schedule a time to consider bill S 856 as soon as possible

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas one of his

SECRETARY.

EXECUTIVE MESSAGE REFERRED

As an executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which referred to the appropriate committees.

The nominations received today are printed at the end of the Senate proceedings.

MESSAGES FROM THE HOUSE

At 12:08 p.m. a message from the House of Representatives delivered by Mr. Coertz one of its reading clerks an announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 4453 An act to amend title XVIII of the Social Security Act to preserve and strengthen the Medicare program.

The following enrolled bills previously signed by the Speaker of the House were signed on today, October 20, 1995, by the President pro tempore [Mr. Thurmond]

S 267 An act to amend title 17 United States Code to provide an exclusive right to perform sound recordings publicly by means of digital transmission and for other purposes.

S 268 An act to authorize the collection of fees for expenses for triploid grass cover title d seed inspections and for other purposes.

S 1113 An act to amend title 35 United States Code with respect to patents on biotechnological processes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 423 An act to amend title XVIII of the Social Security Act to preserve and strengthen the Medicare program.

ENROLLED BILLS PRESENTED

The Senate sent the following enrolled bills to the President of the United States:

S 267 An act to amend title 17 United States Code to provide an exclusive right to perform sound recordings publicly by means of digital transmission and for other purposes.

S 268 An act to authorize the collection of fees for expenses for triploid grass cover title d seed inspections and for other purposes.

S 1113 An act to amend title 35 United States Code with respect to patents on biotechnological processes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EBENSON from the Committee on Government Affairs with an amendment in the nature of a substitute.

S 942 A bill to establish the Department of Commerce (Rept. No. 104-164).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced:

S 136 A bill to require the periodic review of Federal regulations to the Committee on Government Affairs.

By Mr. COATS

S 137 A bill to authorize the Secretary of the Interior to establish a system of documentation concerning the vessel Captains of the vessel models and for other purposes to the Committee on Commerce and Science and the Committee on the Environment and the American people.

S 138 A bill to authorize the Secretary of the Interior to establish a system of documentation concerning the vessel models and for other purposes to the Committee on Commerce and Science and the Committee on the Environment and the American people.

S 139 A bill to authorize the Secretary of the Interior to establish a system of documentation concerning the vessel models and for other purposes to the Committee on Commerce and Science and the Committee on the Environment and the American people.

By Mr. FEINGOLD

S 1390 A bill to promote increased understanding of Federal regulations and to ensure voluntary compliance with those regulations through appropriate endorsement for the vessel models and for other purposes to the Committee on Commerce and Science and the Committee on the Environment and the American people.

By Mr. MOSELEY-BRAUN

S 1391 A bill to encourage the depositing of the ideas of the members of any committee in the technical collection of maps relating to the Coastal Barrier Resources System to the Committee on Environment and Public Works.

By Mr. DURBIN (for himself Mr. BUMPER, Mr. Kassebaum and Mr. TIBBETTS)

S 1392 A bill to direct the Secretary of the Interior to make technical corrections in maps relating to the Coastal Barrier Resources System to the Committee on Environment and Public Works.

By Mr. DURBON (for himself Mr. BUMPER, Mr. Kassebaum and Mr. TIBBETTS)

S 1393 A bill to amend title 8 United States Code to require the transfer to the Smithsonian Institution of the property of the United States for the purpose of research and for other purposes to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FEINGOLD

S 1395 A resolution to express the sense of the Senate that Congress should vote on the deployment of U.S. Armed Forces to Mozambique and the other countries in the region.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABRAHAM (for himself Mr. HEFLIN, Mr. LOTT, Mr. NICKLES, Mrs. HUTCHISON, Mr. CRAC and Mr. KALI)

S 1346 A bill to require the periodic review of Federal regulations to the Committee on Commerce and Science and the Committee on the Environment and the American people.

The Regulator Review Act of 1995 which I introduce today on behalf of myself and Senators HEFLIN, LOTT, NICKLES, HUTCHISON, CRAC and KALI.

It is only common sense that the utility of a rule may change as circumstances change. Under current law, however, a rule enjoys eternal life unless the agency that promulgates it takes affirmative steps to terminate it. As a result agencies choose to burden themselves with the task of re-examining the rules they have promulgated. As a result, our rulebooks are littered with rules that are obsolete, inconsistent with other rules or just plain unnecessary.

The weight of this heap of outdated rules tests most heavily on the small businesses of this country. Unlike larger firms, small businesses cannot spread the costs of regulation over a large quantity of output. Nor can they pass their regulatory headaches on to an accounting department or a human resources division in a way that benefits them. Instead, they must spend innumerable hours attempting to comply with the mandates of Federal regulators. It comes as no surprise then that problems relating to regulation and Government paperwork were the fastest growing areas of concern in a recent survey conducted by the National Federation of Independent Businesses.

The Regulatory Review Act would solve the problems caused by unnecessary rules. Under the act, the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget would identify and supervise agency reviews of covered rules which largely would be rules that impose annual costs of $100 million or more. Covered rules not reviewed by the end of their review period would terminate. The duration of review periods under the act would be up to 7 years plus a possible extension of 6 months. Finally, the act itself would sunset after 10 years.

There are several reasons why OIRA should be given supervisory authority over the regulatory review process. Obviously, the review process will involve determinations as to whether the rules...
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S 15404

(2) COVERED AGENCIES—The term covered agency means any agency that, on the date of enactment of this Act, has promulgated any rule for which a regulation flexibility analysis is required under section 605 of title 5 United States Code and any other agency that promulgates any such rule as of the date of enactment of this Act and

(3) ACTION LETTER—The term no action letter means a written determination from a covered agency stating that, on the date of submission to the agency by a small entity, the agency will not take enforcement action against the small entity under the rules of the covered agency.

(4) NO ACTION REQUEST—The term no action request means a small entity submission by a small entity to a covered agency that addresses the same issue as the no action letter.

(5) RULE—The term rule has the same meaning as in section 601(c) of title 5 United States Code.

(6) SMALL ENTITIES—The term small entity has the same meaning as in section 3 of the Small Business Act.

(7) SELF-AUDITS—The term self-audit means an audit or review of an operation or practice of a small entity that—

(A) is initiated by an employee or agent of the small entity and

(B) is not required by law.

SEC 102 COMPLIANCE GUIDES

(a) COMPLIANCE GUIDE—

(1) PUBLICATION—A covered agency is required to publish a regulation flexibility analysis for a rule or group of related rules under section 605 of title 5 United States Code. The agency shall publish a compliance guide for each rule or group of related rules.

(2) REQUIREMENTS—Each compliance guide published under paragraph (1) shall—

(A) contain a summary description of the rule or group of related rules;

(B) contain, in an appendix to the guide or in a separate attachment, a list of the complete rule or group of related rules that are applicable to each small entity or group of small entities;

(C) guide small entities to small entities in the requirements under the rule or group of related rules and explain in the actions that a small entity is required to take with the rule or group of related rules;

(D) be written in a manner to be understood by the average owner or manager of a small entity; and

(E) be updated as required to reflect changes in the rule.

(2) DISSEMINATION—(1) IN GENERAL—A covered agency shall publish its dissemination strategy to ensure that compliance guides required under section 605 are published disseminated and made easily available to small entities.

(2) SMALL BUSINESS DEVELOPMENT CENTERS—In carrying out this subsection each covered agency shall provide sufficient numbers of compliance guides to small business development centers for distribution to small businesses owners.

(3) LIMITATION ON ENFORCEMENT—(1) IN GENERAL—No covered agency may bring any action against any Federal court in any Federal sector administrative proceeding against a small entity to enhance a rule that a compliance guide is not published and disseminated by the covered agency as required under this section.

(4) EFFECTIVE DATES—This subsection shall take effect—

(A) 1 year alter the date of the enactment of this Act with regard to the final rule or group of related rules promulgated and in effect prior to the date of the enactment of this Act and

(B) on the date of the enactment of this Act with regard to a final rule or group of related rules promulgated after such date of enactment.

SEC 103 NO ACTION LETTER

(1) APPLICATION—This section applies to covered agencies, except—

(I) the Federal Trade Commission;

(II) the Equal Employment Opportunity Commission; and

(III) the Consumer Product Safety Commission.

(2) ISSUANCE OF NO ACTION LETTER—Not later than 90 days after the date on which a covered agency receives a no action request, the agency shall—

(A) make a determination regarding whether the agency will not take enforcement action against the small entity based on such request and the application of any rule or group of related rules for which no action request is made; and

(B) if the agency makes a determination under paragraph (A), issue a no action letter to the small entity notifying the small entity that the agency will not take enforcement action against the small entity.

(3) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE—In any enforcement action brought by a covered agency, a court, or a Federal administrative proceeding against a small entity, the small entity shall have a complete defense to any allegation of noncompliance of a rule or group of related rules if the small entity demonstrates that it has acted in compliance with the evidence described in the no action letter or in the compliance guide.

(4) COURT ACTIONS—This subsection shall not apply—

(A) to court actions in which the small entity is a plaintiff or a defendant, or

(B) to court actions that arise from the same act or transaction.

SEC 104 VOLUNTARY SELF AUDITS

(a) PROCEDURES—Each covered agency shall establish a system of self-audit procedures for small entities regulated by the covered agency.

(b) INADMISSIBILITY OF EVIDENCE AND LIMITATION ON DISCOVERY—If a motion to address a violation taken is not taken later than 180 days after the date of the receipt of a self-audit, the evidence considered in the action shall be inadmissible.

(c) PUNITIVE FINES—In any enforcement action brought against a small entity by a covered agency, the covered agency may not impose the following penalties:

(A) civil penalties

(B) criminal penalties

(C) civil penalties

(D) criminal penalties

SEC 105 WAIVER OF PUNITIVE FINES FOR SMALL ENTITIES

(a) GRACE PERIOD FOR SMALL ENTITIES—Notwithstanding any other law, a covered agency may waive all or part of any fine for a small entity that—

(1) is, on the first date of violation of a rule or regulation and

(2) the small entity acts quickly and in good faith to correct the violation.

(b) BY MS. MOSELEY BRAUN

S. 1531 A bill to encourage the furnishing of health care services to low income individuals by exempting health care professionals from liability for negligence for certain health care services provided without charge except in cases of gross negligence or willful misconduct and for other purposes to the Committee on the Judiciary.

THE CHARITABLE MEDICAL CARE ACT OF

Ms. MOSELEY BRAUN Mr. President I am pleased to introduce the Charitable Medical Care Act of 1995 This legislation is designed to ensure that licensed providers who in good faith provide medical treatment without compensation are not sued. Currently because of malpractice concerns, health care professionals have a disincentive to volunteer their services. This act does not apply in situations of gross negligence or willful misconduct.

Protection from liability for volunteer providing uncompensated care is not a new idea. Currently eight States, including my home state of Illinois, have laws in place that free doctors who practice voluntarily and in good faith from at least some part of malpractice liability. These States include Virginia Utah North Carolina Florida Kentucky, South Carolina Iowa, and Washington DC.

Ms. Legislation builds upon existing Good Samaritan laws. Good Samaritan laws prevent an individual who acted

on judicial proceeding that at the time of preparation to an imminent or in progress.

TITLE II—MISCELLANEOUS PROVISIONS

SEC 201 PERFORMANCE MEASURES

No covered agency shall establish or enforce any rule or regulation, directly or indirectly, by the number of contract services made with small entities in pursuit of enforcement actions or on the amount of fees levied against small entities to encourage regulation.

SEC 202 GRACE PERIOD FOR CORRECTION OF VIOLATIONS OF ENVIRONMENTAL PROTECTION AGENCY REGULATIONS

(a) IN GENERAL—Subject to subsection (b), for violations of regulations of which the Administrator of the Environmental Protection Agency shall afford small entities 180 days to comply with regulations of which the Administrator of the Environmental Protection Agency shall prohibit small entities 300 days to comply with regulations of which criminal liability may be imposed.

(b) EXCEPTION—Subsection (a) shall not apply—

(1) if the Administrator of the Environmental Protection Agency determines that there is an imminent risk to public health or safety.

(c) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE—In any enforcement action brought against a small entity, the small entity shall have a complete defense to any allegation of noncompliance of a rule or group of related rules if the small entity demonstrates that it has acted in compliance with the evidence described in the no action letter or the compliance guide.

(d) COURT ACTIONS—This subsection shall not apply—

(A) to court actions in which the small entity is a plaintiff or a defendant, or

(B) to court actions that arise from the same act or transaction.
in good faith from liabilities in the event a mishap occurs. In 1959, California enacted the nation's first Good Samaritan statute. Today, all 50 States and Washington D.C. have adopted some form of a Good Samaritan statute. These statutes exempt the volunteers from liability for ordinary negligence in rendering emergency aid to an individual. The rationale for these laws is to encourage health professionals to aid persons in need of assistance.

The need for free clinics and volunteerism by health professionals has never been more striking. There were 41 million uninsured Americans in this country last year. Volunteerism by health care professionals has been instrumental in providing health care to the uninsured. Free clinics have a preventative and primary care focus. They offer an alternative to emergency rooms which have become family doctors to far too many. They also represent an enormous savings to the entire health care system. Specifically, this bill would direct the Secretary of the Interior to make technical corrections in the current maps of the Coastal Barrier Resources System (CBRS) to include new areas. Under the direction of the Secretary of the Interior, the CBRS may be extended. Free clinics supplement community clinics that provide care to those with insurance as well as those on Medicaid. Together these clinics provide the majority of care in underserved communities. Free clinics serve more than 1.5 million uninsured individuals each year, more than 173,000 people were served and over $600,000 worth of care was provided. The potential impact of charitable care is not insignificant. It is estimated that charitable medical care provides care to 30 percent of the currently uninsured population.

Free clinics have served a valuable service and will continue to provide vital access to health care to the poor. While I am a firm supporter of universal coverage, it appears that at least for a while millions of Americans will remain uncovered. The number of uninsured Americans increased from 37.4 million in 1993 to 41 million in 1994. An increase of nearly 4 million individuals. Proposed changes in Medicaid and Medicare will most certainly increase this number.

The role of free clinics and volunteerism by professionals is and will remain an important part of the health care delivery system. This is particularly true in urban and rural underserved areas. Thus far, free clinics have been very successful in serving the community. Success is due to their broad-based community support and the volunteerism of the medical community. Medical liability suits are very vexing for doctors and other medical personnel who voluntarily provide quality medical care to the poor. There is a component of free clinics to provide care for wide services however, if barriers to volunteerism are main. One of the best ways to increase volunteerism is through some protection from liability. It is critical that we encourage doctors to volunteer their services to those who cannot afford such care. I believe the legislation I am introducing today will go a long way toward achieving this goal.

I urge my colleagues to join me in support of this important legislation.

Mr. President, I introduce legislation with my friend and colleague Senator Mynihan which would correct a technical error that has prevented certain residents of my State from participating in the National Flood Insurance Program. Specifically, this bill would direct the Secretary of the Interior to make technical corrections in the current maps of the Coastal Barrier Resources System (CBRA). A companion bill, H.R. 3296, has been introduced in the House of Representatives by Congressperson Michael Forbes on July 11, 1995 and was approved by the House Committee on Resources on September 27, 1995. This necessary legislation is supported by the administration.

In 1990 the Department of the Interior's Fish and Wildlife Service made a technical error when it designated part of the Point O' Woods community on Fire Island in New York as part of an otherwise protected area (OPA). As a result of this technical error, homeowners in this part of the country are restricted from protecting their properties through the purchase of Federal flood insurance. Mr. President, the Fish and Wildlife Service concedes that the designation of these residences as part of an OPA was erroneous. The administration testified in support of the House version of this legislation before the Oceans, Fisheries, and Wildlife Subcommittee of the House Committee on Resources. The inexactitude in the CBRA map has greatly complicated community efforts to relocate houses away from high erosion zones and otherwise practice effective coastal barrier island management. This legislation would allow the Point O' Woods community, the opportunities which other American homeowners in similar areas currently have to participate in the Federal Flood Insurance Program. The Federal Government act may encourage paddlers to set up temporary campsites in order to minimize taxpayers costs in the event of a natural disaster.

Mr. President, I ask unanimous consent that a copy of a letter written to the Federal Emergency Management Agency seeking approval of the Point O' Woods Volunteer Service in support of this correction and the text of the bill be printed in the RECORD.