908, and I want to thank particularly the gentleman from Illinois [Mr. HYDE] and the gentleman from North Carolina [Mr. COBLE] and their staffs for their work in bringing this revised version of House Resolution 908 to the floor. I especially want to thank the gentleman from North Carolina for accommodating my concerns and the people of Montana.

Mr. Speaker, justice delayed is justice denied. We need to study the problems of the Ninth Circuit Court and address the concerns that Montanans have expressed to me, that they are not obtaining the same level of judicial

consideration as residents of other circuits.

Considering the size of the circuit, the Ninth Circuit is comprised not only of Montana but eight other States and two principalities. The Ninth Circuit Court is about twice the size of the next circuit court in both population and geography. The caseload is among the highest. It is the fastest growing area of the Nation and the time to complete an average appeal is more than 14 months, which is 4 months longer than the national average. Its 28 judges are about twice the recommended number for an appellate court.

Mr. Speaker, I have worked hard and will continue to work with other Members of Congress to address this problem. The sooner we study the problems of the Ninth Circuit Court, the sooner Montanans' justice will be neither denied nor delayed.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that although there may be at this point different hunches on how we are going to go, there is unanimity that this bill before us today should be supported and will yield good and thoughtful answers to the Congress as we struggle to make our appellate court system work very well for all Americans.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from North Carolina [Mr. COBLE] that the House suspend the rules and pass the bill, H.R. 908, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT OF 1997

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1420) to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1420

*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 "National Wildlife Refuge System Improvement Act of 1997".

(b) REFERENCES.—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 con-

sidered to be made to a section or provision of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The National Wildlife Refuge System is comprised of over 92,000,000 acres of Federal lands that have been incorporated within 509 individual units located in all 50 States and the territories of the United States.

(2) The System was created to conserve fish, wildlife, and plants and their habitats and this conservation mission has been facilitated by providing Americans opportunities to participate in compatible wildlife-dependent recreation, including fishing and hunting, on System lands and to better appreciate the value of and need for fish and wildlife conservation.

(3) The System serves a pivotal role in the conservation of migratory birds, anadromous and interjurisdictional fish, marine mammals, endangered and threatened species, and the habitats on which these species depend.

(4) The System assists in the fulfillment of important international treaty obligations of the United States with regard to fish, wildlife, and plants and their habitats.

(5) The System includes lands purchased not only through the use of tax dollars but also through the proceeds from sales of Duck Stamps and national wildlife refuge entrance fees. It is a System that is financially supported by those benefiting from and utilizing it.

(6) When managed in accordance with principles of sound fish and wildlife management and administration, fishing, hunting, wildlife observation, and environmental education in national wildlife refuges have been and are expected to continue to be generally compatible uses.

(7) On March 25, 1996, the President issued Executive Order 12996, which recognized "compatible wildlife-dependent recreational uses involving hunting, fishing, wildlife observation and photography, and environmental education and interpretation as priority public uses of the Refuge System".

(8) Executive Order 12996 is a positive step and serves as the foundation for the permanent statutory changes made by this Act.

#### SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 5 (16 U.S.C. 668ee) is amended to read as follows:

##### "SEC. 5. DEFINITIONS.

"For purposes of this Act:

"(1) The term 'compatible use' means a use of a refuge that, in the sound professional judgment of the Director, will not materially interfere with or detract from the fulfillment of the mission of the System or the purposes of the refuge.

"(2) The terms 'wildlife-dependent recreation' and 'wildlife-dependent recreational use' mean a use of a refuge involving hunting, fishing, wildlife observation and photography, or environmental education and interpretation.

"(3) The term 'sound professional judgment' means a finding, determination, or decision that is consistent with principles of sound fish and wildlife management and administration, available science and resources, and adherence to the requirements of this Act and other applicable laws.

"(4) The terms 'conserving', 'conservation', 'manage', 'managing', and 'management', mean to sustain and, where appropriate, restore and enhance, healthy populations of fish, wildlife, and plants utilizing, in accordance with applicable Federal and State laws, methods and procedures associated with modern scientific resource programs. Such methods and procedures include, consistent

with the provisions of this Act, protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking.

"(5) The term 'Coordination Area' means a wildlife management area that is made available to a State—

"(A) by cooperative agreement between the United States Fish and Wildlife Service and a State agency having control over wildlife resources pursuant to section 4 of the Fish and Wildlife Coordination Act (16 U.S.C. 664); or

"(B) by long-term leases or agreements pursuant to title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010 et seq.).

"(6) The term 'Director' means the Director of the United States Fish and Wildlife Service or a designee of that Director.

"(7) The terms 'fish', 'wildlife', and 'fish and wildlife' mean any wild member of the animal kingdom whether alive or dead, and regardless of whether the member was bred, hatched, or born in captivity, including a part, product, egg, or offspring of the member.

"(8) The term 'person' means any individual, partnership, corporation, or association.

"(9) The term 'plant' means any member of the plant kingdom in a wild, unconfined state, including any plant community, seed, root, or other part of a plant.

"(10) The terms 'purposes of the refuge' and 'purposes of each refuge' mean the purposes specified in or derived from the law, proclamation, executive order, agreement, public land order, donation document, or administrative memorandum establishing, authorizing, or expanding a refuge, refuge unit, or refuge subunit.

"(11) The term 'refuge' means a designated area of land, water, or an interest in land or water within the System, but does not include Coordination Areas.

"(12) The term 'Secretary' means the Secretary of the Interior.

"(13) The terms 'State' and 'United States' mean the several States of the United States, Puerto Rico, American Samoa, the Virgin Islands, Guam, and the territories and possessions of the United States.

"(14) The term 'System' means the National Wildlife Refuge System designated under section 4(a)(1).

"(15) The terms 'take', 'taking', and 'taken' mean to pursue, hunt, shoot, capture, collect, or kill, or to attempt to pursue, hunt, shoot, capture, collect, or kill."

(b) CONFORMING AMENDMENT.—Section 4 (16 U.S.C. 668dd) is amended by striking "Secretary of the Interior" each place it appears and inserting "Secretary".

#### SEC. 4. MISSION OF THE SYSTEM.

Section 4(a) (16 U.S.C. 668dd(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) in clause (i) of paragraph (6) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (5)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) The mission of the System is to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans."

#### SEC. 5. ADMINISTRATION OF THE SYSTEM.

(a) ADMINISTRATION GENERALLY.—Section 4(a) (16 U.S.C. 668dd(a)), as amended by section 4 of this Act, is further amended by inserting after new paragraph (2) the following new paragraphs: