

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5578 SSTA HJR 44 - HJR 67

CS HJR 44 (Judiciary)

Page 3

HJR 44 requires a two-thirds vote of both the House and the Senate, and the signature of the Governor to place it before the voters in November. I would appreciate your careful review and consideration of this measure. Please call me at -4998 if you have any questions or concerns. Thank you.

Attachments

By Brown, Ellis, Frank, Davis, Cotten,
Navarre, Pourchot, Boyer, Koponen,
Boucher, Davidson, Menard and Donley

Prepared by:
Rep. Kay Brown
March 30, 1988

**CS HJR 44 (Judiciary): Proposing an amendment
to the Constitution of the State of Alaska
relating to open meetings**

HJR 44 proposes to amend the State Constitution by:

- mandating legislative adherence to the Open Meetings Act
- providing for court enforcement in the instance of a violation
- requiring that legislative deliberations be open unless the body is meeting in executive session to consider matters authorized by law
- prohibiting a quorum of a legislative body from engaging in private and substantive deliberation on a matter appropriate to that body
- allowing legislative caucuses to meet in private to consider matters of procedure, organization or strategy
- providing for a civil penalty for each instance of a willful violation
- providing that the language permitting executive sessions and caucuses be narrowly construed to avoid unnecessary closed meetings.

HJR 44 includes intent language making it clear that this amendment is not intended to prevent the free flow of ideas among legislators or their participation in public forums, community meetings, or social events.

The proposed language is the work of a number of individuals who began meeting together shortly after the Supreme Court issued its ruling last September.

LEGISLATIVE REPORTING SERVICE (BILL SUMMARY)

Open Meetings
Const. Amend.

HOUSE JOINT RESOLUTION NO. 44, by Reps. Brown, Ellis, Frank, Davis, Cotton, Navarre, Pourchot and Boyer. Proposes amending the AK constitution relating to open meetings law (See SJR 50 this report. Identical.)

Introduced January 15, 1988 and referred to State Affairs and Judiciary.

Open Meetings
Const. Amend.

SENATE JOINT RESOLUTION NO. 50, by Sens. Sturgulewski, Kerttula, Szymanski, Rodey and Josephson. Proposes an amendment to the AK constitution relating to open meetings. Would add a new section to Article I (Declaration of Rights) to read:

SECTION 23. MEETINGS OPEN. The deliberations of each house of the legislature and the deliberations of the committees and subcommittees and of each committee of the whole shall be open to the public unless the legislative body is meeting in executive session to consider matters authorized by law. If a matter is appropriate to a particular legislative body, private and substantive deliberation on the matter by a quorum of that legislative body is a violation of this section. Caucuses of the legislature may meet in private to consider matters of procedure, organization, or strategy.

Section 2 of the resolution states that the purpose of the amendment is "to make openness in government the rule and secrecy the exception. The amendment ensures that the public is not excluded during the substantive deliberative and decision-making stages of the budgetary and lawmaking process." Further states that the existing open meetings law complies with this constitutional amendment, and the amendment provides a basis for judicial enforcement of that law.

If passed by the legislature, the amendment will be placed before the voters at the next general election.

Introduced January 15, 1988 and referred to State Affairs; Judiciary.

Open Meetings
(const. am.)

HOUSE JOINT RESOLUTION NO. 44, (see pages 960;1006;1042; 1078). Reported back to the House February 10, 1988 by State Affairs without recommendation. Concurring: Ulmer (Chair), Donley and Martin. Not concurring: Menard and Davidson recommend it do pass. To Judiciary.

Open Meetings
(const. am.)

HOUSE JOINT RESOLUTION NO. 44, (see pages 960;1006;1042; 1078;1122). Reported back to the House March 28, 1988 by Judiciary recommending it be replaced with a Judiciary substitute and that it do pass. Concurring: Ulmer (V-Chair), Navarre, Cotten, Gruenberg. Not concurring: Taylor signed "do not pass without amendment." The Speaker added a Finance Committee referral. To Finance.

The Judiciary substitute would add a new section to Article I of the Alaska Constitution [Declaration of Rights] to read:

"Section 23. Meetings Open. The deliberations of each house of the legislature and its committees shall be open to the public unless the legislative body is meeting in executive session to consider matters authorized by law. If a matter is appropriate to a particular legislative body, private and substantive deliberation on the matter by a quorum of that legislative body is a violation of this section. A member of the legislature who willfully violates this section is subject to a civil penalty for each wilful violation in an action brought in the superior court. Caucuses of the legislature may meet in private to consider matters of procedure, organization, or strategy. The provisions of this section that permit executive sessions and caucuses shall be narrowly construed to achieve maximum public access and to avoid unnecessary executive sessions and caucuses."

Language explaining the purpose of the constitutional amendment has not been changed by the Judiciary Committee.

Open Meetings
const. am.) HOUSE JOINT RESOLUTION NO. 44, (see pages 960;1006;1042; 1078;1122;1453). Reported back to the House April 7, 1988 by Finance recommending adoption of the Judiciary Committee substitute (see page 1453) and that it do pass. Concurring: Pourchot, Swackhammer, Boyer, Frank, Brown, Davis. Not concurring: Adams (Chair) recommends it do not pass; Wallis, Larson, Goll, and Rieger have no recommendation. Rieger further signed "needs amendment." To Rules.

Alaska State Legislature

INTERIM OFFICE
3111 C STREET, SUITE 535
ANCHORAGE, ALASKA 99503
(907) 561-7614

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714



Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

The Senate CS for CSHJR 44 (State Affairs) makes the following changes from CSHJR 44 (Rules):

In Section 1, line 14: "and substantive deliberation" is replaced with "decision-making".

On line 17, the word "wilful" is deleted.

On line 22, the words "that permit executive sessions and caucuses" are deleted.

On line 23, "to achieve maximum public access and to avoid unnecessary executive sessions and caucuses" is changed to read "to avoid trickery and deception in conducting executive sessions and caucuses."

In Section 2 (a) "the substantive deliberative and decision-making stages of the budgetary and lawmaking process" is changed to "any decision-making stages of the budgetary and lawmaking deliberations of a legislative body."

In subsection (b) "notwithstanding art. II, secs. 6 and 12, Constitution of the State of Alaska" is changed to

"notwithstanding contrary, contravening portions of art. II, secs. 6 and 12, Constitution of the State of Alaska."

In the first sentence of subsection (c), the word "existing" is deleted, and "votes" is changed to "voting procedures".

The second sentence is changed from "For executive sessions, it requires that meetings first be convened as public meetings and the question of holding an executive session be determined by a majority vote of the body" to "All meetings must first be convened as public meetings. The question of holding an executive session is determined by a majority vote of the members in an open meeting when a quorum is present. Reasonable public notices is required for all meetings required to be open."

In subsection (d), "Under existing law" is deleted.

Subsection (e) is changed from "Meetings of less than a quorum of the legislative body that have the purpose or effect of circumventing the open meetings law would also be a violation of this section" to "However, meetings of less than a quorum of a legislative body that have the purpose or effect of decision-making is a violation of this section."

Original sponsors: Brown, Ellis,
Frank, et al.

1 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

2 SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 44 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 open meetings.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. Article I, Constitution of the State of Alaska, is amended
10 by adding a new section to read:

11 SECTION 23. MEETINGS OPEN. (a) Unless the legislature or a
12 committee of the legislature is meeting in executive session to con-
13 sider matters authorized by law, the discussions and debates of each
14 house of the legislature and its committees shall be open to the
15 public.

16 (b) Except as provided in (a) of this section, private and
17 substantive discussions and debates on legislation under its juris-
18 diction by a quorum of a house of the legislature or a committee is
19 prohibited. A court may not prescribe rules or procedures for the
20 conduct of legislative business or invalidate legislation because of a
21 violation of this section. A court may impose a civil fine upon a
22 member of the legislature for a wilful violation of this section and
23 may impose other sanctions which the legislature may authorize. The
24 amount of a civil fine authorized under this section may be estab-
25 lished by law. The legislature may implement this section.

26 * Sec. 2. (a) The purpose of the amendment to art. I, Constitution of
27 the State of Alaska, proposed in sec. 1 of this resolution is to make
28 openness in government the rule and secrecy the exception. The amendment
29 ensures that the public is not excluded during the substantive deliberative

and decision-making stages of the budgetary and lawmaking process.

(b) The amendment provides a basis for judicial enforcement of the existing open meetings law in AS 44.62.310 - 44.62.312 to the extent that the provisions are consistent with the amendment proposed in sec. 1 of this resolution, notwithstanding art. II, secs. 6 and 12, Constitution of the State of Alaska.

(c) This amendment is not intended to prevent the free flow of ideas among legislators or their participation in public forums, community events, site visitations, or social events.

(d) In the preparation of its neutral summary under AS 15.58.020(6)-(C), the Legislative Affairs Agency shall consider the statement of legislative intent contained in (a) - (c) of this section.

* Sec. 3. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

5-1378X .

Bradley
5/3/88

Original sponsors: Brown, Ellis,
Frank, et al.

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 44 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 open meetings.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. Article I, Constitution of the State of Alaska, is amended
10 by adding a new section to read:

11 SECTION 23. MEETINGS OPEN. The deliberations of each house of
12 the legislature and its committees shall be open to the public unless
13 the legislative body is meeting in executive session to consider
14 matters authorized by law. Private decision-making by a quorum of a
15 legislative body on any subject under its jurisdiction is a violation
16 of this section. A member of the legislature who wilfully violates
17 this section is subject to a civil fine for each violation in an
18 action brought in the superior court. A court may not prescribe rules
19 or procedures for the conduct of legislative business. Caucuses of
20 the legislature may meet in private to consider matters of procedure,
21 organization, or strategy. The provisions of this section shall be
22 narrowly construed to avoid trickery and deception in conducting
23 executive sessions and caucuses.

24 * Sec. 2. (a) The purpose of the amendment to art. I, Constitution of
25 the State of Alaska, proposed in sec. 1 of this resolution is to make
26 openness in government the rule and secrecy the exception. The amendment
27 ensures that the public is not excluded during any decision-making stages
28 of the budgetary and lawmaking deliberations of a legislative body.

29 (b) The open meetings law, AS 44.62.310 and 44.62.312, complies with

1 this constitutional amendment and the amendment provides a basis for judi-
2 cial enforcement of that law, notwithstanding contrary, contravening port-
3 ions of art. II, secs. 6 and 12, Constitution of the State of Alaska.

4 (c) The open meetings law requires that voting procedures be
5 conducted in a manner that allows the public to know how members voted.
6 All meetings must first be convened as public meetings. The question of
7 holding an executive session is determined by a majority vote of the mem-
8 bers in an open meeting when a quorum is present. Reasonable public notice
9 is required for all meetings required to be open.

10 (d) A legislative body may use an executive session only to discuss

11 (1) matters, the immediate knowledge of which would clearly have
12 an adverse effect on the finances of the government;

13 (2) subjects which tend to prejudice the reputation and charac-
14 ter of any person, provided the person may request a public discussion; and

15 (3) matters which by law, municipal charter, or ordinance are
16 required to be confidential.

17 (e) This amendment is not intended to prevent the free flow of ideas
18 among legislators or their participation in public forums, community
19 events, or social events. However, meetings of less than a quorum of a
20 legislative body that have the purpose or effect of decision-making is a
21 violation of this section.

22 (f) In the preparation of its neutral summary under AS 15.58.-
23 020(6)(C), the Legislative Affairs Agency shall consider the statement of
24 legislative intent contained in (a) - (e) of this section.

25 * Sec. 3. The amendment proposed by this resolution shall be placed
26 before the voters of the state at the next general election in conformity
27 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
28 tion laws of the state.

5-1378P

Bradley
5/7/88

Original sponsors: Brown, Ellis,
Frank, et al.

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 44 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Proposing an amendment to the Constitu-
6 tion of the State of Alaska relating to
7 open meetings.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. Article I, Constitution of the State of Alaska, is amended
10 by adding a new section to read:

11 SECTION 23. MEETINGS OPEN. (a) Unless the legislature or a
12 committee of the legislature is meeting in executive session to con-
13 sider matters authorized by law, the discussions and debates of each
14 house of the legislature and its committees shall be open to the
15 public. Private and substantive discussions and debates on legis-
16 lation under its jurisdiction by a quorum of a house of the legisla-
17 ture or a committee is prohibited. A private discussion on a matter
18 of organization or strategy is not a substantive discussion or debate.

19 (b) A court may not prescribe rules or procedures for the con-
20 duct of legislative business or invalidate legislation because of a
21 violation of this section. A court may impose a sanction authorized
22 by the legislature upon a member of the legislature for a wilful
23 violation of this section. The legislature may implement this
24 section.

25 * Sec. 2. (a) The purpose of the amendment to art. I, Constitution of
26 the State of Alaska, proposed in sec. 1 of this resolution is to make
27 openness in government the rule and secrecy the exception. The amendment
28 ensures that the public is not excluded during the substantive deliberative
29 and decision-making stages of the budgetary and lawmaking process.

1 (b) The amendment provides a basis for judicial enforcement of the
2 existing open meetings law in AS 44.62.310 - 44.62.312 to the extent that
3 the provisions are consistent with the amendment proposed in sec. 1 of this
4 resolution, notwithstanding art. II, secs. 6 and 12, Constitution of the
5 State of Alaska.

6 (c) This amendment is not intended to prevent the free flow of ideas
7 among legislators or their participation in public forums, community
8 events, site visitations, or social events.

9 (d) In the preparation of its neutral summary under AS 15.58.020(6)-
10 (C), the Legislative Affairs Agency shall consider the statement of legis-
11 lative intent contained in (a) - (c) of this section.

12 * Sec. 3. The amendment proposed by this resolution shall be placed
13 before the voters of the state at the next general election in conformity
14 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-
15 tion laws of the state.
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HJR

47

SENATE COMMITTEE REPORT

FURTHER Finance

3/10/88

DATE TURNED INTO OFFICE 4-18-88

Mr. President:

State Affairs Committee considered CSHJR 47 (FIN)

providing a federal income tax exemption to minors and to the parents or guardians of minors for income earned on reinvested permanent fund dividends

and recommended

replace with _____ CS _____) same title
 or adopt _____ CS _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]
Chairman signature and recommendation

Committee Backup attached

Alaska State Legislature



House of Representatives

REPRESENTATIVE
BETTE CATO

DISTRICT 6
BOX 775
VALDEZ ALASKA 99686
(907) 835-4568

WHILE IN JUNEAU
P O BOX V
JUNEAU ALASKA 99811
(907) 465-4858
(907) 586-2660

COMMITTEES

CHAIRMAN
HOUSE TRANSPORTATION

MEMBER
COMMUNITY AND
REGIONAL AFFAIRS
LEGISLATIVE COUNCIL

TRANSPORTATION
BUDGET SUBCOMMITTEE

MEMORANDUM

TO: The Honorable Mitch Abood, Chairman
and Members of the Committee
Senate State Affairs Committee

FROM: Representative Bette Cato, Chairman *Bette*
House Transportation Committee

DATE: April 18, 1988

RE: HJR 47

I've introduced this resolution because I am concerned about inequities in the federal tax laws, particularly as they affect our children. Many families save their children's permanent fund dividend to establish a "college fund" to help send their kids to school. University tuitions are continually on the rise and our own student loan program is more and more expensive to use. In short, the costs of a postsecondary education today are astronomical. It is natural to desire to send Alaskan youths to school, and individual families saving the child's dividend is a logical step in that process.

Unfortunately, the new tax law makes it difficult for a child to save his or her dividends for school. As the federal law now reads, unearned income over and above \$1000 is taxed at the parent's rate. As dividends continue to grow and interest accrues on past dividends, children who are saving their dividends for school are finding the federal government chewing away at their principal.

This resolution urges the congressional delegation to seek a caveat in the 1986 tax reform law for Alaskan minors on income received from Permanent Fund dividends or reinvestment of the dividends.

We are fortunate enough to have had leaders with the foresight to provide Alaskans with the dividend program. I urge you to have the foresight to help protect our children's dividends from exorbitant taxes and to assist Alaskan families with meeting the significant costs of a college education through the careful savings and investments of their child's permanent fund dividends.

Thank you.

HOUSE JOINT RESOLUTION NO. 47

"An Act relating to federal income tax exemption for minors for income earned on reinvested permanent fund dividends."

Chairman Adams advised members that there is a Finance Committee Substitute which makes a title correction. He said the Resolution asks Congress to pass legislation which would exempt minors from paying federal income tax on income earned from reinvested permanent fund dividend checks. It asks that legislation be passed which exempts parents or guardians from federal income tax for dividends reinvested on behalf of the minors. He said the Resolution cites changes with the Tax Reform Act of 1986 which could require minors to pay taxes on a portion of net unearned income received at the tax rate of the minor's parents. The Resolution has no fiscal impact.

Representative Frank MOVEI to adopt CS HJR 47 (Finance) and report the bill out of Committee with a zero fiscal note. There being NO OBJECTION, it was so ordered. CS HJR 47 (Finance) was reported out of Committee with a "do pass" recommendation and fiscal note dated 2/26/88 by the House Finance Committee.

J.C. Shine, speaking for Representative Cato, prime sponsor of HJR 47, read a statement from Representative Cato explaining the purpose of HJR 47. She said it would urge the congressional delegation to seek a tax exemption for Alaskan minors on income received from Permanent Fund dividends or reinvestment of Permanent Fund dividends. She said that currently dividends are taxed at the rate of the minor's parents and that in the case of parents who are in a high tax bracket, the children's dividends are taxed at that same rate. (Complete statement attached.)

Representative Martin said the congressional delegation may already be working on this issue. Representative Hoffman said the resolution would show the legislature's concern even if they were already working on it.

Representative Ulmer suggested that the language on page 2, line 5, could be changed to read, "is urged to continue in their efforts to obtain legislation providing...."

Representative Hoffman suggested that if Congress is already considering this, that copies of the resolution ought to be sent to the appropriate congressional committees. Representative Ulmer said that staff could check and insert the appropriate language as to the committees to which the resolution should be sent.

Representative Menard moved to adopt CS HJR 47 (SA) with the above changes and to pass it from State Affairs Committee with individual recommendations. There was no objection.

Alaska State Legislature

COMMITTEES

Chair State Affairs
V. Chair Judiciary
Telecommunications
Special Ethics
Legislative Council
Finance Subcommittee
for the University of Alaska
Joint Committee
on Economic Recovery



REPRESENTATIVE FRAN ULMER

MEMORANDUM

TO: House State Affairs Committee
FROM: Fran Ulmer, Chair
RE: HJR 47

DATE: February 19, 1988

After checking with the offices of the Alaska Congressional Delegation, State Affairs Committee staff has determined that there is no pending legislation addressing the intent of HJR 47- federal income tax exemptions for minors for income earned on reinvested permanent fund dividends. The delegation has been working on an amendment to a future tax bill which would accomplish this purpose. Because there is nothing currently pending, page 2, line 5 of HJR 47 (SA) appears appropriate and should not be amended.

At Representative Hoffman's suggestion, I have requested a Committee Substitute (CS HJR 47-SA) which includes Senator Lloyd Bentsen, Chairman of the Senate Finance Committee, as a recipient of the resolution along with our Congressional Delegation. As noted above, once a tax bill has been amended to include the exemption, the first committee of referral will be that chaired by Senator Bentsen.

CC: Representative Betty Cato

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSHJR 47(FIN)
PUBLISH DATE: HOUSE 3/2/88

FISCAL NOTE

REQUEST: House Finance

Revision Date: 2/26/88
Title: Relating to the reinvestment of
Permanent Fund Dividends
Sponsor: Representative Cato
Requestor: House Finance Committee

Agency Affected: _____
BRU: _____

Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) This resolution urges the Congressional delegation to seek a caveat in the 1986 tax reform law for minors who choose to save or reinvest their permanent fund dividends.

Prepared by: Representative Al Adams, Chairman *AAA* Phone: 465-3706
Division: House Finance Committee Date: 2/26/88

Approved by Commissioner: _____ Date: _____
Agency: N/A

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HJR

49

FISCAL NOTE

REQUEST:

Revision Date: 1/13/88
Title: Development of Visitors Center
at South Denali
Sponsor: Rep. Pearce
Requestor: House Resources

Agency Affected: Department of Natural Resources
BRU: Parks Management
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Lawrence Ostrovsky
Division: Commissioner's Office
Approved by Commissioner [Signature]
Agency: Department of Natural Resources

Phone: 465-2400
Date: 1-27-88
Date: 1-27-88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HJR

53

SENATE COMMITTEE REPORT

FURTHER

3/31/88

DATE TURNED INTO OFFICE 4-11-88

Mr. President:

STATE AFFAIRS

Committee considered HJR 53 am

Urging the United States Secretary of the Navy to name a United States naval vessel after General Clifton B. Cates.

and recommended

replace with _____ CS _____) same title
 or adopt _____ CS _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous

zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]

Chairman signature and recommendation

Committee Backup attached

STATE OF ALASKA
1988 LEGISLATIVE SESSION

No. 1
BILL VERSION: HJR 53
PUBLISH DATE: HOUSE 3/28/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: URGING THE U.S. SECRETARY OF THE
NAVY TO NAME A VESSEL AFTER GENERAL CATES
Sponsor: REP. MARTIN
Requestor: _____

Agency Affected: N/A
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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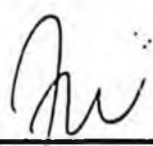
FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: FRAN ULMER, CHAIR  Phone: 465-4947
Division: HOUSE STATE AFFAIRS COMMITTEE Date: 3/25/88

Approved by Commissioner: _____ Date: _____
Agency: _____

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
MOUNTAIN VIEW
RUSSIAN JACK SPRINGS
NUNAKA VALLEY
ELMENDORF A.F.B.
CREEKSIDE
EAST ANCHORAGE



HOME
3960 REKA DRIVE-B6
ANCHORAGE, AK 99508
PHONE 333-6990

DURING SESSION
P. O. BOX V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3783

Alaska House of Representatives

February 9, 1988

COPY

Honorable Victor Ellis
Tennessee House of Representatives
Room 37, Legislative Plaza
Nashville, TN 37219

Dear Representative Ellis:

Your dedicated efforts in naming a naval ship after General Cates is most appreciated.

I have forwarded your information to our legal staff and asked them to prepare a State Resolution to the same affect.

This will be introduced within a week to the Alaska House of Representatives.

Thank you for the information. I look forward to meeting you during the annual meeting of the American Legislative Exchange Council in Nashville in July, 1988.

Sincerely,

Handwritten signature of Terry Martin in cursive.

Representative Terry Martin
Alaska House of Representatives

/laj





VICTOR ELLIS

REPRESENTATIVE
53RD LEGISLATIVE DISTRICT

CHAIRMAN
LABOR AND CONSUMER AFFAIRS

House of Representatives
State of Tennessee

NASHVILLE

November 10, 1987

LEGISLATIVE OFFICE
ROOM 37, LEGISLATIVE PLAZA
NASHVILLE, TENNESSEE 37219
(615) 741-3893

HOME
635 ERMAC DRIVE
NASHVILLE, TENNESSEE 37210
(615) 883-1782

Dear Legislator & Former Marine:

A group of former Marines from several parts of the nation have begun a project to have a U.S. Navy ship named for the late General Clifton B. Cates, 19th Commandant of the U.S. Marine Corps.

General Cates, a native Tennessean, was commissioned as a Second Lieutenant in the U.S. Marines on June 13, 1917. He served on active duty until June 30, 1954. During that time he was the most decorated Marine in World War I and commanded the Fourth Marine Division during the Saipain, Tinian and Iwo Jima operations in World War II. He served as the Nineteenth Commandant of the Marine Corps and successfully led the political fight against efforts by the Truman Administration to abolish the U.S. Marine Corps just prior to the Korean War.

As part of this worthy project to honor an outstanding American and career Marine officer, I have pre-filed a joint resolution urging that a U.S. Naval vessel be named for General Cates. This resolution will be acted upon when the Tennessee General Assembly reconvenes in January, 1988.

As a former Marine who served in the assaults against the enemy at Guam and Iwo Jima, I am proud to be a part of this national effort and I would like to request your assistance in this cause by having your legislature adopt a resolution urging Honorable James Webb, Secretary of the Navy, Department of the Navy, The Pentagon-4E686, Washington, D.C. 20350, to name an appropriate warship in honor of General Cates.

I am enclosing a copy of the Joint Resolution I have pre-filed and I would appreciate a copy of any resolution you may adopt.

Sincerely,

Victor Ellis
Victor Ellis

VE:cp

Enclosure

H J R

5 8

SENATE COMMITTEE REPORT

FURTHER

3/31/88

DATE TURNED INTO OFFICE 4-11-88

Mr. President:

STATE AFFAIRS Committee considered SSHJR 58

return of human remains from the Smithsonian Institution

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

[X] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee [X] attached or [] adopted fiscal note(s)

[] new [] updated or [X] previous
[X] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Rich [unclear] (DO PASS)
William [unclear]
See [unclear]

Don [unclear]
Chairman signature and recommendation

[] Committee Backup attached

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: SSHJR 58
PUBLISH DATE: HOUSE 3/29/88

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Education
Title: Relating to the return of human BRU: Alaska State Museum
remains from the Smithsonian Institution.
Sponsor: Wallis Components: Museum operations
Requestor: House State Affairs

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Mary Hakala Phone: 465-2800
Division: Commissioner's Office Date: 3-8-88
Approved by Commissioner Mary Hakala Date: 3-8-88
Agency: Department of Education

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Committee on Finance

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Mitch Abood, Chairman
Senate State Affairs Committee

FROM: Representative F. Kay Wallis *Kay*
District 24

DATE: April 6, 1988

SUBJ: SSHJR 58 - "An Act relating to the return of human
remains from the Smithsonian Institution."

APR 6 1988

Please consider placing the Sponsor Substitute for House Joint Resolution 58 on the Senate State Affairs Committee agenda.

SSHJR 58 urges the Smithsonian Institution to comply with requests from individuals and tribal organizations for the return of human remains taken from their families and regions in Alaska around the turn of the century.

This resolution was introduced to encourage the Smithsonian to be more helpful and responsive to people from Alaska requesting information about, or return of, the remains of their ancestors that are now in storage or on display in the Smithsonian museums.

The Alaska State Museum supports SSHJR 58, particularly the general intent that the remains would be returned from the Smithsonian for purposes of proper, permanent, and respectful burial.

The attached information about SSHJR may be helpful to you. Please call me if I can answer any questions for you.

Thank you.

QUESTIONS AND ANSWERS
ON
SPONSOR SUBSTITUTE HOUSE JOINT RESOLUTION 58

What is the purpose of this resolution?

The purpose of SSHJR 58 is to encourage the Smithsonian Institution to be more responsive to individuals and tribal organizations requesting the return of human remains taken from their families or regions in Alaska around the turn of the century.

To whom will the remains be returned?

The sponsor substitute for HJR 58 makes it clear that human remains, now on display or in storage at the Smithsonian, will be returned to families or tribal organizations (genetic and cultural descendants) that request them.

What will happen to the remains?

While this is a private matter to be determined by the descendants, most remains will probably be given a proper and permanent burial.

Is there a fiscal impact on the State of Alaska?

SSHJR 58 has a zero fiscal note.

What is the extent of the Smithsonian's collection of human remains?

It is estimated that the Smithsonian has skeletons of over 14,000 American Indians, including the remains of four to six thousand Alaskan Natives. Many of these were taken unsystematically and unethically from village graves or were bought from people who had no right to sell them. Because of the way they were collected, most of the remains are of limited scientific value.

Does SSHJR 58 address archaeological human remains?

No. These remains, hundreds to thousands of years old, were recovered through archaeological excavations, and many are of scientific value.

When and how was the material addressed by SSHJR 58 collected?

Between the mid 1800's and the early 1900's, dozens of military and scientific expeditions collected geological, botanical, zoological, and anthropological materials throughout Alaska.

While the Smithsonian rarely sponsored these expeditions, many expeditions collected items specifically for the Smithsonian as part of their activities. Many other collections including human remains were either purchased by or donated to the Smithsonian Institution at a later time.

Is the Smithsonian doing anything about the human remains in its collections?

Like most major museums, the Smithsonian is aware of the increasing concern about human remains in their displays and collections. They have created a printout of the human remains in their collections and sent this list to tribes throughout the nation. Their policy is to "establish a dialogue" with anyone who believes that the remains of their relatives are in the Smithsonian's collections, but like most museums, the Smithsonian is reluctant to lose materials from its collections.

If the Smithsonian is already working on this, why do we need a resolution?

Perhaps because of its age and size, the Smithsonian Institution has become a huge bureaucracy. The terminology of Smithsonian officials may be difficult for our village people to understand, but the message is clear. It is very discouraging to those who would like to have the remains of their families returned.

Native Alaskans who can overcome the difficulties of language barriers, expensive telephone calls, and slow mail deserve a more helpful and sympathetic response from the Smithsonian Institution. The purpose of this resolution is to encourage the Smithsonian to be more responsive to requests from Alaska to have human remains restored to their families and sites of origin.

TESTIMONY OF REPRESENTATIVE F. KAY WALLIS
ON SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION 58
BEFORE THE HOUSE STATE AFFAIRS COMMITTEE

MARCH 28, 1988

I'D TO LIKE THANK YOU FOR THE OPPORTUNITY TO GIVE YOU SOME BACKGROUND ON HOUSE JOINT RESOLUTION 58. THE ORIGINS OF THIS RESOLUTION PREDATE THE ALASKA PURCHASE.

BETWEEN THE MID 1800'S AND THE EARLY 1900'S, MILITARY AND SCIENTIFIC EXPEDITIONS COLLECTED GEOLOGICAL, BOTANICAL, ZOOLOGICAL, AND ANTHROPOLOGICAL MATERIALS THROUGHOUT ALASKA.

ORE SAMPLES, TIMBER SAMPLES, AND ANIMAL PELTS WERE GATHERED TO ASSESS THE VALUE OF ALASKA'S NATURAL RESOURCES. ANTHROPOLOGICAL MATERIALS, INCLUDING OBJECTS MADE AND USED BY NATIVE ALASKANS AND NATIVE ALASKANS' SKELETAL REMAINS, WERE COLLECTED TO DOCUMENT WHAT MANY ANTHROPOLOGISTS, EVEN TODAY, CONSIDER TO BE A VANISHING RACE. IT IS ESTIMATED THAT THE SMITHSONIAN INSTITUTION COLLECTIONS NOW INCLUDE THE REMAINS OF FOUR TO SIX THOUSAND NATIVE ALASKANS.

MANY OF THE EARLY COLLECTORS WERE NOT TRAINED SCIENTISTS, AND IN THEIR COLLECTING FRENZY, THEY USED PRACTICES THAT VIOLATED ALL THE RULES OF ETHICS, AND COULD NOT BE DEFENDED, THEN OR NOW.

ELDERS STILL LIVING IN YUKON VILLAGES CAN REMEMBER WHEN BONES WERE TAKEN AND WHEN PURCHASES WERE MADE THROUGH TRICKERY AND BY THREAT. THEY REMEMBER THE PEOPLE COMING IN AND OPENING THE GRAVES, AND THEY REMEMBER THAT THE COLLECTORS WERE MOST DISRESPECTFUL.

THE PURPOSE OF HOUSE JOINT RESOLUTION 58 IS TO URGE THE SMITHSONIAN INSTITUTION, A FEDERAL ENTITY, TO RETURN THE HUMAN REMAINS THAT WERE TAKEN AT THAT TIME TO INDIVIDUALS AND TRIBAL ORGANIZATIONS THAT REQUEST THEM.

BECAUSE OF THE WAY THE HUMAN REMAINS WERE COLLECTED, MOST ARE WITHOUT SCIENTIFIC VALUE, YET TO MY PEOPLE THEIR RELIGIOUS AND SPIRITUAL VALUE IS UNDIMINISHED. THEY WOULD LIKE TO HAVE THE REMAINS RETURNED SO THEY MAY BE GIVEN A PROPER, PERMANENT, AND REPSPECTFUL BURIAL.

WHILE THE SMITHSONIAN INSTITUTION HAS SAID IT IS OPEN TO REQUESTS, SO FAR THEY HAVE BEEN LESS THAN HELPFUL. MY OWN OFFICE HAS HAD VERY LITTLE RESPONSE TO OUR REQUESTS FOR INFORMATION AND ASSISTANCE. IF THEY ARE UNRESPONSIVE TO A STATE LEGISLATOR, TRY TO IMAGINE THE BARRIERS A RURAL VILLAGE PERSON HAS HAD TO FACE.

NATIVE ALASKANS WHO CAN OVERCOME THE DIFFICULTIES OF

LANGUAGE BARRIERS, EXPENSIVE PHONE CALLS, AND SLOW MAIL DESERVE A MORE HELPFUL AND UNDERSTANDING RESPONSE FROM THE SMITHSONIAN INSTITUTION.

YOU KNOW, MILITARY FAMILIES HAVE A TERM FOR THEIR SOLDIERS WHO ARE LOST. THEY CALL THEM M.I.A.'S, FOR MISSING IN ACTION. I UNDERSTAND AND RESPECT THEIR ENDEAVORS TO FIND AND RECOVER THE BODIES OF THEIR RELATIVES. WELL, MY PEOPLE HAVE RELATIVES THAT ARE MISSING IN SMITHSONIAN, M.I.S., AND THEY WANT THEM BROUGHT BACK.

IN MANY STATES AND IN CONGRESS, GOVERNMENTS ARE WORKING WITH THEIR NATIVE POPULATIONS TO BRING ABOUT THE RETURN OF HUMAN REMAINS FROM MUSEUM COLLECTIONS. BECAUSE MUSEUM POLICIES OFTEN CONFLICT WITH NATIVE GOALS, THE ISSUE CAN BECOME VERY DIFFICULT AND SENSITIVE. MANY CASES ARE BEST SETTLED BY COOPERATION AND NEGOTIATION RATHER THAN BY THE COURTS.

APPROACHING THE SMITHSONIAN WITH A RESOLUTION IS, AT BEST, A COMPROMISE. WHILE HJR 58 DOESN'T CARRY THE WEIGHT OF LAW, IT MAKES ALASKA'S POSITION ON THIS ISSUE QUITE CLEAR.

THE ALASKA STATE LEGISLATURE RECOGNIZES THE EQUALITY OF ALL RACES, AND THE DIGNITY AND RESPECT DUE TO INDIVIDUALS, EVEN IN DEATH. FOR THAT VERY REASON, WE URGE THE SMITHSONIAN

TO COMPLY WITH REQUESTS FROM INDIVIDUALS AND TRIBAL ORGANIZATIONS TO HAVE HUMAN REMAINS RETURNED TO THEIR FAMILIES AND REGIONS OF ORIGIN.

I HOPE YOU WILL VOTE DO PASS ON SSHJR 58. I THANK YOU FOR YOUR CONSIDERATION AND ON BEHALF OF THE PEOPLE OF ALASKA WHO ARE HOPING TO SOON BE ABLE TO PUT THEIR ANCESTORS TO REST.

A battle is brewing over bones

By DAVID HULEN
Daily News reporter

ADU 4/9/88

They came. They saw. They dug. Starting in the mid-1860s, a year or two before Alaska was sold to the United States, expedition teams of American and European scientists began floating down Interior rivers and trudging across the unbroken forests and tundra, hungry for information about the wild new land. They collected animal pelts. They cut trees and leaves for study. They dug mineral samples.

And they began picking away at the Native graveyards.

By the 1920s, scientists eager to learn about the history and culture of Alaska's Native races were digging in burial sites from Kodiak to the Arctic coast. In some cases, Natives stood by and watched the digging. It continued into the 1950s.

Skulls and other skeletal remains of several thousand Eskimos, Aleuts and Indians were eventually exhumed and shipped off to laboratories or museums outside Alaska.

Most ended up at the Smithsonian Institution in Washington, D.C., the vast depository of American history.

There they have sat for decades, most of them out of public view, in tall racks of green boxes alongside the bones of some 30,000 people from around the world. A small portion are in public displays.

Now, more than a century after the first Native remains were taken from Alaska, state

See Back Page, **ANCESTORS**

ANCESTORS: Natives want remains returned

Continued from Page A-1

officials are becoming involved in an emotional, complicated moral debate that has been quietly smoldering in Native and scientific circles across the country the past two or three years.

Many Natives want the remains returned to the places from which they were taken, then reburied. Storing the bones in a Washington museum is sacrilegious, racist and degrading, they say. Native groups across the country have been trying to pressure the Smithsonian to do something soon.

"Nowhere in the Constitution does it say anything about the right of anthropologists to study human remains," said Suzan Shown Harjo, executive director of the National Congress of American Indians in Washington. "It does talk about religious freedom, and the collection and display of human remains violates our religious freedom."

Smithsonian officials have balked at the demand. They have no problem, they say, returning bones that were stolen from graves or which can be traced to living descendants. But officials have been reluctant to return large numbers of the remains, saying they are needed for scientific study. Professional groups, such as the Society of American Archeologists, agree.

Alaska entered the debate last month with a resolution in the legislature urging the Smithsonian to return remains taken from graves here to individual descendants or tribal groups who ask for them. Sponsored by Rep. Kay Wallis, D-Fort Yukon, the measure was passed unanimously by the House last week and is scheduled for a hearing Monday in a Senate committee.

Wallis, an Athabascan, said she has heard talk about the issue for years from Natives in the Yukon Flats region. Elders in some river villages, she said, remember expeditions arriving in the 1920s and '30s to study grave sites. Sometimes, the bones taken were from burial sites hundreds of years old, and involved methodical, plodding archeological digging. But sometimes, she said, remains were taken from graves only a generation or two old, by diggers who rummaged through graves with little care.

Elders, she said, "remember the people coming in and opening the graves, and they remember that the collectors were most disrespectful."

There has not been a loud groundswell in Alaska among Natives to have the bones returned. But at least two villages have been in a tug-of-war with the Smithsonian on the issue for nearly a year.

At Holy Cross, a mostly Athabascan village of 300 on the Lower Yukon, tribal leaders have traded letters with the Smithsonian and government officials in an effort to identify and return remains that were taken from the area.

In a lengthy letter last fall, a Smithsonian official described how an archeologist named Ales Hrdlicka made three trips through the region, in 1926, 1929 and 1930, collecting human remains near Anvik, Grayling, Holy Cross and Shagnluk. The scientist recorded 75 "catalog entries" in his journal, the letter said, although it's unclear whether each entry represents a separate individual.

But the letter warned that finding specific bones and tracing them to one site

would be difficult and all but refused the request to have the bones returned. Descriptions are sometimes vague or inaccurate, and proving ancestry could be impossible.

Further, the letter says, the scientist was assisted by local Natives in locating grave sites. He wrote in his journal that he passed over graves "where disturbance of the burial might cause offense. He was looking for the oldest material he could find, although he himself realized that the material was likely to be only a few generations old. In general, he collected from places that were ... long-abandoned and avoided graves of known ancestors."

Residents of the village aren't sure what their next step will be.

"It causes people a lot of concern," said Marie Hailey, an Athabascan and lifelong resident of the region who works for the Tanana Chiefs Conference in Holy Cross. "It's our belief that unless they're returned, their spirits are never at rest. It's a very touchy subject."

"Imagine this: What do you think would happen if I took the remains from President Washington and took them away from the public eye somewhere for a while? How do you think people would feel about that? This is no different."

In Larson Bay, a small Aleut village on Kodiak Island, residents have been trying to regain for reburial the remains exhumed there around the turn of the century. Smithsonian curators have refused, saying the remains will be released only if they are placed in a museum in Alaska.

The Smithsonian has a collection of about 34,000 skeletal specimens, of which some

14,500 are North American Indians, including at least some from Alaska. Eskimos and Aleuts account for another 4,000 of the specimens; whites 6,829; blacks 1,744, and "all others" 7,003, according to a spokeswoman. Although few of the bones are on public display in the Museum of Natural History, scientists have access to the bones and frequently use them in research, according to the Smithsonian.

And there have been cases in which the Smithsonian has returned remains. Last year, 16 sets of human remains, mostly skulls, were returned to the Blackfoot Tribe in Montana, which alleged that they had been stolen from a cemetery in 1892, according to Smithsonian spokeswoman Madeline Jacobs.

People who want the remains returned question the scientific value of much of the collection. Records and circumstances of where and how remains were found are often vague, said Harjo, adding, "How many bones does it really take?" And there's evidence, according to historians, that at least some of the Alaska remains weren't obtained by scientists at all, but by others who later sold or donated the bones to the Smithsonian.

Alaska is the first state to consider legislation on the issue, although at least two others — Texas and Kentucky — are debating measures to increase penalties for tampering with graves. Meanwhile, a Senate committee in Washington next week will consider legislation to establish a separate national Indian museum and set up a task force to resolve the issue of what to do with remains. Some senators want to return as many as possible, then entomb the rest in a special memorial.

State presses museum for remains of Natives

By SAM BISHOP
News-Miner Bureau

JUNEAU—Jake Hernan, an Oglala Sioux Indian, once told a Smithsonian Institution official that his grandfather held a position at their museum. The official asked where, and Hernan replied:

"Third exhibit on the left."

Remains from Hernan's grandfather and more than 14,000 other Native Americans rest in the Smithsonian Institution, where they were shipped by scientific collectors and Army personnel in the late 19th and early 20th Century.

Despite Hernan's joke, reported in a recent issue of Museum News, the subject is no laughing matter for many Native Americans. A nationwide effort to reclaim both remains and artifacts has been gathering force.

An estimated 4,000 to 6,000 of the skeletal remains in the Smithsonian collection are from Alaska.

Rep. Kay Wallis, D-Fort Yukon, hopes that Alaska will be the first state to request the return of human remains taken from graves here.

The state House last week

adopted a resolution asking the Smithsonian to return remains taken from Alaska around the turn of the century to related individuals and tribal organizations. The resolution now awaits action in the Senate.

"People in my district have requested information and data from the Smithsonian and were ignored," Wallis said. She hopes the backing of the state will get the museum's attention.

Officials in the Smithsonian are well aware of the issue, but take a different view of the proper actions.

Adrienne Kaeppler, who chairs the Smithsonian's anthropology department, said in a recent letter to the Native American Heritage Commission in California that the museum has the responsibility to "hold its collections in trust for all people.

"We must be presented with compelling legal reasons justifying the transfer of the human remains from our collections," Kaeppler said.

The Smithsonian argues that a
(See REMAINS, Page 8)

8—Fairbanks Daily News-Miner, Fairbanks, Alaska, Thursday, April 7, 1988

REMAINS

(Continued from page 1)

person requesting remains must show a direct link between the remains and the modern tribe or family. That can be a time-consuming and difficult process.

Wallis said older people in villages along the Yukon and Kuskokwim rivers still remember when explorers opened grave sites and removed all or part of the bodies.

However, English was a new language to Indians, so most didn't know why the skeletons were taken or where they were taken.

"There was no communication at all," Wallis said. "They just went in and stood there with guns."

Wallis said most people don't realize that some of the remains are separated by only a few generations from people alive today.

Frederick Schwatka, who traveled the Yukon in the summer of 1883, described one of his party's efforts in his book, "A Summer in Alaska."

"Dr. Wilson tried to get a skull out of the many we assumed were at hand, to send to the Army Museum's large craniological collection," Schwatka wrote. "But although several very old looking sites were opened, the skulls were too fresh to be properly prepared in the brief time at our disposal."

William Dall, the famous natur-

alist for whom Dall sheep and porpoises are named, also did some collecting in Alaska while traveling with the Western Union Telegraph Co. expedition in 1865.

"April 23rd being a good snowy day, I took advantage of the opportunity to visit a grave on the point, near the Nulato River," Dall wrote in an account of the expedition. "Carefully lifting the cover, I removed the cranium, and putting into my haversack, I returned by a roundabout way to the fort. . . . The Indians are very superstitious in regard to touching anything that has belonged with a dead body, and would have been highly incensed had it become known."

Wallis said that, due to the poor methods of the collectors, the skeletons they obtained are of little scientific value.

"Yet to my people their religious and spiritual value is undiminished," she testified recently. "They would like to have the remains returned so they may be given a proper, permanent and respectful burial."

Wallis hopes her resolution will prompt the Smithsonian at least to release a list of skeletal remains taken from Alaska. She wants the lists to be sent to tribal groups and non-profit organizations such as the Tanana Chiefs Conference so they can make the claims.

On the federal level, Sen. Daniel Inouye, D-Hawaii, has introduced a bill that would create and American Indian museum in the Smithsonian and provide for burial for Native American remains. The museum could not bury remains to which an Alaska Native group



REP. KAY WALLIS
Get museum's attention

might have a claim.

Robert Adams, secretary of the Smithsonian, told a Congressional committee last year that he opposes the part of the bill calling for burial of Native American remains.

The remains often have information that can be helpful today Adams said. For example, circumplolar studies of Eskimo remains have shown a high incidence of osteoporosis, a weakening of the bones from a calcium deficiency. In the past, low life expectancy among Eskimos probably prevented this from being a problem. But with modern medicine, public health officials suspect the problem will show up with increasing frequency among Eskimos, Adams said.

HJR

61

SENATE COMMITTEE REPORT

FURTHER

C&RA

4/4/88

DATE TURNED INTO OFFICE 4-14-88

Mr. President:

State Affairs

Committee considered HJR 61

garbage dumping in the ocean

and recommended

[] replace with _____ CS _____) [] same title
[] or adopt _____ CS _____) [] new title

[] attached amendment(s) and

do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to _____

[] letter of intent adopted _____

Committee attached or [] adopted fiscal note(s)

[] new [] updated or previous

zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures]

[Handwritten signature]

Chairman signature and recommendation

[] Committee Backup attached

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HJR 61
PUBLISH DATE: HOUSE 3/28/88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to garbage dumping in the ocean
Sponsor: Herrmann, Sund, Ellis & Davidson
Requestor: _____

Agency Affected: Community & Regional Affairs
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

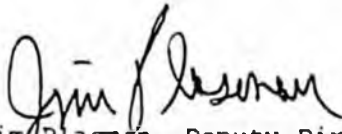
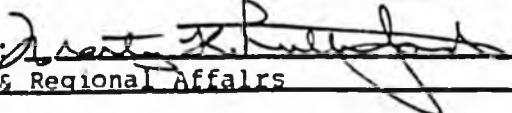
FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)


 Prepared by: Jim Plasman, Deputy Director Phone: 465-4750
 Division: Municipal & Regional Assistance Date: 3/24/88
 Approved by Commissioner:  Date: 3/25/88
 Agency: Community & Regional Affairs

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HOUSE COMMITTEE REPORT

(9)

Date referred: 3/28/88

FURTHER REFERRALS:

DATE: 3-29-88

The Resources Committee has considered HJR 61
Relating to garbage dumping in the ocean.

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note
- zero with analysis same as previous zero fiscal note published _____

SIGNING DO PASS:

Adelheid Herrmann
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

Adelheid Herrmann
Chairman's signature

Major Fisheries and Coast Guard Bills Move Through Congress

Driftnet, Plastics Pollution Restrictions Signed Into Law

Congress has approved and the President has signed into law an omnibus package of legislation that I sponsored which affects the fishing industry in Alaska. Included in the bill are provisions which authorize the Governing International Fisheries Agreement (GIFA) between the U.S. and Japan, implement the Convention on Prevention of Pollution at Sea, reauthorize the Sea Grant Program, and implement controls on the use of high seas driftnets.

The Governing International Fisheries Agreement with Japan will run for two years, and will extend a number of joint ventures in the Kodiak area between Alaska fishermen and Japanese companies.

The bill combats the growing problem of ocean dumping of plastics. It implements Annex V of the International Convention for the Prevention of Pollution from Ships. Annex V prohibits the disposal of plastic garbage from ships anywhere in the sea, and establishes the distance from shore where the disposal of other types of garbage, such as glass, paper, and organic garbage, is prohibited.

The Sea Grant Program is also reauthorized under the legislation. This program has been in effect since the 1970's and has been responsible for important marine research activities. The University of Alaska is a Sea Grant University and receives funds under the program for research and academic instruction. The Alaska Marine Advisory Program is also funded under the Sea Grants.

The driftnet provisions in the bill require the Secretary of Commerce, acting through the Secretary of State, to enter into negotiations with those nations that allow their vessels to engage in driftnet fishing on the high seas in order to establish monitoring of those fisheries. The Secretary is also required to negotiate enforcement agreements with these nations. If these agreements are not negotiated and imple-

mented, the U.S. can embargo imports of fish from that nation.

I agree with many Alaska fishermen that this bill does not go far enough. In order to get any agreement, and the negotiations process started, however, we need the approval of many diverse interests. It is my personal intent to continue to seek ways to more closely control driftnet fishing on the high seas. I do not consider this bill to be the final chapter, but rather one more step in my effort to stop this tremendous waste of our marine resources, and eliminate the high seas interception of salmon.

The House also approved and sent to the Senate separate legislation which authorizes \$2.6 billion for the Coast Guard to carry out its fisheries enforcement, search and rescue, and drug interdiction missions.

The legislation includes two provisions which were added at my request. The first would authorize relocation assistance, similar to that extended to Department of Defense personnel, to Coast Guard employees in Alaska, and in particular Juneau, who were affected by the reorganization of support and logistics functions to Alameda, California. The Authorization also includes an extension of local hire provisions on Coast Guard contracts.

This Authorization should provide the funding levels necessary for the Coast Guard to carry out its critical missions in Alaska. The local hire and relocation assistance programs are very important to Alaska, and I will continue to work with Senators Stevens and Murkowski to see that they are included in the Senate version of the authorization.

This entire package of bills are important to a maritime state like Alaska. The plastics provisions will protect our coastline and marine mammals. The Sea Grant Program funds important research in the state, and the GIFA provides continued employment to a number of Alaska fishermen.

100TH CONGRESS
1st Session

SENATE

TREATY DOC.
100-3

REGULATIONS FOR THE PREVENTION OF POLLUTION
BY GARBAGE FROM SHIPS (ANNEX V OF MARPOL
73/78)

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

ANNEX V, REGULATIONS FOR THE PREVENTION OF POLLUTION
BY GARBAGE FROM SHIPS, AN OPTIONAL ANNEX TO THE 1978
PROTOCOL RELATING TO THE INTERNATIONAL CONVENTION
FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973
(MARPOL 73/78)



FEBRUARY 17, 1987.—Annex was read the first time, and together with
the accompanying papers, referred to the Committee on Foreign Rela-
tions and ordered to be printed for the use of the Senate.

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1987

LETTER OF TRANSMITTAL

THE WHITE HOUSE, February 9, 1987.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate, Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73/78). I also transmit for the information of the Senate the report of the Department of State on this Annex.

The MARPOL Protocol entered into force for the United States on October 2, 1983. Annex V and the other two Optional Annexes III and IV, which deal with pollution from packaged harmful substances and sewage, were transmitted only for the information of the Senate when the original MARPOL Convention was transmitted to the Senate on March 22, 1977, for its advice and consent to ratification.

Annex V prohibits (subject to limited exceptions) the disposal from ships into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, and plastic garbage bags. It also restricts the discharge at sea of other types of garbage to specified distances from the nearest land.

The entry into force of Annex V of MARPOL 73/78 will be an important step in controlling and preventing pollution from discharges of ship generated garbage. I recommend that the Senate give early consideration to Optional Annex V of MARPOL 73/78 and give its advice and consent to ratification.

RONALD REAGAN.

(12)

TRANSMITTED FROM 2027834187

02.03.88 18:14 P.03 • JSCF

TRANSMITTED FROM 2027334187

02.03.88 18:14 P.04 • JSCF

LETTER OF SUBMITTAL

**DEPARTMENT OF STATE,
Washington, January 21, 1987.**

**The PRESIDENT,
The White House.**

THE PRESIDENT: I have the honor to submit to you Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1978, (MARPOL 73/78). Annex V and the other Optional Annexes, III and IV which deal with pollution from packaged harmful substances and sewage, were transmitted only for the information of the Senate when the original MARPOL Convention was transmitted to the Senate on March 22, 1977 for its advice and consent to ratification. Optional Annexes III and IV are still the subject of ongoing review and Senate advice and consent to them is not now being sought. The MARPOL Protocol entered into force for the United States on October 2, 1983.

Annex V establishes international regulations for prohibiting or otherwise restricting discharges into the oceans of all types of garbage generated during the normal operation of ships. Annex V will not completely solve the pollution threat of garbage disposal into the oceans but I believe that it is a critical first step in dealing with this international problem. Effective implementation of it would make a significant contribution to reducing the amount of vessel generated plastic garbage and other debris which are currently entering the marine environment seriously endangering a variety of marine life, including birds, marine mammals, turtles and seals. United States ratification would demonstrate to the world the United States resolve to protect that environment, giving due consideration to the joint efforts of the international community in the International Maritime Organization and other fora.

A major purpose of Annex V is to prohibit (subject to limited exceptions) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. Disposal into the sea of other garbage must be made as far as practicable from nearest land but in any case is prohibited (subject to limited exceptions) if the vessel's distance from the nearest land is less than 25 nautical miles for dunnage, lining and packing materials which will float, and 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal bottles, crockery and similar refuse. Reception facilities capable of accepting garbage from vessels will be required at ports and terminals. We expect the private sector will be capable of providing the additional reception facilities required by this Annex.

compared to mandatory Annexes I and II on pollution by oil and noxious liquid substances in bulk to which the United States is bound and which have been construed to apply only to seagoing vessels, Annex V will apply to all ships operating in the marine environment.

with all other MARPOL 73/78 regulations in force for them, as bound by Annex V will be required to apply Annex V regulations to all ships, including those of non-party States, using their flag or otherwise under their jurisdiction.

Annex V will enter into force 12 months after the date on which more than 15 States, the combined fleets of which constitute not less than 50 percent of the gross tonnage of the world's merchant shipping, have become parties to it. Annex V has not yet entered into force, having been ratified by 27 States representing only approximately 45% of the world's shipping tonnage. United States ratification would increase the tonnage to 49% and would in our view expedite entry into force of Annex V.

Annex V has been under active study by the United States and other nations in an effort to make its provisions more meaningful and enforceable. The International Maritime Organization's Marine Environment Protection Committee (MEPC) at its 23rd session, July 7-11, 1986 agreed to a United States proposed technical amendment to Annex V. This amendment—deletion of the words "synthetic material incidental to the repair of such nets" from paragraph 6(c)—would clarify and strengthen the prohibition on disposal of non-repairable sections of synthetic fishing nets, a problem which is contributing to an increase in the mortality of several fish species. The MEPC also agreed with the United States proposal that this amendment should be circulated with a view to its adoption in accordance with Article 16 (tacit amendment procedure) of MARPOL 73/78, after entry into force of Annex V so as to require States that have already ratified the Annex to ratify it. This amendment procedure was established to achieve effective and rapid implementation of technical amendments to MARPOL 73/78 Annexes.

The United States Coast Guard has prepared an environmental assessment indicating that United States ratification of Annex V will not have a significant adverse impact on the environment and would indeed be environmentally beneficial. The environmental assessment will be transmitted separately to the Senate Committee on Foreign Relations. Annex V will require implementing action which is being prepared.

Annex V has the support of the United States Coast Guard, National Oceanic and Atmospheric Administration, the Marine Environmental Commission and all other interested agencies of the Executive Branch as well as environmental organizations and a substantial majority of the maritime industry. Although there has been some opposition within the maritime industry, I do not believe it will cause a problem in the ratification process.

I commend that Annex V be transmitted to the Senate for its consideration and consent to ratification at an early date.

Respectfully submitted,

GEORGE P. SHULTZ.

INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION
FROM SHIPS, 1973

ANNEX V

REGULATIONS FOR THE PREVENTION OF POLLUTION BY GARBAGE FROM
SHIPS

REGULATION 1

DEFINITIONS

For the purposes of this Annex:

(1) "Garbage" means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically except those substances which are defined or listed in other Annexes to the present Convention.

(2) "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law except that, for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in

latitude 11°00' South, longitude 142°08' East to a point in latitude 10°35' South,

longitude 141°55' East, thence to a point latitude 10°00' South, longitude 142°00' East, thence to a point latitude 9°10' South, longitude 143°52' East, thence to a point latitude 9°00' South, longitude 144°30' East, thence to a point latitude 13°00' South, longitude 144°00' East, thence to a point latitude 15°00' South, longitude 146°00' East, thence to a point latitude 18°00' South, longitude 147°00' East, thence to a point latitude 21°00' South, longitude 153°00' East, thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East.

(8) "Special area" means a sea area where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by garbage is required. Special areas shall include those listed in Regulation 5 of this Annex.

REGULATION 2

APPLICATION

The provisions of this Annex shall apply to all ships.

REGULATION 3

DISPOSAL OF GARBAGE OUTSIDE SPECIAL AREAS

(1) Subject to the provisions of Regulations 4, 5 and 6 of this Annex:

(a) the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags is prohibited;

(b) the disposal into the sea of the following garbage shall be made as far as practicable from the nearest land but in any case if prohibited if the distance from the nearest land is less than:

(i) 25 nautical miles for dunnage, lining and packing materials which will float;

(ii) 12 nautical miles for food wastes and all other garbage including paper products, rags, glass, metal, bottles, crockery and similar refuse;

(c) disposal into the sea of garbage specified in sub-paragraph (b)(ii) of this Regulation may be permitted when it has passed through a comminuter or grinder and made as far as practicable from the nearest land but in any case is prohibited if the distance from the nearest land is less than 3 nautical miles. Such comminuted or ground garbage shall be capable of passing through a screen with openings no greater than 25 millimetres.

(d) When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

REGULATION 4

SPECIAL REQUIREMENTS FOR DISPOSAL OF GARBAGE

(1) Subject to the provisions of paragraph (2) of this Regulation, disposal of any materials regulated by this Annex is prohibited on fixed or floating platforms engaged in the exploration, exploitation and associated offshore processing of sea-bed mineral resources, and from all other ships when alongside or within 500 metres of such platforms.

(2) The disposal into the sea of food wastes may be permitted when they have been passed through a comminuter or grinder on such fixed or floating platforms located more than 12 nautical miles from land and all other ships when alongside or within 500 metres of such platforms. Such comminuted or ground food wastes shall be capable of passing through a screen with openings no greater than 25 millimetres.

REGULATION 5

DISPOSAL OF GARBAGE WITHIN SPECIAL AREAS

(1) For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area and the "Gulf area" which are defined as follows:

(a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41°N parallel and bounded to the west by the Straits of Gibraltar and the meridian of 5°36'W.

(b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia and the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8'N.

(c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41°N.

(d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the south by the rhumb line between Ras si Ane (12°8.5'N, 43°19.6'E) and Husn Murad (12°40.4'N, 43°30.2'E).

(e) The "Gulf area" means the sea area located north west of the rhumb line between Ras al Hadd (22°30'N, 59°48'E) and Ras al Faateh (25°04'N, 61°25'E).

(2) Subject to the provisions of Regulation 6 of this Annex:

(a) disposal into the sea of the following is prohibited:

(i) all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags; and

(ii) all other garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials;

(b) disposal into the sea of food wastes shall be made as far as practicable from land, but in any case not less than 12 nautical miles from the nearest land.

(3) When the garbage is mixed with other discharges having different disposal or discharge requirements the more stringent requirements shall apply.

(4) Reception facilities within special areas:

(a) The Government of each Party to the Convention, the coastline of which borders a special area, undertakes to ensure that as soon as possible in all ports within a special area, adequate reception facilities are provided in accordance with Regulation 7 of this Annex, taking into account the special needs of ships operating in these areas.

(b) The Government of each Party concerned shall notify the Organization of the measures taken pursuant to sub-paragraph (a) of this Regulation. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify all Parties of the date so established no less than twelve months in advance of that date.

(c) After the date so established, ships calling also at ports in these special areas where such facilities are not yet available shall fully comply with the requirements of this Regulation.

4
REGULATION 6

EXCEPTIONS

Regulations 3, 4 and 5 of this Annex shall not apply to:

(a) the disposal of garbage from a ship necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

(b) the escape of garbage resulting from damage to a ship or its equipment provided all reasonable precautions have been taken before and after the occurrence of the damage, for the purpose of preventing or minimizing the escape; or

(c) the accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss.

REGULATION 7

RECEPTION FACILITIES

The Government of each Party to the Convention undertakes to ensure the provision of facilities at ports and terminals for the reception of garbage, without causing undue delay to ships, and according to the needs of the ships using them.

The Government of each Party shall notify the Organization by transmission to the Parties concerned of all cases where the facilities provided under this Regulation are alleged to be inadequate.

A certified true copy of the English text of Annex V of the International Convention for the Prevention of Pollution from Ships, 1973, done at London on 2 November 1973, the original of which is deposited with the Secretary-General of the International Maritime Organization.

The Secretary-General of the International Maritime Organization:



LONDON, 19 December 1986.

TRANSMITTED FROM 2027834187

02.03.88 18:45 P.03 •JSCF

100TH CONGRESS
1st Session

SENATE

EXEC. REPT.
100-8

MARPOL CONVENTION, ANNEX V

OCTOBER 14 (legislative day, OCTOBER 13), 1987.—Ordered to be printed

Mr. PELL, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany Treaty Doc. 100-3]

The Committee on Foreign Relations, to which was referred Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1978 (MARPOL 73/78), having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

PURPOSE

Annex V, entitled Regulations for the Prevention of Pollution by Garbage from Ships, is an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1978 (MARPOL 73/78). The purpose of Annex V is to prohibit (subject to limited exceptions) the disposal from ships into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags. It also restricts the discharge at sea of other types of garbage to specified distances from the nearest land and mandates that reception facilities capable of holding waste from ships be required at ports and terminals.

BACKGROUND

The discarding of debris as part of normal vessel operations is one of man's oldest pollution practices. Although the Refuse Act of 1899 (33 U.S.C. 403-486 g-1) prohibited the dumping of garbage in rivers and harbors, until recent years there has been no effort to impose sanctions on such practices which occur on the high seas beyond the 3-mile limit.

Since 1899, the type of refuse disposed overboard has changed from degradable materials to waste containing many nondegradable plastic products. In addition to merchant vessels, commercial fishing operations, recreational waste discards, and river runoffs are the major sources through which plastics enter the marine environment.

Exact estimates of the marine plastics problem are unavailable. However, beach surveys and other studies indicate that the problem is widespread. In a 1975 study, the National Research Council of the U.S. National Academy of Sciences estimated that approximately 6.4 million metric tons of trash was discharged into the oceans each year, and of that approximately 0.7 percent or 45,000 tons consisted of plastic garbage. In light of the continuing growth of the plastics industry over the past decade, there is no doubt that, if unchecked, even greater quantities of plastic garbage will be dumped into oceans. Recent studies indicate that approximately 100,000 plastic containers are discharged by the world's shipping industry each day, and each year fishing vessels reportedly dispose of approximately 52 million pounds of plastic packaging material and lose more than 298 million pounds of synthetic fishing gear, including nets, lines, and buoys.

A number of studies have documented the large amounts of plastic debris in the marine environment: Benthic sediment surveys off the coast of the United Kingdom showed 2,000 pieces of plastic per square meter, and beach surveys in New Zealand showed even higher concentrations of plastic particles on its beaches. A Mediterranean study revealed 60-70 percent of surveyed debris was plastic, and a recent ocean sample of debris in the North Pacific showed the level to be higher than 80 percent. Plastic debris is even abundant on the remote shores of Antarctica. Plastics are being found in increasingly greater quantities, and because of their durability remain in the environment longer than most other manmade substances.

Because much of the plastic debris is lightweight and degrades slowly in the marine environment, once discharged it floats at or near the surface for months, years, even decades, and poses hazards to marine mammals, sea birds, turtles, and fish as well as humans. Over time, floating plastic may accumulate attached marine organisms and sink to the bottom where it can continue to entangle crabs and other benthic marine life indefinitely.

A major threat to marine wildlife posed by plastic essentially takes three forms: Entanglement in loops or openings of nets, net fragments, anchor and float lines, ropes, and packing bands; and ingestion of plastic fragments mistaken for natural items of prey, or ingestion incidentally because they happen to be associated with living animals. Animals which become entangled may exhaust themselves, starve, be slowed to the point of becoming easy prey for other predators or unable to catch fast moving prey, or develop wounds and infections from the abrasion of attached debris. Animals may become emaciated or have digestive tracts blocked or damaged by ingested plastics that are difficult or impossible to excrete, regurgitate, vomit, or otherwise eliminate.

Although available information is not sufficient to quantify the number of individual animals affected by plastic debris in oceans,

available information suggests that lost and discarded fishing nets and packing bands may be the primary cause of an ongoing decline in the North Pacific fur seal population. Entanglement in such materials also may be a significant cause of recent declines in the number of endangered Hawaiian monk seals and perhaps certain populations of Steller sea lions and harbor seals in Alaska. It is also clear that many species of seabirds, turtles, sharks, and fish are being affected by plastic debris to varying degrees throughout the world's oceans. Some of these species are listed as endangered and losses due to entanglement or ingestion add an additional factor inhibiting their potential recovery. Other species such as salmon and various crabs are commercially valuable and losses may reduce potential income for fishermen.

Another harmful effect of ship-generated garbage is its appearance on beaches and shorelines. In the United States, trash and debris is a particular problem at the Padre Island National Seashore, where recent studies indicate the majority of debris to be plastics or plastic derivatives. Aside from its aesthetic damage, garbage may physically injure organisms and humans, and physically damage ships and machinery. Occasionally plastic sheets are picked up in water intakes of a ship, and ropes and nets foul propellers resulting in mechanical damage or delay.

The marine environment is capable of absorbing limited and controlled quantities of wastes and, as such, represents an important resource. Careful control of garbage disposal is necessary to ensure that the harm to the marine environment is minimized.

MAJOR PROVISIONS

Annex V prohibits the disposal into the sea of all plastics, including synthetic ropes, synthetic fishing nets, and plastic garbage bags. For other nonplastic garbage such as floating dunnage, lining, and packing materials, Annex V would require their disposal beyond 25 miles. For food wastes and all other garbage, "including paper products, rags, glass, metal, bottles, crockery, and similar refuse," Annex V would require disposal beyond 12 miles. However, if these items are ground, they can be disposed of as close as 3 miles offshore. In addition, the annex would prohibit garbage disposal from fixed platforms.

Specifically excluded from coverage are accidentally lost fishing nets. Regulation 6 of Annex V excludes "the accidental loss of synthetic fishing nets or synthetic material incidental to the repair of such nets, provided that all reasonable precautions have been taken to prevent such loss." However, this regulation does not specify what "reasonable precautions" are.

COMMITTEE ACTION

On July 31, 1987, the committee held a public hearing on Annex V. Testimony was received from the following individuals: (1) Senator John H. Chafee; (2) Senator Frank R. Lautenberg; (3) Rear Adm. John W. Kime, Chief, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard, Department of Transportation; and (4) Mr. Richard J. Smith, Principal Deputy Assistant

RATIFICATIONS

United Kingdom; France; Federal Republic of Germany; Poland; Sweden; and Uruguay.

ACCESSIONS

Norway; Colombia; Czechoslovakia; North Korea; Denmark; Egypt; Finland; Gabon; German Democratic Republic; Greece; Hungary; Italy; Japan; Lebanon; Oman; Panama; Peru; St. Vincent and the Grenadines; Tunisia; Tuvalu; and Yugoslavia.

TEXT OF RESOLUTION OF RATIFICATION

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78).

ary for Oceans and International Environmental and Scientific Affairs, Department of State.

committee considered the treaty at its business meeting on November 24, 1987, and voted 19-0 to report it favorably to the Senate for its advice and consent. Ayes: Senators Pell, Biden, Sarbanes, Cranston, Dodd, Kerry, Simon, Sanford, Adams, Moynihan, Lugar, Kassabaum, Boschwitz, Pressler, Murkowski, Tribble, and McConnell.

COST ESTIMATE

Congressional Budget Office has supplied the committee the following information on the possible budgetary impact of V:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 14, 1987.

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

MR. CHAIRMAN: The Congressional Budget Office has reviewed Treaty Document 100-3, Annex V, regulations for the prevention of pollution by garbage from ships, an optional annex to the 1978 protocol relating to the international convention for the prevention of pollution from ships, 1973, as ordered reported by the Committee on Foreign Relations, September 24, 1987. CBO estimates that the adoption of this treaty by the United States will result in federal costs of about \$1 million over two to three years. These funds would be used by the U.S. Coast Guard to issue permits and stations designed to ensure the availability of garbage reception facilities at U.S. ports and terminals under Regulation 7 of the

costs would be incurred by state or local governments as a condition of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

ENTRY INTO FORCE

Annex V will enter into force 12 months after the date on which more than 15 States, the combined fleets of which constitute not less than 50 percent of the gross tonnage of the world's merchant shipping, have become parties to it. Annex V has not yet entered into force, having been ratified by 27 States representing only approximately 45 percent of the world's shipping tonnage. U.S. ratification would increase the tonnage to 49 percent. The following is a list of the nations that have either ratified or acceded to this

PUBLIC LAW 100-220—DEC. 29, 1987

UNITED STATES-JAPAN FISHERY
AGREEMENT APPROVAL ACT OF 1987

Public Law 100-220
100th Congress

An Act

Dec. 29, 1987
[H.R. 3674]

To provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets, and for other purposes.

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

United States-
Japan Fishery
Agreement
Approval Act of
1987.
Environmental
protection.
16 USC 1801
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Fishery Agreement Approval Act of 1987".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

- Sec. 1001. Approval of agreement.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

- Sec. 2001. Short title.
- Sec. 2002. Effective date.
- Sec. 2003. Preemption; additional State requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

- Sec. 2101. Definitions.
- Sec. 2102. Application of Act.
- Sec. 2103. Pollution reception facilities.
- Sec. 2104. Violations.
- Sec. 2105. Civil penalties.
- Sec. 2106. Proposed amendments to protocol.
- Sec. 2107. Administration and enforcement; refuse record books; waste management plans; notification of crew and passengers.
- Sec. 2108. Compliance with international law.

Subtitle B—Studies and Report

- Sec. 2201. Compliance reports.
- Sec. 2202. EPA study of methods to reduce plastic pollution.
- Sec. 2203. Effects of plastic materials on the marine environment.
- Sec. 2204. Plastic pollution public education program.

Subtitle C—New York Bight

- Sec. 2301. New York Bight restoration plan.
- Sec. 2302. New York Bight plastic study.
- Sec. 2303. Reports.
- Sec. 2304. Definitions.
- Sec. 2305. Authorization of appropriations.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

- Sec. 3001. Short title.

0—DEC. 29, 1987

PUBLIC LAW 100-220—DEC. 29, 1987

101 STAT. 1459

Subtitle A—National Sea Grant College Program Authorization

- Sec. 3101. Short title.
- Sec. 3102. Reference to the National Sea Grant College Program Act.
- Sec. 3103. Declaration of policy.
- Sec. 3104. Definitions.
- Sec. 3105. Contracts and grants.
- Sec. 3106. Sea grant strategic research program.
- Sec. 3107. Fellowships.
- Sec. 3108. Sea grant review panel.
- Sec. 3109. Marine affairs and resource management improvement grants.
- Sec. 3110. Authorization of appropriations.
- Sec. 3111. Sea grant international program.

Subtitle B—Great Lakes Mapping

- Sec. 3201. Short title.
- Sec. 3202. Great Lakes shoreline mapping plan.
- Sec. 3203. Preparation of Great Lakes shoreline maps.
- Sec. 3204. Contract authority.
- Sec. 3205. Definitions.
- Sec. 3206. Authorization of appropriations.

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

- Sec. 4001. Short title.
- Sec. 4002. Findings.
- Sec. 4003. Definitions.
- Sec. 4004. Monitoring agreements.
- Sec. 4005. Impact report.
- Sec. 4006. Enforcement agreements.
- Sec. 4007. Evaluations and recommendations.
- Sec. 4008. Construction with other laws.
- Sec. 4009. Authorization of appropriations.

TITLE V—RED TIDE CONTAMINATION

- Sec. 5001. Declaration of disaster.
- Sec. 5002. Provision of assistance.
- Sec. 5003. Recent North Carolina Coast red tide contamination, defined.

**TITLE I—APPROVAL OF GOVERNING
INTERNATIONAL FISHERY AGREEMENT
WITH JAPAN**

SEC. 1001. APPROVAL OF AGREEMENT.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States, dated November 17, 1987—

- (1) is approved by Congress as a governing international fishery agreement for the purposes of such Act; and
- (2) shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

16 USC 1823
note.

...g International Fishery Agreement
...plement the provisions of Annex V to
...ention of Pollution from Ships, 1973; to
...lege Program Act; to improve efforts
...e impacts of driftnets; and for other

*House of Representatives of the
; assembled,*

ted States-Japan Fishery Agree-

lows:

NG INTERNATIONAL FISHERY
TTH JAPAN

RESEARCH AND CONTROL

irements.

Prevent Pollution From Ships

refuse record books; waste management
amangers.

ies and Report

plastic pollution.
marine environment
program.

w York Bight

NOLOGY, AND POLICY DEVELOPMENT

Marine Plastic
Pollution
Research and
Control Act of
1987.
33 USC 1901
note.

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Marine Plastic Pollution Research and Control Act of 1987".

SEC. 2002. EFFECTIVE DATE.

(a) **IN GENERAL.**—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) **EXCEPTIONS.**—Sections 2001, 2002, 2003, 2108, 2202, 2203, 2204, and subtitle C of this title shall be effective on the date of the enactment of this title.

(c) **ISSUANCE OF REGULATIONS.**—

(1) **IN GENERAL.**—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) **EFFECTIVE DATE OF REGULATIONS.**—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

SEC. 2003. PREEMPTION; ADDITIONAL STATE REQUIREMENTS.

(a) **PREEMPTION.**—Except as specifically provided in this title, nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

(b) **ADDITIONAL STATE REQUIREMENTS.**—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

33 USC 1901

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "Sec. 2."

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;"

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "and" the second time it appears and inserting in lieu thereof the following: "Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;"

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage'" after "discharge".

(5) The following is added at the end of section 2:

POLLUTION CONTROL

Public Pollution Research

in subsections (b) and (c), this Convention of Pollution from Ships, 2003, 2108, 2202, 2203, 2204, effective on the date of the

to prescribe regulations on the date of enactment

IONS.—Any regulation prescribed under this title under which the

REQUIREMENTS.

ally provided in this title, or construed to supersede or modify any State law, either statu-

—Nothing in this title shall prevent any State from imposing

to Act to Prevent Pollution from Ships

tion from Ships (33 U.S.C.

ated) is amended to read as

the Protocol of 1978 relating to the Prevention of Pollution from Ships, as amended by striking

II, and V thereto, including the Convention, Protocols, and Amendments thereto, into force for the United States;

ated) is amended by inserting

end of section 2:

"(b) For purposes of this Act, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction."

SEC. 2102. APPLICATION OF ACT.

33 USC 1902.

(a) IN GENERAL.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States."

(b) EXCLUSIONS.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency."

(c) REGULATIONS.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol."

SEC. 2103. POLLUTION RECEPTION FACILITIES.

33 USC 1905.

(a) DETERMINATION OF ADEQUACY OF FACILITIES.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in subsection (a)(1), as so redesignated, by striking "reception facilities of a port or terminal" and inserting in lieu thereof the following: "a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances"; and

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for deter-

Regulations

mining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations."

33 USC 1905.

(b) **CONSIDERATION OF NUMBER AND TYPES OF SHIPS.**—Section 6(b) of the Act to Prevent Pollution from Ships is amended by striking "terminal," the first time it appears and inserting in lieu thereof the following: "terminal, and in establishing regulations under subsection (a) of this section," and by striking "seagoing ships" and inserting in lieu thereof the following: "ships or seagoing ships".

(c) **CERTIFICATE ISSUANCE.**—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation."

(d) **ENTRY DENIAL.**—Section 6(e) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(e)";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) in subparagraph (A), as so redesignated, by striking "the MARPOL Protocol" and inserting in lieu thereof the following: "Annexes I and II of the Convention"; and

(5) by adding at the end the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations."

33 USC 1907.

SEC. 2104. VIOLATIONS.

(a) **SHIP INSPECTIONS.**—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one

facilities for garbage at a port
 ional measures and require-
 e such adequacy. Persons in
 l provide reception facilities,
 available, for receiving gar-
 bages."

TYPES OF SHIPS.—Section 6(b)
 ships is amended by striking
 l inserting in lieu thereof the
 ng regulations under subsec-
 icking "seagoing ships" and
 : "ships or seagoing ships".
 6(c) of the Act to Prevent
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operated under the authority of the United States, the" and
 inserting "The"; and

(5) inserting before paragraph (2) (as redesignated) the follow-
 ing: "(1) This subsection applies to inspections relating to possi-
 ble violations of Annex I or Annex II to the Convention by any
 seagoing ship referred to in section 3(a)(2) of this Act."

(b) **SHIP INSPECTIONS OTHER THAN AT PORT OR TERMINAL.**—Section
 8 of the Act to Prevent Pollution from Ships is amended by re-
 designating subsection (d) as subsection (f) and inserting after
 subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section
 3(a)(3) of this Act to verify whether the ship has disposed of garbage
 in violation of Annex V to the Convention or this Act.

"(2) If an inspection under this subsection indicates that a viola-
 tion has occurred, the Secretary may undertake enforcement action
 under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United
 States registry or nationality or operating under the authority of
 the United States to which the MARPOL Protocol applies to verify
 whether the ship has discharged a harmful substance or disposed of
 garbage in violation of that Protocol or this Act.

"(2) If an inspection under this subsection indicates that a viola-
 tion of the MARPOL Protocol has occurred the Secretary may
 undertake enforcement action under section 9 of this Act."

SEC. 2105. CIVIL PENALTIES.

(a) **PAYMENT FOR INFORMATION.**—

(1) **INFORMATION LEADING TO CONVICTION.**—Section 9(a) of the
 Act to Prevent Pollution From Ships is amended by inserting
 after the first sentence the following: "In the discretion of the
 Court, an amount equal to not more than 1/2 of such fine may be
 paid to the person giving information leading to conviction."

(2) **INFORMATION LEADING TO ASSESSMENT OF PENALTY.**—Sec-
 tion 9(b) of the Act to Prevent Pollution From Ships is amended
 by adding at the end the following: "An amount equal to not
 more than 1/2 of such penalties may be paid by the Secretary to
 the person giving information leading to the assessment of such
 penalties."

(b) **REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR
 NATIONALITY.**—Section 9(f) of the Act to Prevent Pollution from
 Ships is amended by striking "to that country" and inserting "to the
 government of the country of the ship's registry or nationality, or
 under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

Section 10 of the Act to Prevent Pollution from Ships is
 amended—

(1) in subsection (a), by striking "Inter-Governmental Mari-
 time Consultative Organization" and inserting "International
 Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to
 the Annexes, or Protocol I of the MARPOL Protocol," and
 inserting "Annex I, II, or V to the Convention, appendices to
 those Annexes, or Protocol I of the Convention", and by striking
 "Inter-Governmental Maritime Consultative Organization" and
 inserting "International Maritime Organization".

33 USC 1907

33 USC 1908

International
 organizations
 33 USC 1909

33 USC 1903.

SEC. 2107. ADMINISTRATION AND ENFORCEMENT; REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

(a) ADMINISTRATION AND ENFORCEMENT, GENERALLY.—Section 4(a) of the Act to prevent pollution from ships is amended to read as follows:

“(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the Convention apply only to seagoing ships.”

(b) REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.—Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

- (1) inserting “(1)” after “(b)”; and
- (2) adding at the end the following:

“(2) The Secretary of the department in which the Coast Guard is operating shall—

Regulations.

“(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

“(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

“(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

International agreements.

“(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

Reports.

“(C) within 2 years after the effective date of this paragraph, report to the Congress—

“(i) regarding activities of the Secretary under subparagraph (B); and

“(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.”

SEC. 2108. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

33 USC 1912

“SEC. 17. Any action taken under this Act shall be taken in accordance with international law.”

Subtitle B—Studies and Report

33 USC 1902 note

SEC. 2201. COMPLIANCE REPORTS.

(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter for a period of 6 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with

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Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

(b) **REPORT ON INABILITY TO COMPLY.**—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

Contracts.

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) **CONGRESSIONAL ACTION.**—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.

SEC. 2202. EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION.

42 USC 6941 note.

(a) **IN GENERAL.**—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, shall commence a study of the adverse effects of the improper disposal of plastic articles on the environment and on waste disposal, and the various methods to reduce or eliminate such adverse effects.

(b) **SCOPE OF STUDY.**—A study under this section shall include the following:

Wildlife Safety.

(1) A list of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in coastal and waterfront areas, endanger human health or safety, or cause other significant adverse impacts.

(2) A description of specific statutory and regulatory authority available to the Administrator of the Environmental Protection Agency, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine and aquatic environment.

(3) An evaluation of the feasibility and desirability of substitutes for those articles identified under paragraph (1), comparing the environmental and health risks, costs, disposability, durability, and availability of such substitutes.

(4) An evaluation of the impacts of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including recycling.

(5) An evaluation of the impact of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including—

(A) the status of a need for public and private research to develop and market recycled plastic articles;

(B) methods to facilitate the recycling of plastic materials by identifying types of plastic articles to aid in their sorting.

and by standardizing types of plastic materials, taking into account trade secrets and protection of public health;

(C) incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling and to decrease the amount of plastic debris, especially in the marine environment;

(D) the effect of existing tax laws on the manufacture and distribution of virgin plastic materials as compared with recycled plastic materials; and

(E) recommendations on incentives and other measures to promote new uses for recycled plastic articles and to encourage or require manufacturers of plastic articles to consider re-use and recycling in product design.

(6) An evaluation of the feasibility of making the articles identified under paragraph (1) from degradable plastics materials, taking into account—

(A) the risk to human health and the environment that may be presented by fragments of degradable plastic articles and the properties of the end-products of the degradation, including biotoxicity, bioaccumulation, persistence, and environmental fate;

(B) the efficiency and variability of degradation due to differing environmental and biological conditions; and

(C) the cost and benefits of using degradable articles, including the duration for which such articles were designed to remain intact.

(c) CONSULTATION.—In carrying out the study required by this section, the Administrator shall consult with the heads of other appropriate Federal agencies, representatives of affected industries, consumer and environment interest groups, and the public.

(d) REPORT.—Within 18 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to the Congress the results of the study required by this section, including recommendations in connection therewith.

SEC. 2203. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall—

(1) identify and quantify the harmful effects of plastic materials on the marine environment;

(2) assess the specific effects of plastic materials on living marine resources in the marine environment;

(3) identify the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analyze, in consultation with the Director of the National Bureau of Standards, plastic materials which are claimed to be capable of reduction to environmentally benign submits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommend legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2204. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

(a) OUTREACH PROGRAM.—

Reports

42 USC 6951 note

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of degradation due to environmental conditions; and the use of degradable articles, and the use of such articles were de-

study required by this section in the heads of other departments of affected industries, and to inform the public.

of the enactment of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency study required by this section therewith.

SECTION 2301. ON THE MARINE

Secretary of Commerce shall study the effects of plastic pollution and the effects of plastic mate-

ric materials on living marine resources;

toxic materials that pose a threat to living marine resources;

Director of the National Oceanic and Atmospheric Administration which are claimed to be benign submits under section 2301 (including biological monitoring and analysis); and

it is necessary to prohibit, tax, or otherwise regulate such materials that enter the marine

RESTORATION PROGRAM.

(1) **IN GENERAL.**—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct for a period of at least 3 years, a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding—

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;

(C) the need to recycle plastic materials; and

(D) the need to reduce the quantity of plastic debris in the marine environment.

(2) **AUTHORIZED ACTIVITIES.**—A public outreach program under paragraph (1) may include—

(A) workshops with interested groups;

(B) public service announcements;

(C) distribution of leaflets and posters; and

(D) any other means appropriate to educating the public.

(b) **CITIZEN POLLUTION PATROLS.**—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

Voluntarism

Subtitle C—New York Bight

33 USC 2267 note

SEC. 2301. NEW YORK BIGHT RESTORATION PLAN.

(a) **IN GENERAL.**—Within 3 years after the effective date of this section, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and other Federal, State, and interstate agencies, shall prepare a New York Bight Restoration Plan. In preparing such plan, the Administrator shall seek the views and comments of interested persons and hold public hearings in States to be affected by the plan. The first such public hearing shall occur not later than 8 months after the effective date of this section.

State and local governments

(b) **SCOPE OF PLAN.**—The New York Bight Restoration Plan prepared under subsection (a) shall, at a minimum—

(1) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping, that are affecting the water quality and marine resources of the New York Bight;

(2) identify those uses in the New York Bight and other areas that are being adversely affected by such pollutant inputs;

(3) determine the fate of the contaminants from such pollutant inputs and their effect on human health and the marine environment;

(4) identify technologies and management practices necessary for controlling such pollutant inputs;

(5) identify the costs of implementing such technologies and practices and any impediments to such implementation.

(6) devise a schedule of economically feasible projects to implement such technologies and practices and to remove such impediments;

State and local
governments.

(7) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects referred to in paragraph (6); and

(8) comprehensively assess alternatives to dumping of municipal sludge and the burning of timber in the New York Bight.

SEC. 2302. NEW YORK BIGHT PLASTIC STUDY.

Reports

The Administrator shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the effective date of this section with recommendations for the elimination of the threats posed by such plastic debris.

SEC. 2303. REPORTS.

(a) **SCHEDULE FOR PRELIMINARY REPORTS AND RESTORATION PLAN.**—Not later than 6 months after the effective date of this section, the Administrator shall submit to the Congress a detailed schedule (including associated funding requirements) for completing preliminary reports and the New York Bight Restoration Plan under this subtitle.

(b) **PRELIMINARY REPORT ON ALTERNATIVES.**—Not later than the earlier of January 1, 1990, or the date of any decision by the Administrator affecting the redesignation of the 106-mile Ocean Waste Dump site for municipal sludge or the designation of any additional municipal sludge dump site, the Administrator shall submit to the Congress a preliminary report assessing alternatives to the ocean dumping of municipal sludge.

(c) **PRELIMINARY REPORT ON POLLUTANT INPUTS.**—Not later than 1 year after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(1), (b)(2), and (b)(3).

(d) **PRELIMINARY REPORT ON CONTROL MEASURES.**—Not later than 2 years after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(4), (b)(5), (b)(6), and (b)(7).

(e) **SUBMISSION OF RESTORATION PLAN TO CONGRESS.**—Not later than 3 years after the effective date of this section, the Administrator shall submit to the Congress the New York Bight Restoration Plan prepared under section 2301.

SEC. 2304. DEFINITIONS.

For purposes of this subtitle—

(1) **NEW YORK BIGHT.**—The term "New York Bight" means an area comprised of the Hudson-Raritan Estuary and waters of the Atlantic Ocean—

(A) west of Montauk, Long Island, New York (71 degrees, 50 minutes west longitude);

(B) north of Cape May, New Jersey; and

(C) extending seaward to the edge of the Continental Shelf.

(2) **ADMINISTRATOR.**—The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2305. AUTHORITY

There are no more than \$300,000,000 in fiscal years 1988, 1989,

TITLE III OLOGY.

SEC. 3001. SHORT

This title may be considered a Policy Development

Subtitle

SEC. 3101. SHORT

This subtitle may be considered a Program Authority

SEC. 3102. REFERRED TO IN TITLE III

Unless otherwise provided, a title, section, or subtitle shall be considered to be a part of the provision of the title, section, or subtitle.

SEC. 3103. DECLARATIONS

Section 202

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SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator not more than \$3,000,000 for carrying out this subtitle during fiscal years 1988, 1989, and 1990.

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

Marine Science, Technology, and Policy Development Act of 1987
33 USC 1121 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Science, Technology, and Policy Development Act of 1987".

Subtitle A—National Sea Grant College Program Authorization

National Sea Grant College Program Authorization Act of 1987
33 USC 1121 note.
Education, Research and development.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "National Sea Grant College Program Authorization Act of 1987".

SEC. 3102. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3103. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows.

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated) the following:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources resulting from growing coastal area populations and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely."

(2) Subsection (b) is amended by striking "ocean and coastal resources" and all that follows through the end of such subsection and inserting in lieu thereof the following: "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems."

SEC. 3104. DEFINITIONS.

(a) **IN GENERAL.**—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'director of a sea grant college' means a person designated by their university or institution to direct a sea grant college, programs, or regional consortium."

(3) by striking paragraphs (6) and (7) and inserting in lieu thereof the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the Great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' means—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of a living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources"; and

(4) by adding at the end the following:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere."

(b) CONFORMING AMENDMENTS RELATING TO GREAT LAKES RESOURCES.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking "ocean and coastal resources" each place it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3103(1)(A) of this subtitle).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204.

(E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a).

33 USC 1121

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(F) Paragraph (1) of section 209(c).

(G) Section 210.

(2) Paragraph (5) of section 204(c) is amended by striking "ocean and coastal resource" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources".

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking "Administrator" each place it appears and inserting in lieu thereof "Under Secretary".

33 USC 1128

33 USC 1129

33 USC 1123

SEC. 3105. CONTRACTS AND GRANTS.

(a) MINIMIZATION OF PRIOR APPROVAL REQUIREMENTS.—Section 205 (33 U.S.C. 1124) is amended by adding at the end of subsection (d)(1) the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirement of prior Federal approval."

(b) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—Section 204(d)(6) is amended by striking "under section 205(a)".

SEC. 3106. SEA GRANT STRATEGIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) GRANT AND CONTRACT AUTHORITY.—The Under Secretary may make grants and enter into contracts to carry out the strategic research program provided for under this section. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) STRATEGIC RESEARCH PLAN.—Within 1 year after the effective date of the Marine Science, Technology, and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan for the next 3 years. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with ocean, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research in those fields.

"(c) CONSULTATION AND CONGRESSIONAL REVIEW.—

"(1) CONSULTATION.—In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies; sea grant directors; other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia; non-governmental marine scientists; and other interested parties, both public and private.

"(2) SUBMITTAL TO CONGRESS.—Upon publication of each sea grant strategic research plan under subsection (b), the Under Secretary shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) RESTRICTION ON GRANTS AND CONTRACTS.—The Under Secretary shall not make a grant or enter into a contract under this section for priority area research under a strategic research plan before the 45th day after the date of receipt of the plan by the Committees referred to in paragraph (2).

Federal
Register.
publication.

"(d) **CRITERIA FOR AREAS TO BE INCLUDED IN PLAN.**—In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) critical resource and environmental areas that are precluded from adequate funding under other provisions of this Act because of—

"(A) their national, international, or global scope, fundamental nature, or long-range aspects;

"(B) the scale of the needed research effort; or

"(C) the need for the broadest possible university involvement; and

"(2) areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) **CONTRACT AND GRANT REQUIREMENTS.**—Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made and contracts entered into, under this section.

(b) **REGULATIONS.**—Within 1 year after the effective date of this title, the Under Secretary of Commerce for Oceans and Atmosphere shall adopt rules and regulations in accordance with section 553 of title 5, United States Code, to carry out section 206(a), after giving notice and opportunity for full participation by relevant Federal agencies; State agencies; local governments; regional organizations; nongovernmental marine scientists; sea grant directors and other representatives of sea grant colleges, programs, and regional consortia; and other interested parties, both public and private.

SEC. 3107. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) **IN GENERAL.**—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) **DEAN JOHN A. KNAUSS MARINE POLICY FELLOWSHIP.**—The Under Secretary may award marine policy fellowships to support the placement of individuals at the graduate level of education in fields related to ocean, coastal and Great Lakes resources in positions with the executive and legislative branches of the United States Government. A fellowship awarded under this subsection shall be for a period of not more than 1 year.

"(c) **POSTDOCTORAL FELLOWSHIPS.**—The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(1) shall be for 2 years;

"(2) may be renewed once for not more than 2 years;

"(3) shall be awarded on a nationally competitive basis;

"(4) may be used at any institution of post-secondary education involved in the national sea grant college program.

"(5) shall be for up to 100 percent of the total cost of the fellowship;

"(6) may be identified under section 209
"(7) may be included in the program, as well as

SEC. 3108. SEA GRANT COLLEGES.

Section 209 (33 U.S.C. 1125)

(1) Subsection (a) shall be amended to read as follows:

(A) The Secretary shall insert in the list of sea grant colleges

(B) the name of any sea grant college that is

(C) the name of any sea grant college that is

(D) the name of any sea grant college that is

(E) the name of any sea grant college that is

(F) the name of any sea grant college that is

(2) Subsection (b) shall be amended to read as follows:

(A) The Secretary shall insert in the list of sea grant colleges

(B) the name of any sea grant college that is

(C) the name of any sea grant college that is

(D) the name of any sea grant college that is

(E) the name of any sea grant college that is

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(Y) the name of any sea grant college that is

(Z) the name of any sea grant college that is

State and local governments
33 USC 1125
note

SEC. 3109. MARINE POLICY FELLOWSHIPS.

Section 211 (33 U.S.C. 1128)

"SEC. 211. MARINE POLICY FELLOWSHIPS.

"(a) **IN GENERAL.**—The Under Secretary shall support a program of grants during the period of the fiscal year beginning on October 1, 1988, under subsection (b) of this section for the following objects:

"(1) Development of marine affairs and development of marine resources.

"(2) Fostering of marine research and development.

"(3) Increasing the number of marine scientists and engineers.

"(b) **ELIGIBILITY.**—The Under Secretary shall establish and administer a program of grants during the period of the fiscal year beginning on October 1, 1988, under subsection (a) of this section if it is a

institution of higher education, or a

"(1) marine research and development

"(2) fostering of marine research and development

"(3) increasing the number of marine scientists and engineers

"(4) increasing the number of marine scientists and engineers

"(5) increasing the number of marine scientists and engineers

"(6) increasing the number of marine scientists and engineers

"(7) increasing the number of marine scientists and engineers

"(8) increasing the number of marine scientists and engineers

"(9) increasing the number of marine scientists and engineers

"(10) increasing the number of marine scientists and engineers

"(11) increasing the number of marine scientists and engineers

"(12) increasing the number of marine scientists and engineers

“(6) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206; and

“(7) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.”

SEC. 3108. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking the matter preceding paragraph (1) and inserting “The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—”; and

(B) by inserting “and section 3 of the Sea Grant Program Improvement Act of 1976” before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking the second sentence of paragraph (1) and inserting in lieu thereof the following: “The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel.”;

(B) by striking “five” in paragraph (1) and inserting in lieu thereof “8”;

(C) by adding at the end of paragraph (2) the following: “At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.”; and

(D) by striking “office, or until 90 days after such date, whichever is earlier.” in paragraph (3) and inserting in lieu thereof “office.”.

Federal
Register
publication.

SEC. 3109. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended to read as follows:

“SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

“(a) **IN GENERAL.**—The Under Secretary may provide annual grants during fiscal years 1988 through 1990 to institutions eligible under subsection (b) to assist the institutions in achieving the following objectives:

“(1) Development and improvement of curriculum offerings in marine affairs and resource management at the graduate level, and development of related educational materials.

“(2) Fostering support of graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

“(3) Increasing multidisciplinary research in marine resources management.

“(b) **ELIGIBILITY.**—An institution is eligible for grants under this section if it is a sea grant college, sea grant regional consortium, or institution of higher education having a sea grant program that—

“(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

“(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) APPLICATIONS.—Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) LIMITATIONS ON GRANTS.—No grant in excess of \$400,000 may be made to an eligible institution under this section for any year, and no more than 2 annual grants may be made to any such institution.

"(e) REPORT BY GRANT RECIPIENT.—Each institution receiving a grant under this subsection shall report to the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the activities conducted with the grant."

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out the provisions of this Act other than sections 206 and 211, an amount—

- "(1) for fiscal year 1988, not to exceed \$41,500,000;
- "(2) for fiscal year 1989, not to exceed \$50,500,000; and
- "(3) for fiscal year 1990, not to exceed \$51,000,000.

"(b) STRATEGIC MARINE RESEARCH.—There is authorized to be appropriated to carry out section 206 and section 208(c), an amount—

- "(1) for fiscal year 1988, not to exceed \$500,000;
- "(2) for fiscal year 1989, not to exceed \$5,000,000; and
- "(3) for fiscal year 1990, not to exceed \$10,000,000.

"(c) MARINE AFFAIRS AND RESOURCE MANAGEMENT GRANTS.—There is authorized to be appropriated to carry out section 211, an amount—

- "(1) for fiscal year 1988, not to exceed \$2,000,000;
- "(2) for fiscal year 1989, not to exceed \$2,500,000; and
- "(3) for fiscal year 1990, not to exceed \$3,000,000.

"(d) AVAILABILITY OF SUMS.—Sums appropriated pursuant to this section shall remain available until expended.

"(e) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by that person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available."

SEC. 3111. SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.

"(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

"(1) enhance educational ac

"(2) promote pro countries' interest in

"(3) encourage ocean, coast in the Unit

"(4) promote foreign na assessment resources;

"(5) use in other F purposes

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"(6) enhance and the U search, inc

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"(1) enhance cooperative international research and edu-
 cational activities on ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in
 countries with which the United States has sustained mutual
 interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of
 ocean, coastal, and Great Lakes resources in other countries and
 in the United States;

"(4) promote the exchange among the United States and
 foreign nations of information and data with respect to the
 assessment, development, utilization, and conservation of such
 resources;

"(5) use the national sea grant college program as a resource
 in other Federal civilian agency international initiatives whose
 purposes are fundamentally related to research, education,
 technology transfer and public service programs concerning the
 understanding and wise use of ocean, coastal, and Great Lakes
 resources; and

"(6) enhance regional collaboration between foreign nations
 and the United States with respect to marine scientific re-
 search, including activities which improve understanding of
 global oceanic and atmospheric processes, undersea minerals
 resources within the exclusive economic zone, and productivity
 and enhancement of living marine resources in—

- "(A) the Caribbean and Latin American regions;
- "(B) the Pacific Islands region;
- "(C) the Arctic and Antarctic regions;
- "(D) the Atlantic and Pacific Oceans; and
- "(E) the Great Lakes.

Caribbean
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 Pacific Ocean
 Great Lakes

"(b) ELIGIBILITY, PROCEDURES, AND REQUIREMENTS.—Any sea grant
 college, sea grant program, or sea grant regional consortium, and
 any institution of higher education, laboratory, or institute (if the
 institution, laboratory, or institute is located within a State, as
 defined in section 203(14) of the National Sea Grant College Pro-
 gram Act (33 U.S.C. 1122(14)), may apply for and receive financial
 assistance under this section. The Under Secretary shall prescribe
 rules and regulations, in consultation with the Secretary of State, to
 carry out this section. Before approving an application for a grant or
 contract under this section, the Under Secretary shall consult with
 the Secretary of State. A grant made, or contract entered into,
 under this section is subject to section 205(d) (2) and (4) of the
 National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and
 (4)) and to any other requirements that the Under Secretary con-
 siders necessary and appropriate."

Contracts

Subtitle B—Great Lakes Mapping

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Great Lakes Shoreline Mapping
 Act of 1987".

Great Lakes
 Shoreline
 Mapping Act of
 1987
 33 USC 883a
 note

SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

(a) PREPARATION OF PLAN.—Not later than nine months after the
 date of the enactment of this subtitle, the Director, in consultation
 with the Director of the United States Geological Survey, shall

33 USC 883a
 note

submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203

(b) **CONTENT OF PLAN.**—A plan prepared under paragraph (1) shall include—

(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

(2) a time schedule for completion of maps;

(3) recommendation of funding needed for preparing the maps; and

(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

(a) **IN GENERAL.**—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

(b) **CONTENT OF MAPS.**—Maps prepared under this section—

(1) shall include—

(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

(C) the geological conditions of the nearshore area and shoreline to the extent that these areas will directly affect or be affected by coastal erosion and flooding;

(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk of erosion or flooding; and

(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

(c) **CONSULTATION.**—In preparing maps under this section, the Director shall consult with, and take into consideration, the informational needs of—

(1) the Army Corps of Engineers;

(2) the Federal Emergency Management Agency;

(3) other appropriate Federal agencies;

(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(5) appropriate local government units; and

(6) the general public.

(d) **AVAILABILITY OF MAPS.**—The Director shall make maps prepared under this section available to—

(1) Federal agencies;

(2) State governments;

(3) local government units;

(4) the Government of Canada; and

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(5) the general public.
.; (e) RECOVERY OF COSTS.—The costs of reproducing and distributing
maps prepared under this section may be recovered under section
9701 of title 31, United States Code, or another law.

SEC. 3204. CONTRACT AUTHORITY.

The Director may, subject to appropriations, enter into contracts
and agreements on a reimbursable or cost-sharing basis with other
Federal agencies, State governments, local governments, and pri-
vate entities, to carry out this subtitle.

State and local
governments.

SEC. 3205. DEFINITIONS.

For purposes of this subtitle—

(1) The term "Director" means the Director of Charting and
Geodetic Services of the National Ocean Service, within the
National Oceanic and Atmospheric Administration.

(2) The term "Great Lakes" means Lake Erie, Lake Huron,
Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior,
the Saint Mary's River, the Saint Clair River, the Detroit River,
the Niagara River, the Saint Lawrence River to the Canadian
border, to the extent such lakes and rivers are subject to the
jurisdiction of the United States.

(3) The term "high risk of erosion" means subject to erosion at
a rate greater than 1 foot per year.

SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 3202
not more than \$100,000 for fiscal year 1988. Amounts appropriated
pursuant to this section shall remain available until expended.

TITLE IV—DRIFTNET IMPACT MONITOR-
ING, ASSESSMENT, AND CONTROL

Driftnet Impact
Monitoring,
Assessment, and
Control Act of
1987.
North Pacific
Ocean.
16 USC 1822
note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "Driftnet Impact Monitoring,
Assessment, and Control Act of 1987".

SEC. 4002. FINDINGS.

The Congress finds that—

(1) the use of long plastic driftnets is a fishing technique that
may result in the entanglement and death of enormous num-
bers of target and nontarget marine resources in the waters of
the North Pacific Ocean, including the Bering Sea;

(2) there is a pressing need for detailed and reliable informa-
tion on the number of marine resources that become entangled
and die in actively fished driftnets and in driftnets that are lost,
abandoned, or discarded; and

(3) increased efforts are necessary to monitor, assess, and
reduce the adverse impacts of driftnets.

SEC. 4003. DEFINITIONS.

As used in this title—

(1) DRIFTNET.—The term "driftnet" means a gillnet composed
of a panel of plastic webbing one and one-half miles or more in
length.

(2) **DRIFTNET FISHING.**—The term "driftnet fishing" means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(3) **EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.**—The term "exclusive economic zone of the United States" means the zone defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(b)).

(4) **MARINE RESOURCES.**—The term "marine resources" includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

(5) **MARINE RESOURCES OF THE UNITED STATES.**—The term "marine resources of the United States" means—

(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

(6) **SECRETARY.**—The term "Secretary" means the Secretary of Commerce.

SEC. 4004. MONITORING AGREEMENTS.

(a) **NEGOTIATIONS.**—The Secretary, through the Secretary of State and in consultation with the Secretary of the Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government's driftnet fishing vessels. Such agreements shall provide for—

(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

(2) appropriate methods for sharing equally the costs associated with such activities.

(b) **REPORT.**—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act a full report on the results of negotiations under this section.

SEC. 4005. IMPACT REPORT.

(a) **IN GENERAL.**—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act, and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

(1) the number and flag state of vessels involved;

(2) the areas fished;

(3) the length, width, and mesh size of driftnets used;

(4) the number of marine resources of the United States killed by such fishing;

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(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

(6) any other information the Secretary considers appropriate.

(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

(1) request relevant foreign governments to provide the information described in subsection (a), and

(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

Reports.

SEC. 4006. ENFORCEMENT AGREEMENTS.

International
agreements.

(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

(1) the effective monitoring and detection of violations;

(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

(4) appropriate methods for sharing equally the costs associated with such activities.

(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act, to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommenda-

tions for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

(c) **DRIFTNET BOUNTY SYSTEM.**—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

(d) **DRIFTNET FISHING VESSEL TRACKING SYSTEM.**—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet fishing vessels.

(e) **REPORT.**—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act a report setting forth—

- (1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);
- (2) the most effective and appropriate means of implementing such recommendations;
- (3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and
- (4) any need for legislation to provide authority to carry out such recommendations.

SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

This title shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in existing law on the date of the enactment of this Act.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.

North Carolina

TITLE V—RED TIDE CONTAMINATION

SEC. 5001. DECLARATION OF DISASTER.

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

SEC. 5002. PROVISION OF ASSISTANCE.

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

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(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

SEC. 5003. RECENT NORTH CAROLINA COAST RED TIDE CONTAMINATION DEFINED.

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the State of North Carolina by unusually high concentrations of the algae known as *Ptychodiscus brevis* (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shell fishing closure proclamation on or after November 2, 1987.

Approved December 29, 1987.

LEGISLATIVE HISTORY—H. R. 3674

HOUSE REPORTS: No. 100-489 (Comm. on Merchant Marine and Fisheries)
CONGRESSIONAL RECORD, Vol. 133 (1987):

Dec. 18, considered and passed House.

Dec. 19, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):

Dec. 29, Presidential statement.

HJR

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