demand for fish products throughout the world has created an incentive for increasing the size and capabilities of the world's fishing fleets. Traditionally, the United States has operated under an open access system of fishery management and increased demand has led to increased entry into the fishing industry. It is not disputed that the harvesting and processing capacity in the world far exceeds that required to efficiently harvest most resources.

The Magnuson-STEVENS Act's first National Standard requires that any fishery management plan be consistent with conservation and management measures to prevent overfishing while achieving optimal yield from the fishery. Controlling overfishing has been done in basically four types of programs—controlling the when, where, how and how much of fishing. Fishery managers control the when—establishing seasons in which a particular species may be fished. Fishery managers control the where—setting closed areas where fishermen cannot fish. Fishery managers control the how—restricting certain forms of fishing gear. And finally, fishery managers control the how much—setting total allowable catches to limit harvest. However, these methods have not always been successful and the collapses of the New England ground fishery and Bering Sea crab fishery are examples of that. The existence of ''derby style'' fishery where an excessive number of boats attempt to catch a limited resource in the shortest period of time possibly is one symptom of inadequate controls. Such derby style fishing in overcapitalized fisheries has led to a range of serious conservation, management, bycatch and safety problems in our fisheries. It is time to establish some form of control of fishing capacity, particularly if the capacity is under the control of foreign fishing companies. This bill will establish such control by reducing capacity with a preference for American companies—as Congress has long intended.

Mr. President, there are some areas of this bill which I will want to address further. For instance, the menhaden and tuna industries use large vessels to harvest their catch, primarily through purse seining. These fisheries operate outside of our Exclusive Economic Zone and are not subject to management by our traditional Regional Council system nor have they experienced the problems associated with overcapitalization. I will seek to ensure there are no unintended consequences of this bill on their industry. Mr. President, I think this bill continues the work that was started in 1976 and I look forward to a healthy and open debate on these very important issues.•

CLARIFYING TREATMENT OF INVESTMENT ADVISERS UNDER ERISA

• Mr. JEFFORDS. Mr. President, on Friday, September 26, 1997, I introduced legislation which amends title I of the Employee Retirement Income Security Act of 1974 [ERISA] to permit investment advisers registered with State securities regulators to continue to serve as investment managers to ERISA plans. At the end of last Congress, the Investment Supervision Coordination Act, landmark bipartisan legislation that adopted a new approach for regulating investment advisers, was passed and signed into law. Under this legislation, beginning July 8, 1997, States are assigned primary responsibility for regulating smaller investment advisers and the Securities and Exchange Commission is assigned primary responsibility for regulating larger investment advisers. Prior to the passage of the legislation, the issue arose that smaller investment advisers registered only with the States—and prohibited from registering with the SEC—would no longer meet the definition of investment manager under ERISA because the current Federal law definition only recognized advisers registered with the Securities and Exchange Commission. As a temporary measure, a 2-year sunset provision was included in the securities reform legislation extending the qualification of State registered investment advisers as investment managers under ERISA for 2 years. The purpose of this provision was to address the problem on an immediate basis while concurrently giving the congressional committees with jurisdiction over ERISA matters the opportunity to review and act on the issue. We have reviewed this issue and have developed the legislation that I am introducing today to permanently correct this problem.

Without this legislation, State licensed investment advisers who, because of the securities reform legislation, no longer are permitted to register with the Securities and Exchange Commission will be unable to continue to be qualified to serve as investment managers to pension and welfare plans covered by ERISA. Without this legislation, the practices of thousands of small investment advisers, investment advisory firms and their supervision of client 401(k) and certain other pension plans will be seriously disrupted after October 10, 1998.

For business reasons, it is necessary for an investment adviser seeking to advise and manage assets of employee benefit plans subject to ERISA to meet ERISA's definition of investment manager. It is also important, for business reasons, to eliminate the uncertainty about the status of small investment advisers as investment managers under ERISA. This uncertainty makes it difficult for such advisers to acquire new ERISA plan clients and may well cause the loss of existing clients.

Arthus Levitt, chairman of the Securities and Exchange Commission, has written a letter expressing the need for this legislation and his support for this effort to correct this problem. I ask that a copy of Chairman Levitt's letter be inserted in the RECORD.

It is my understanding that this bill is supported by the Department of Labor. In addition, this bill is supported by the Institute of Certified Financial Planners, the National Association of Personal Financial Advisors, the International Association for Financial Planning, the American Institute of Certified Public Accountants, and the North American Securities Administrators Association, Inc. Mr. President, the sooner that Congress responds in a positive fashion to correct this problem, the better for small advisers and the capital management marketplace.

The letter follows:

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, April 7, 1997.

Hon. JAMES M. JEFFORDS,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN JEFFORDS: I am writing to urge that the Senate Committee on Labor and Human Resources consider enacting legislation to amend the Employee Retirement Income Security Act of 1974 (''ERISA'') in a small but terribly important way. Unless the Congress acts quickly, thousands of small investment adviser firms, and their employees, risk having their businesses and their livelihoods inadvertently disrupted by changes to federal securities laws that were enacted during the last Congress.

At the very end of its last session, Congress passed the Investment Advisers Supervision Coordination Act. This was landmark bipartisan legislation that replaced an overlapping and duplicative state and federal regulatory scheme with a new approach that divided responsibility for investment adviser supervision: states were assigned primary responsibility for regulating smaller investment advisers, and the Securities and Exchange Commission was assigned primarily responsibility for regulating larger investment advisers. We supported this approach.

Under the Coordination Act takes effect in the next few months, most of the nation's 23,500 investment adviser firms—regardless of their size—will continue to be registered with the SEC, as they have for many decades. Once the Act becomes effective, however, we estimate that as many as 16,000 firms will be required to withdraw their federal registration. Indeed, this requirement is crucial if the Act's overall intent of reducing overlapping and duplicative regulation is to be realized. But the withdrawal of federal registration is also what causes the problem for these firms under ERISA.

As a practical business matter, it is a virtual necessity for a professional money manager (such as an investment adviser) seeking to serve employee benefit plans subject to ERISA to meet ERISA's definition of ''investment manager.'' The term is defined in ERISA to include only investment advisers registered with the SEC, and certain banks and insurance companies. Once the Coordination Act becomes effective, large advisers registered with the SEC will of course continue to meet the definition. But small advisory firms will not be able to meet the definition of investment manager because they will be registered with the states rather than with the SEC. Thus they may well be precluded from providing advisory services to employee benefit plans subject to ERISA, even if they have been doing so successfully for many years.

The sponsors of the Coordination Act were aware that the interplay between the Act and ERISA could have substantial detrimental consequences for small advisers, and thus

added an amendment to ERISA during the House-Senate Conference on the Act. The ERISA amendment provided that investment advisers registered with a state can serve as ''investment managers'' for two years, or through October 12, 1998. My staff has been told that this ''sunset'' provision was included in the ERISA amendment so that the appropriate congressional committees with jurisdiction over ERISA could have a reasonable amount of time to review the amendment before deciding whether to make it permanent. Apart from that important procedural issue, I am not aware of any other considerations that would suggest the need for the ERISA amendment to expire in two years.

I believe that the Congress should move as quickly as possible to enact legislation that eliminates the sunset provision, and permanently enables properly registered state investment advisers to continue their service as investment managers under ERISA. There is no reason to wait until 1998 to do so. In fact, many small investment advisers believe that the ongoing uncertainty about their status as ''investment managers'' under ERISA is making it difficult for them to acquire new ERISA plan clients, and may even cause them to lose existing clients. Some advisers think the harm they could suffer, even before the expiration of the sunset provision next year, could be irreparable, and it is easy to see why.

It is only through the swift action of your Committee that these unintended and unnecessary consequences for thousands of successful small businesses can be avoided. If you or your staff would like additional information about this matter, please do not hesitate to contact me at 942–0100, or Barry P. Barbash, Director of the Division of Investment Management, or Robert E. Plaze, an Associate Director in the Division, at 942–0720.

Sincerely,

ARTHUR LEVITT.●

FEDERAL JUDICIARY PROTECTION ACT OF 1997

● Mr. LEAHY. Mr. President, I am proud to join as a cosponsor of the Federal Judiciary Protection Act of 1997, S. 1189.

This legislation would provide greater protection to Federal judges, law enforcement officers, and their families. Specifically, our legislation would: Increase the maximum prison term for forcible assaults, resistance, opposition, intimidation, or interference with a Federal judge or law enforcement officer from 3 years imprisonment to 8 years; increase the maximum prison term for use of a deadly weapon or infliction of bodily injury against a Federal judge or law enforcement officer from 10 years imprisonment to 20 years; and increase the maximum prison term for threatening murder or kidnaping of a member of the immediate family of a Federal judge or law enforcement officer from 5 years imprisonment to 10 years. It has the support of the Department of Justice, the U.S. Judicial Conference, the U.S. Sentencing Commission, and the U.S. Marshals Service.

It is most troubling that the greatest democracy in the world needs this legislation to protect the hard-working men and women who serve in our Federal judiciary and other law enforcement agencies. But, unfortunately, we are seeing more violence and threats of violence against officials of our Federal Government.

Earlier this year, for example, a courtroom in Urbana, IL, was firebombed, apparently by a disgruntled litigant. This follows the horrible tragedy of the bombing of the Federal office building in Oklahoma City 2 years ago. More recently in my home State, a Vermont border patrol officer, John Pfeiffer, was seriously wounded by Carl Drega, during a shootout with Vermont and New Hampshire law enforcement officers in which Drega lost his life. Earlier that day, Drega shot and killed two State troopers and a local judge in New Hampshire. Apparently, Drega was bent on settling a grudge against the judge who had ruled against him in a land dispute.

There is, of course, no excuse or justification for someone taking the law into their own hands and attacking or threatening a judge or law enforcement officer. Still, the U.S. Marshals Service is concerned with more and more threats of harm to our judges and law enforcement officers.

The extreme rhetoric that some are using to attack the judiciary only feeds into this hysteria. For example, one of the Republican leaders in the House of Representatives was recently quoted as saying: ''The judges need to be intimidated,'' and if they do not behave, ''we're going to go after them in a big way.'' I know that House Republican Whip TOM DELAY was not intending to encourage violence against any Federal official, but this extreme rhetoric only serves to degrade Federal judges in the eyes of the public.

Let none of us in the Congress contribute to the atmosphere of hate and violence. Let us treat the judicial branch and those who serve within it with the respect that is essential to its preserving its public standing.

We have the greatest judicial system in the world, the envy of people and countries around the world that are struggling for freedom. It is the independence of our third, coequal branch of Government that gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on overreaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal judiciary and law enforcement in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the Federal Government, who are too often maligned and unfairly disparaged. It is unfortunate that it takes acts or threats of violence to put a human face on the Federal judiciary and other law enforcement officials, to remind everyone that these are people with children and parents and cousins and friends. They deserve our respect and our protection.

I urge my colleagues to support the Federal Judiciary Protection Act of 1997 and look forward to its swift enactment.●

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS CONFERENCE REPORT FOR FISCAL YEAR 1998

● Mr. ASHCROFT. I would like to make a statement regarding the transfer of FUSRAP to the Army Corps of Engineers.

Mr. President, yesterday I cast a vote in favor of the Energy and Water Development Appropriations Conference Report for FY 1998 with hesitation. Missouri has a major FUSRAP site in St. Louis which contains nuclear contamination from the Manhattan project and other hazardous waste. For 15 years we have worked with the Department of Energy to clean up this site. During such time I have expressed concern over the delays but in just the past 2 weeks we have come to the point where DOE has begun preliminary cleanup efforts. Given this recent progress, the news of the FUSRAP program's transfer out of DOE has, quite understandably, caused a great deal of distress in the St. Louis community. While I am not questioning the corps' ability to handle the FUSRAP project, concern has been expressed that further delays will be caused by the transfer and undo much of the recent progress.

With site recommendations already made, feasibility studies concluded, and contracts let, it is encouraging that the corps will honor the preliminary groundwork laid by the St. Louis community. The plan designed by the community further illustrates their ability to continue to administer the program from St. Louis. Further, I was pleased to learn that the cleanup and restoration of contaminated sites falling within the purview of FUSRAP shall be managed and executed by the St. Louis area Civil Works District of the Corps of Engineers, ensuring that the local community will continue to be very involved in designing cleanup plans at the FUSRAP site and effectively maintain community input in the process.●

FLORIDA SHERIFFS YOUTH RANCHES

● Mr. GRAHAM. Mr. President, I want to take this opportunity to recognize a program that for the past 40 years has served over 30,000 troubled boys, girls, and their families. This program has assisted these troubled youth by providing an opportunity to learn to resolve conflicts and learn proper values as they work toward a lawful, productive, and secure future. I speak specifically of the Florida Sheriffs Youth Ranches, which have been in continuous operation since October 2, 1957.