

EC-7296. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Pyridaben; Pesticide Tolerances for Emergency Exemptions" (FRL6031-5) received on September 30, 1998; to the Committee on Environment and Public Works.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-548. A petition from a citizen of the State of Georgia relative to national efforts to combat lung cancer; to the Committee on Labor and Human Resources.

POM-549. A resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs.

#### SENATE RESOLUTION 98S-004

Whereas, Article I, section 2, clause 3 of the U.S. Constitution requires an "actual enumeration" of the population every ten years and entrusts Congress with overseeing all aspects of each decennial census; and

Whereas, The purpose of the enumeration, as set forth in the Constitution, is to apportion the seats in the federal House of Representatives among the several states; and

Whereas, An accurate decennial census is necessary to apportion such seats and to enable states to comply with federal and state constitutional requirements of equal population in legislative districts; and

Whereas, The U.S. Constitution, in order to ensure an accurate count and to minimize the potential for political manipulation, mandates an "actual enumeration" of the population, which requires a physical headcount and prohibits statistical guessing or estimates of the population; and

Whereas, Federal law, consistent with this constitutional mandate, expressly prohibits the use of statistical sampling to enumerate the population, and the Federal District Court for the District of Columbia so held in *U.S. House of Representatives v. U.S. Department of Commerce, et al.*, Case No. 98-0456; and

Whereas, Every reasonable and practical effort should be made to obtain the fullest and most accurate count possible, including appropriate funding for state and local census outreach and education programs, as well as provision for post-census review; and

Whereas, The U.S. Census Bureau has proposed to use two population-polling techniques in the 2000 decennial census, known as "sampling for nonresponse follow-up" and the "Integrated Coverage Measurement"; now, therefore, be it

*Resolved by the Senate of the Sixty-first General Assembly of the State of Colorado:*

(1) That the U.S. Census Bureau is requested to conduct the 2000 census consistent with constitutional and statutory mandates, which require a physical headcount of the population and bar the use of statistical sampling to create or adjust the count in any way;

(2) That the Colorado State Senate opposes the use of census number for redistricting that have been determined in whole or in part by the use of sampling techniques or other statistical methodologies that add or subtract persons from the census counts based solely on statistical inference;

(3) That the Colorado State Senate urges Congress, as the branch of government charged with overseeing the decennial census, to take whatever steps are necessary to ensure that the 2000 census is conducted fairly and legally; be it further

*Resolved*, That a copy of this Resolution be transmitted to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, the President of the United States, each member of the congressional delegation from Colorado, and James F. Holmes, Acting Director, U.S. Census Bureau.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title: H.R. 3809. A bill to authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes (Rept. No. 105-359).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute and an amendment to the title:

S. 555. A bill to amend the Solid Waste Disposal Act to require that at least 85 percent of funds appropriated to the Environmental Protection Agency from the Leaking Underground Storage Tank Trust Fund be distributed to States to carry out cooperative agreements for undertaking corrective action and for enforcement of subtitle I of that Act (Rept. No. 105-360).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 1949. A bill for the relief of Nuratu Olarewaju Abeke Kadiri.

S. Res. 283. A resolution to refer H.R. 998 entitled "A bill for the relief of Lloyd B. Gamble" to the chief judge of the United States Court of Federal Claims for a report thereon.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1171. A bill for the relief of Janina Altagracia Castillo-Rojas and her husband, Diogenes Patricio Rojas.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1720. A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1916. A bill for the relief of Marin Turcinovic, and his fiancée, Corina Dechalup.

S. 1926. A bill for the relief of Regine Beatie Edwards.

S. 1961. A bill for the relief of Suchada Kwong.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2099. A bill to provide for enhanced Federal sentencing guidelines for counterfeiting offenses, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 2476. A bill for the relief of Wei Jengsheng.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2516. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2524. A bill to codify without substantive change laws related to Patriotic and National Observances, Ceremonies, and Organizations and to improve the United States Code.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2536. An original bill to protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence.

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs:

Montie R. Deer, of Kansas, to be Chairman of the National Indian Gaming Commission for the term of three years.

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry:

Michael M. Reyna, of California, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for a term expiring May 21, 2004.

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation:

Robert Clarke Brown, of Ohio, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term expiring November 22, 1999.

John Paul Hammerschmidt, of Arkansas, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term of four years. (New Position)

Norman Y. Mineta, of California, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for a term of six years. (New Position)

Eugene A. Conti, Jr., of Maryland, to be an Assistant Secretary of Transportation.

Peter J. Basso, Jr., of Maryland, to be an Assistant Secretary of Transportation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

#### *To be rear admiral (lower half)*

Capt. Robert C. Olsen, Jr., 4781

Capt. Robert D. Sirois, 8309

Capt. Patrick M. Stillman, 0193

Capt. Ronald F. Silva, 1219

Capt. David R. Nicholson, 0216

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

#### *To be rear admiral*

Rear Adm. (lh) Thomas J. Barrett, 7105

Rear Adm. (lh) James D. Hull, 9426

Rear Adm. (lh) George N. Naccara, 7780

Rear Adm. (lh) Terry M. Cross, 4308

Mr. MCCAIN, Madam President, for the Committee on Commerce, Science, and Transportation, I also report favorably four nomination lists in the Coast Guard which were printed in full in the RECORDS of September 3, 1998, September 16, 1998 and September 29, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 3, 1998, September 16, 1998 and September 29, 1998, at the end of the Senate proceedings.)

In the Coast Guard nomination of Joseph E. Vorbach, which was received by the Senate and appeared in the Congressional Record of September 3, 1998

In the Coast Guard nominations beginning John H. Siemens, and ending David M. Illuminate, which nominations were received by the Senate and appeared in the Congressional Record of September 16, 1998

In the Coast Guard nomination of Richelle L. Johnson, which was received by the Senate and appeared in the Congressional Record of September 29, 1998

In the Coast Guard nominations beginning Robert J. Fuller, and ending John B. McDermott, which nominations were received by the Senate and appeared in the Congressional Record of September 29, 1998

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BREAUX (for himself and Mr. MACK):

S. 2535. A bill to prohibit the Secretary of the Treasury from issuing regulations dealing with hybrid transactions; to the Committee on Finance.

By Mr. HATCH:

S. 2536. An original bill to protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence; from the Committee on the Judiciary; placed on the calendar.

By Mr. MURKOWSKI:

S. 2537. A bill to amend the Export-Import Bank Act of 1945 to assure that the United States is consistent with other G-7 countries in evaluating environmental concerns relating to projects to be financed, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BREAUX:

S. 2538. A bill to amend the Internal Revenue Code of 1986 to modify the active business definition relating to distributions of stock and securities of controlled corporations; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. TORRICELLI, Mr. FORD, and Mr. GORTON):

S. 2539. A bill to authorize and facilitate a program to enhance training, research and development, energy conservation and efficiency, and consumer education in the oilheat industry for the benefit of oilheat consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. KENNEDY, Ms. COLLINS, Mr. LEAHY, Mr. D'AMATO, and Mr. MOYNIHAN):

S. 2540. A bill to extend the date by which an automated entry-exit control system must be developed; considered and passed.

By Mr. DASCHLE (for Mr. GLENN (for himself, Mr. THOMPSON, Ms. COLLINS, Mr. LEVIN, Mr. DURBIN, Mr. CLELAND, and Mr. LIEBERMAN)):

S.J. Res. 58. A joint resolution recognizing the accomplishments of Inspector Generals since their creation in 1978 in preventing and

detecting waste, fraud, abuse, and mismanagement, and in promoting economy, efficiency, and effectiveness in the Federal Government; considered and passed.

By Mr. GRAMM:

S.J. Res. 59. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; read the first time.

S.J. Res. 60. A joint resolution to provide for a Balanced Budget Constitutional Amendment that prohibits the use of Social Security surpluses to achieve compliance; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LEVIN:

S. Con. Res. 122. A concurrent resolution expressing the sense of Congress that the 65th anniversary of the Ukrainian Famine of 1932-1933 should serve as a reminder of the brutality of the government of the former Soviet Union's repressive policies toward the Ukrainian people; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself, Mr. KYL, Mr. CRAIG, and Mr. LOTT):

S. Con. Res. 123. A concurrent resolution to express the sense of the Congress regarding the policy of the Forest Service toward recreational shooting and archery ranges on Federal land; to the Committee on Energy and Natural Resources.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself and Mr. MACK):

S. 2535. A bill to prohibit the Secretary of the Treasury from issuing regulations dealing with hybrid transactions; to the Committee on Finance.

#### SUBPART F OF INTERNAL REVENUE CODE

• Mr. BREAUX. Mr. President, today Mr. MACK and I are introducing legislation to place a permanent moratorium on the Department of the Treasury's authority to finalize any proposed regulations issued pursuant to Notice 98-35, dealing with the treatment of hybrid branch transactions under subpart F of the Internal Revenue Code. It also prohibits Treasury from issuing new regulations relating to the tax treatment of hybrid transactions under subpart F and requires the Secretary to conduct a study of the tax treatment of hybrid transactions and to provide a written report to the Senate Committee on Finance and the House Committee on Ways and Means.

By way of background, the United States generally subjects U.S. citizens and corporations to current taxation on their worldwide income. Two important devices mitigate or eliminate double taxation of income earned from foreign sources. First, bilateral income tax treaties with many countries exempt American taxpayers from paying foreign taxes on certain types of income (e.g. interest) and impose reduced rates of tax on other types (e.g. dividends and royalties). Second, U.S. tax-

payers receive a credit against U.S. taxes for foreign taxes paid on foreign source income. To reiterate, these devices have been part of our international tax rules for decades and are aimed at preventing U.S. businesses from being taxed twice on the same income. The policy of currently taxing U.S. citizens on their worldwide income is in direct contrast with the regimes employed by most of our foreign trading competitors. Generally they tax their citizens and domestic corporations only on the income earned within their borders (the so-called "water's edge" approach).

Foreign corporations generally are also not subject to U.S. tax on income earned outside the United States, even if the foreign corporation is controlled by a U.S. parent. Thus, U.S. tax on income earned by foreign subsidiaries of U.S. companies—that is, from foreign operations conducted through a controlled foreign corporation (CFC)—is generally deferred until dividends paid by the CFC are received by its U.S. parent. This policy is referred to as "tax deferral."

In 1961, President John F. Kennedy proposed eliminating tax deferral with respect to the earnings of U.S.-controlled foreign subsidiaries. The proposal provided that U.S. corporations would be currently taxable on their share of the earnings of CFCs, except in the case of investments in certain "less developed countries." The business community strongly opposed the proposal, arguing that in order for U.S. multinational companies to be able to compete effectively in global markets, their CFCs should be subject only to the same taxes to which their foreign competitors were subject.

In the Revenue Act of 1962, Congress rejected the President's proposal to completely eliminate tax deferral, recognizing that to do so would place U.S. companies operating in overseas markets at a significant disadvantage vis-a-vis their foreign competitors. Instead, Congress opted to adopt a policy regime designed to end deferral only with respect to income earned from so-called "tax haven" operations. This regime, known as "subpart F," generally is aimed at currently taxing foreign source income that is easily moveable from one taxing jurisdiction to another and that is subject to low rates of foreign tax.

Thus, the subpart F provisions of the Internal Revenue Code (found in sections 951-964) have always reflected a balancing of two competing policy objectives: capital export neutrality (i.e. neutrality of taxation as between domestic and foreign operations) and capital import neutrality (i.e. neutrality of taxation as between CFCs and their foreign competitors). While these competing principles continue to form the foundation of subpart F today, recent actions by the Department of the Treasury threaten to upset this long-standing balance.

On January 16, 1998, the Department of the Treasury announced in Notice