

Expenses" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, \$10,000,000 for the State of Texas and \$2,000,000 for the State of Arizona, to reimburse county and municipal governments only for Federal costs associated with the handling and processing of illegal immigration and drug and alien smuggling cases, such reimbursements being limited to court costs, detention costs, courtroom technology, the building of holding spaces, administrative staff, and indigent defense costs.

SEC. 203. In addition to amounts appropriated under the heading "State and Local Law Enforcement Assistance, Office of Justice Programs" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, \$9,000,000 is for an award to the Alliance of Boys & Girls of South Carolina for the establishment of the Strom Thurmond Boys & Girls Club National Training Center.

SEC. 204. In addition to any amounts made available for "State and Local Law Enforcement Assistance" within the Department of Justice, \$500,000 shall be made available only for the New Hampshire Department of Safety to investigate and support the prosecution of violations of federal trucking laws.

SEC. 205. In addition to other amounts made available for the COPS technology program of the Department of Justice, \$4,000,000 shall be available to the State of South Dakota to establish a regional radio system to facilitate communications between Federal, State, and local law enforcement agencies, firefighting agencies, and other emergency services agencies.

**DEPARTMENT OF COMMERCE
ECONOMIC AND STATISTICAL ANALYSIS
SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$200,000, to remain available until expended, for the establishment of satellite accounts for the travel and tourism industry.

**NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION**

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", \$750,000, to remain available until expended, for a study by the National Academy of Sciences pursuant to H.R. 2090, as passed by the House of Representatives on September 12, 2000.

GENERAL PROVISIONS

SEC. 206. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted by section 1(a)(1) of the Act entitled "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2001, and for other purposes" is amended by inserting before the period at the end of the paragraph under the heading "National Oceanic and Atmospheric Administration, Operations, Research, and Facilities" the following new proviso: "Provided further, That, of the amounts made available for the National Marine Fisheries Service under this heading, \$10,000,000 shall be available only for research regarding litigation concerning the Alaska Steller sea lion and Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries, of which \$6,000,000 shall be available only for the Office of Oceanic and Atmospheric Research to study the impact of ocean climate shifts on the North Pacific and Bering Sea fish and marine mammal species composition, of which \$2,000,000 shall be available only for the National Ocean Service to study predator/prey relationships as they relate to the decline of the western population of Steller sea lions, and of which \$2,000,000 shall be available only for the North Pacific Fishery Management Council for an independent analysis of Steller sea lion science and other work related to such litigation".

SEC. 207. (a) In addition to amounts appropriated or otherwise made available under the heading "Operations, Research, and Facilities, National Oceanic and Atmospheric Administration" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, \$7,500,000 is appropriated for disaster assistance for communities affected by the 2000 western Alaska salmon disaster for which the Secretary of Commerce declared a fishery failure under section 312(a) of the Magnuson-Stevens Fisheries Conservation and Management Act.

(b) Funds appropriated by this section shall be made available as direct lump sum payments no later than 30 days after the date of enactment of this Act, as follows: \$3,500,000 to the Tanana Chiefs Conference, \$3,500,000 to the Association of Village Council Presidents, and \$500,000 to Kawerak.

(c) Such funds shall be used to provide personal assistance with priority given to (1) food, (2) energy needs, (3) housing assistance, (4) transportation fuel including for subsistence activities, and (5) other urgent community needs.

(d) Not more than 5 percent of such funds may be used for administrative expenses.

(e) The President of the Tanana Chiefs Conference, the President of the Association of Village Council Presidents, and the President of Kawerak shall disburse all funds no later than May 1, 2000 and shall submit a report to the Secretary of Commerce detailing the expenditure of funds, including the number of persons and households served and the amount of administrative costs, by the end of the fiscal year.

SEC. 208. In addition to amounts appropriated or otherwise made available by this or any other Act, \$8,000,000 is appropriated to enable the Secretary of Commerce to provide economic assistance to fishermen and fishing communities affected by federal closures and fishing restrictions in the Hawaii long line fishery, to remain available until expended.

SEC. 209. IMPLEMENTATION OF STELLER SEA LION PROTECTIVE MEASURES.—

(a) FINDINGS.—The Congress finds that—

(1) the western population of Steller sea lions has substantially declined over the last twenty-five years.

(2) scientists should closely research and analyze all possible factors relating to such decline, including the possible interactions between commercial fishing and Steller sea lions and the localized depletion hypothesis;

(3) the authority to manage commercial fishing in federal waters lies with the regional councils and the Secretary of Commerce (hereafter in this section "Secretary") pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (hereafter in this section "Magnuson-Stevens Act"); and

(4) the Secretary of Commerce shall comply with the Magnuson-Stevens Act when using fishery management plans and regulations to implement the decisions made pursuant to findings under the Endangered Species Act, and shall utilize the processes and procedures of the regional fishery management councils as required by the Magnuson-Stevens Act.

(b) INDEPENDENT SCIENTIFIC REVIEW.—The North Pacific Fishery Management Council (hereafter in this section "North Pacific Council") shall utilize the expertise of the National Academy of Sciences to conduct an independent scientific review of the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries (hereafter in this section "Biological Opinion"), its underlying hypothesis, and the Reasonable and Prudent Alternatives (hereafter in this section "Alternatives") contained therein. The Secretary shall cooperate with the independent scientific review, and the National Academy of Sciences is requested to give its highest priority to this review.

(c) PREPARATION OF FISHERY MANAGEMENT PLANS AND REGULATIONS TO IMPLEMENT PRO-

TECTIVE MEASURES IN THE NOVEMBER 30, 2000 BIOLOGICAL OPINION.—

(1) The Secretary of Commerce shall submit to the North Pacific Council proposed conservation and management measures to implement the Alternatives contained in the November 30, 2000 Biological Opinion for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries. The North Pacific Council shall prepare and transmit to the Secretary a fishery management plan amendment or amendments to implement such Alternatives that are consistent with the Magnuson-Stevens Act (including requirements in such Act relating to best available science, bycatch reduction, impacting on fishing communities, the safety of life at sea, and public comment and hearings.)

(2) The Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in a manner consistent with the Alternatives contained in the Biological Opinion, except as otherwise provided in this section. The Alternatives shall become fully effective no later than January 1, 2002, as revised if necessary and appropriate based on the independent scientific review referred to in subsection (b) and other new information, and shall be phased in in 2001 as described in paragraph (3).

(3) The 2001 Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries shall be managed in accordance with the fishery management plan and federal regulations in effect for such fisheries prior to July 15, 2000, including—

- (A) conservative total allowable catch levels;
- (B) no entry zones within three miles of rookeries;
- (C) restricted harvest levels near rookeries and haul-outs;
- (D) federally-trained observers;
- (E) spatial and temporal harvest restrictions;
- (F) federally-mandated bycatch reduction programs; and

(G) additional conservation benefits provided through cooperative fishing arrangements, and said regulations are hereby restored to full force and effect.

(4) The Secretary shall amend these regulations by January 20, 2001, after consultation with the North Pacific Council and in a manner consistent with all law, including the Magnuson-Stevens Act, and consistent with the Alternatives to the maximum extent practicable, subject to the other provisions of this subsection.

(5) The harvest reduction requirement ("Global Control Rule") shall take effect immediately in any 2001 groundfish fishery in which it applies, but shall not cause a reduction in the total allowable catch of any fishery of more than ten percent.

(6) In enforcing regulations for the 2001 fisheries, the Secretary, upon recommendation of the North Pacific Council, may open critical habitat where needed, adjust seasonal catch levels, and take other measures as needed to ensure that harvest levels are sufficient to provide income from these fisheries for small boats and Alaskan on-shore processors that is no less than in 1999.

(7) The regulations that are promulgated pursuant to paragraph (4) shall not be modified in any way other than upon recommendation of the North Pacific Council, before March 15, 2001.

(d) SEA LION PROTECTION MEASURES.—\$20,000,000 is hereby appropriated to the Secretary of Commerce to remain available until expended to develop and implement a coordinated, comprehensive research and recovery program for the Steller sea lion, which shall be designed to study—

- (1) available prey species;
- (2) predator/prey relationships;
- (3) predation by other marine mammals;
- (4) interactions between fisheries and Steller sea lions, including the localized depletion theory;

(5) regime shift, climate change, and other impacts associated with changing environmental conditions in the North Pacific and Bering Sea;

(6) disease;

(7) juvenile and pup survival rates;

(8) population counts;

(9) nutritional stress;

(10) foreign commercial harvest of sealions outside the exclusive economic zone;

(11) the residual impacts of former government-authorized Steller sea lion eradication bounty programs; and

(12) the residual impacts of intentional lethal takes of Steller sea lions. Within available funds the Secretary shall implement on a pilot basis innovative non-lethal measures to protect Steller sea lions from marine mammal predators including killer whales.

(e) **ECONOMIC DISASTER RELIEF.**—\$30,000,000 is hereby appropriated to the Secretary of Commerce to make available as a direct payment to the Southwest Alaska Municipal Conference to distribute to fishing communities, businesses, community development quota groups, individuals, and other entities to mitigate the economic losses caused by Steller sea lion protection measures heretofore incurred; provided that the President of such organization shall provide a written report to the Secretary and the House and Senate Appropriations Committee within six months of receipt of these funds.

DEPARTMENT OF STATE AND RELATED AGENCY

GENERAL PROVISIONS

SEC. 210. In addition to any amounts made available for "Educational and Cultural Exchange Programs within the Department of State", \$500,000 shall be made available only for the Irish Institute.

SEC. 211. In addition to amounts appropriated under the heading "International Broadcasting Operations, Broadcasting Board of Governors" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, \$10,000,000 to remain available until expended, for increased broadcasting to Russia and surrounding areas, and to China, by Radio Free Europe/Radio Liberty, Radio Free Asia, and the Voice of America: Provided, That any amount of such funds may be transferred to the "Broadcasting Capital Improvements" account to carry out such purposes.

RELATED AGENCIES

COMMISSION ON ONLINE CHILD PROTECTION

For necessary expenses of the Commission on Online Child Protection, \$750,000, to remain available until expended.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", \$1,000,000 shall be available for a grant to the Electronic Commerce Resource Center in Scranton, Pennsylvania, to establish an electronic commerce technology distribution center.

GENERAL PROVISION

SEC. 212. For an additional amount for "Small Business Administration, Salaries and Expenses" \$1,000,000 shall be made available only for a grant to the National Museum of Jazz in New York, New York.

GENERAL PROVISION—THIS CHAPTER

SEC. 213. (a) The provisions of H.R. 5548 (as enacted into law by H.R. 4942 of the 106th Congress) are amended as follows:

(1) In title I, under the heading "Salaries and Expenses, United States Marshals Service", by striking "3,947" and inserting "4,034".

(2) In title I, by redesignating sections 114 through 119 as sections 113 through 118, respectively.

(b) In title II, under the heading "National Oceanic and Atmospheric Administration—Operations, Research, and Facilities", by striking "\$31,439,000" and inserting "\$32,054,000".

(c) In title II, under the heading "National Oceanic and Atmospheric Administration—Coastal and Ocean Activities"—

(A) by striking "non-contiguous States except Hawaii" and inserting "Alaska";

(B) by striking "Inc." and inserting "Inc.,";

(C) by striking "scrub;" and inserting "scrub,;" and

(D) by striking "watershed for lower Rouge River restoration;" and inserting "watershed:".

(5) In title IV, by striking section 406 and by redesignating sections 407 and 408 as sections 406 and 407, respectively.

(6) In title VI, by striking sections 635 and 636.

(7) In title IX, in the first proviso of section 901, by striking "territory or an Indian Tribe" and inserting "or territory".

(b) The amendments made by this section shall take effect as if included in H.R. 4942 of the 106th Congress on the date of its enactment.

CHAPTER 3

DEPARTMENT OF DEFENSE

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. In the event that award of the full funding contract for low-rate initial production of the F-22 aircraft is delayed beyond December 31, 2000 because of inability to complete the requirements specified in section 8124 of the Department of Defense Appropriations Act, 2001 (Public Law 106-259), the Secretary of the Air Force may obligate up to \$353,000,000 of the funds appropriated in Title III of Public Law 106-259 to continue F-22 Lot 1 (10 aircraft) advance procurement to protect the supplier base and preserve program costs and schedule.

SEC. 302. (a) Consistent with Executive Order Number 1733, dated March 3, 1913, and notwithstanding section 303 of the Alaska National Interest Lands Conservation Act, Public Law 96-487, or any other law, the Department of the Air Force shall have primary jurisdiction, custody, and control over Shemya Island and its appurtenant waters (including submerged lands). In exercising such primary jurisdiction, custody, and control, the Secretary of the Air Force may utilize and apply such authorities as are generally applicable to a military installation, base, camp, post, or station. Shemya Island and its appurtenant waters (including submerged lands) shall continue to be included within the Alaska Maritime National Wildlife Refuge and the National Wildlife Refuge System and the Secretary of the Interior shall have jurisdiction secondary to that of the Department of the Air Force. Nothing in this section shall prohibit the transfer of jurisdiction, custody, and control over Shemya Island by the Department of the Air Force to another military department. In the event the military department exercising such primary jurisdiction, custody, and control no longer has a need to exercise such primary jurisdiction, custody, and control of Shemya Island and its appurtenant waters (including submerged lands), such jurisdiction, custody, and control shall terminate and the Secretary of the Interior shall then exercise sole jurisdiction, custody, and control over Shemya Island and its appurtenant waters (including submerged lands) as part of the Alaska Maritime National Wildlife Refuge.

(b) Any environmental contamination of Shemya Island caused by a military department shall be the responsibility of that military department and not the responsibility of the Department of the Interior. Any money rentals received by a military department from outgrants on Shemya Island will be applied to the environmental restoration of the island in accordance with 10 U.S.C. 2667.

(c) This section shall not be construed as altering any existing property rights of the State of Alaska or any private person.

(d) The military department exercising primary jurisdiction, custody, and control over Shemya Island shall, consistent with the accomplishment of the military mission and subject to section 21 of the Internal Security Act of 1950,

Public Law 81-831 (50 U.S.C. 797) (also known as the Subversive Activities Control Act of 1950)—

(1) work with the United States Fish and Wildlife Service to protect and conserve the wildlife and habitat on the island; and

(2) grant access to Shemya Island and its appurtenant waters to the United States Fish and Wildlife Service for the purpose of management of the Alaska Maritime National Wildlife Refuge.

SEC. 303. Within the funds appropriated for the Patriot PAC-3 program under Title III of the Department of Defense Appropriations Act, 2001 (Public Law 106-259), the Ballistic Missile Defense Organization shall procure no less than 40 PAC-3 missiles.

SEC. 304. Section 8133 of Public Law 106-259 (114 Stat. 703) is amended by striking "\$300,000,000" in the first proviso and inserting "\$550,000,000".

(TRANSFER OF FUNDS)

SEC. 305. Of the total amount appropriated by title II of the Department of Defense Appropriations Act, 2001 (Public Law 106-259) for operation and maintenance for the armed force or armed forces under the jurisdiction of the Secretary of a military department, the Secretary of that military department may transfer up to \$2,000,000 to the central fund established by the Secretary under section 2493(d) of title 10, United States Code, for funding Fisher Houses and Fisher Suites. Amounts so transferred shall be merged with other amounts in the central fund to which transferred and shall be available without fiscal year limitation for the purposes for which amounts in that fund are available.

SEC. 306. **FUNDING FOR CERTAIN COSTS OF VESSEL TRANSFERS.** There is hereby appropriated into the Defense Vessels Transfer Program Account such sums as may be necessary for the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of the lease-sale transfers authorized by the National Defense Authorization Act, 2001. Funds in that account are available only for the purpose of covering those costs.

SEC. 307. Of the total amount appropriated by title XV of the Department of Defense Appropriations Act, 2001 (Public Law 106-259) under the heading "Research, Development, Test and Evaluation, Defense-Wide", not less than \$5,000,000 shall be made available only for support of a Gulf War illness research program at the University of Texas Southwestern Medical Center.

(INCLUDING TRANSFER OF FUNDS)

SEC. 308. In addition to amounts appropriated for the Department of Defense in the Department of Defense Appropriations Act, 2001 (Public Law 106-259), \$150,000,000 is hereby appropriated for "Operation and Maintenance, Navy" and shall remain available until expended, only for costs associated with the repair of the U.S.S. COLE: Provided, That the Secretary of Defense may transfer these funds to appropriations accounts for procurement: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred; Provided further, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: Provided further, That the welfare of the crew, and of the families of the crew, of the U.S.S. COLE shall be considered in the Navy's selection of the process and location for the repair of the U.S.S. COLE: Provided further, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SEC. 309. Notwithstanding any other provision of law, the Administrator of the General Services Administration may utilize funds available

order of enacting the thirteen annual appropriations bills, we have in recent years chosen to delay appropriations bills until it is too late to do anything other than to package them in a manner that causes such packages to be used as vehicles for all manner of non-appropriations issues. This has necessitated the adoption of late-year omnibus appropriations packages well after the start of the fiscal year, such as the one before the Senate today. This is a practice that should never have been started and which, if not discontinued, I fear will gravely diminish the Senate as an institution. Senators are being denied the right to debate and amend appropriations bills, all of which contain billions of taxpayer dollars, and literally thousands of funding issues affecting their constituents. Instead, we are being presented with unamendable omnibus appropriations packages, which contain many, many matters that have not had any Senate consideration at all. In the next Congress, the 107th Congress, we should strive mightily, on a bipartisan basis, to return to regular order in taking up each of the thirteen annual appropriations bills. The Appropriations Committee has marked up each of the thirteen appropriations bills in a timely manner every year under our distinguished Chairman, Senator STEVENS. He is indeed masterful in his handling of appropriations matters and he is very knowledgeable on the issues that come before the Appropriations Committee. He is also one who leads the Committee in a bipartisan manner at all times. He gives the same consideration to requests of Members of the Committee on both sides of the aisle, and I am honored to serve as Ranking Member of the Committee under his chairmanship. It has not been the fault of TED STEVENS that the appropriations bills have, too often, been lumped together into omnibus packages, such as the one before the Senate.

In an effort to facilitate a return to the regular order in the Senate's handling of the thirteen annual appropriations bills, I was pleased to have the support of both Leaders, Mr. DASCHLE and Mr. LOTT, in my amendment to the Commerce/Justice/State Appropriations bill for Fiscal Year 2001 to restore Senate Rule XXVIII, Paragraph 2. That provision makes it out of order for extraneous matters to be included in conference reports. Several years ago, in connection with the Senate's consideration of an FAA conference report, the Senate voted to overturn the Chair when it ruled that there was extraneous matter in that conference report. The effect of that vote to overturn the Chair was to negate Rule XXVIII, Paragraph 2. Consequently, it has not been out of order for any matter to be inserted in any conference report since that time. Upon enactment of the Commerce/Justice/State Appropriations bill, and as a result of my amendment thereto,

Rule XXVIII, Paragraph 2 will be restored. This will mean that in the 107th

Congress, it will not be in order for extraneous matters to be placed in a conference report. Upon a point of order's being made in that regard, if sustained, such a conference report will be rejected. I believe that restoration of this rule will go a long way toward eliminating these annual omnibus appropriations measures that the Senate has had to deal with in the past several years and is again being asked to adopt here today.

Having said that, Mr. President, I shall vote for the pending conference report. It contains the Fiscal Year 2001 appropriations bills for the Departments of Labor, Health and Human Services, and Education, for the Department of the Treasury and General Government, and for the Legislative Branch. By far, the largest of these appropriations bills is the Labor/HHS Appropriations bill.

In the agreement reached on the Labor/HHS bill, the funding totals some \$108.9 billion in budget authority for Fiscal Year 2001. This is an increase of almost \$12 billion from last year and represents the largest ever one-year increase for the Labor/HHS Appropriations bill. This amounts to more than a 12 percent increase above last year's level, and will enable funding levels for education to be increased by almost 15 percent, including an appropriation of more than \$1 billion for a new school renovation program. The Labor/HHS Appropriations bill also includes critical funding for many health programs such as the Ryan White AIDS program, NIH, child immunization, substance abuse prevention, and mental health programs. All of these programs are funded at levels substantially higher than last year. As Members are aware, the bill also funds the Head Start program, and the low income home energy assistance program, LIHEAP. I recognize that a number of Senators believe that we should have insisted upon even higher levels for the Labor/HHS bill. While I might agree with those Senators, and although a tentative agreement in October would have funded the Labor/HHS Appropriations bill at a level of over \$12 billion, that agreement fell through over a legislative rider involving ergonomics.

After weeks of haggling over the ergonomics issue, as well as other issues such as immigration, and overall funding levels, I feel that we have no other choice than to accept this compromise that is before the Senate today. As I say, it does not fully please any Senator. I am sure there are some who feel that the funding levels are too high; but the time has long since passed for us to complete our work and get this final appropriations package to the President's desk.

In addition to the Labor/HHS Appropriations bill, this package contains funding for the Legislative Branch, and the Department of the Treasury and General Government, which measure funds a number of programs for law enforcement, as well as the U.S. Customs

Service—the federal agency with responsibility for border patrol and enforcement of our immigration laws.

There is also a division of this omnibus package that includes a number of non-appropriations matters. Those matters were considered carefully by Chairman STEVENS, Chairman YOUNG, Mr. OBEY and myself, at the request of Members of the House and Senate. There were many more such matters that were considered, but were not included in this final package.

Finally, the package contains a division relating to tax matters, including the so-called Balanced Budget Act, BBA, Medicare fix. Those tax matters were inserted into the omnibus package by the Leadership, and they fall into the jurisdiction of the Ways and Means and Finance Committees. Accordingly, we Appropriations Members were not involved in that process.

In conclusion, Mr. President, I urge my colleagues to vote for this conference agreement. Despite its having all the flaws that we have seen in previous omnibus appropriations bills, the time has come to finish the work of the 106th Congress. In that way, we will have a clean slate for the new Congress, the 107th Congress, when it convenes on January 3rd, and for the new Administration, when our new President, George W. Bush, is sworn into office on January 20th.

While I recognize that there are those who predict a continuation of the gridlock that we have seen in the recent past, or perhaps greater gridlock in the next Congress, as it struggles to work with the Bush Administration; I hope and believe that there will be unprecedented opportunities for bipartisan efforts to prevail in solving the Nation's most pressing problems; to maintain a vital national defense, and to find solutions which ensure that our Medicare and Social Security programs can sustain the promised for our citizens over the coming century. I am optimistic that the new Congress will be prepared to work with the Bush Administration. I know that the overwhelming number of Members of the House and Senate, on a bipartisan basis, join me in pledging our best efforts to do so, and our good faith commitment to achieve results in these critical areas, on behalf of the American people.

Mr. STEVENS. Mr. President, after protracted negotiations, the Administration and I have reached an agreement that provides the necessary protections for the Steller sea lion while allowing for the needs of fishermen who depend on the robust and healthy groundfish stocks off Alaska. I believe the Senate knows my personal feelings, and the feelings of practically all those who are involved in the harvesting, processing, and subsequent marketing of the millions of tons of seafood that come from the North Pacific and Bering Sea, on this matter. While we recognize that the Steller sea lion deserves protection, we are not convinced

that the Commerce Department has proven, let alone adequately tested, its hypothesis that fishing contributes to the sea lions' decline. A few minutes spent skimming the biological opinion reveals the lack of science underlying the proposed actions it contains. For example, the Commerce Department states in its biological opinion that it does not know if fishing impacts sea lions, or that sea lions would likely continue to decline even if all fishing were halted.

Nonetheless, the lives of our fishermen will continue to be affected by this opinion. Our agreement provides a three-step phase-in process for fishery restrictions proposed to be implemented by the National Marine Fisheries Service (NMFS) in the Alaska groundfish fisheries under Endangered Species Act (ESA) requirements. This section is intended to lessen the negative economic consequences to the fishing community caused by the restrictions and to ensure that any Steller sea lion protective measures do not create negative consequences for the conservation of the fisheries and ecosystem. This is accomplished by requiring the Secretary to rely on the fishery management provisions in the Magnuson-Stevens Act, including the regional council processes, when implementing reasonable and prudent alternatives under the Endangered Species Act.

Unfortunately, work on this provision was not completed until shortly before the conference agreement was filed on the final day of this session. I ask unanimous consent that the section-by-section analysis of this provision be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Subsection (a) includes findings by Congress concerning the decline of the Steller sea lion and need for scientists to study the relationship between commercial fisheries and sea lions. It also includes findings confirming that the authority to manage federal fisheries lies with the regional councils created under the Magnuson-Stevens Act. It clarifies that the Secretary is required to comply with, and use the procedures established under, the Magnuson-Stevens Act when implementing measures to comply with the Endangered Species Act. This finding recognizes that the Administration should not use the Endangered Species Act to implement fishery management measures without respect to the Magnuson-Stevens Act, particularly the processes by which the councils develop, review, and promulgate fishery management measures. The appropriate forum to develop fishery management measures, including those measures necessary to protect threatened and endangered species, are the regional councils.

Subsection (b) requires the North Pacific Fishery Management Council to conduct an independent scientific review of the November 30, 2000 biological opinion (hereafter the "Opinion") issued by NMFS for the Bering Sea/Aleutian Islands and Gulf of Alaska groundfish fisheries, drawing upon the expertise of the National Academy of Sciences. This subsection reflects the Congress's deep concerns over the validity and objectivity of

the science relied on in the biological opinion and the process by which the Commerce Department developed this opinion. It directs the Secretary of Commerce to cooperate with the North Pacific Council's scientific review, and requests the National Academy of Sciences to give the review its highest priority.

Subsection (c)(1) directs the Secretary to submit proposed Magnuson-Stevens Act fishery conservation and management measures to implement the reasonable and prudent alternatives (RPAs) to the North Pacific Council immediately or as soon as possible, and then tasks the Council with preparing a fishery management amendment or amendments under the Magnuson-Stevens Act to implement such conservation and management measures. While the amendments must implement the measures necessary to protect sea lions and, it is equally important that such measures provide for the conservation and safe conduct of the fisheries, as required in the Magnuson-Stevens Act. Congress remains concerned that the proposed closures would have forced small vessels to fish in dangerous waters during the winter storm season, a prospect specifically commented upon by our Coast Guard.

Subsection (c)(2) requires the RPAs, as developed by the North Pacific Council under subsection (c)(1), to become effective on January 1, 2002. To address Congress' concerns about the objectivity and validity of the scientific conclusions of this opinion the opinion must incorporate changes warranted by the scientific review required under subsection (b) or other new information that comes to the Secretary or Council's attention. The Council and Secretary are directed to jointly develop a schedule for the development of FMP amendment or amendments to implement the RPAs beginning in the 2002 fisheries. Subsection (c)(2) specifies that the RPAs shall not go into effect immediately, but shall be phased in according to subsection (c)(3) during the 2001 fisheries.

Subsection (c)(3) requires the 2001 Bering Sea/Aleutian Island and Gulf of Alaska groundfish fisheries to be managed in accordance with the regulations promulgated for the 2000 fisheries prior to the issuance of the July 19, 2000 court injunction in those fisheries (which has since been lifted). The 2000 regulations provide substantial protections for Steller sea lions, while maintaining the comprehensive and proven framework that has protected the marine resources of the North Pacific and been fine-tuned for more than two decades. These regulations for the first months of the 2001 fisheries are to be implemented by emergency rule so that the fisheries can begin by January 20, 2001.

Subsection (c)(4) requires the Secretary of Commerce to amend regulations based on the 2000 regulations, but which are consistent to the extent practicable with the RPA's, by January 20, 2001. The Secretary is to consult with the North Pacific Council in preparing these draft regulations, with the goal of incorporating some of the protective concepts in the RPAs for these regulations, in time for the fisheries to open no later than January 20, 2001. Under paragraph (7) of subsection (c), the draft regulations amended upon the recommendation of the North Pacific Council until March 15, 2001. As soon after March 15, 2001 as possible, the Secretary of Commerce will publish and implement the regulations, and these regulations shall then govern the Bering Sea/Aleutian Island and Gulf of Alaska fisheries for the remainder of 2001, consistent with all the requirements of the Magnuson-Stevens Act. It is our intent that the Secretary provide ample opportunity for the public to comment on these regulations before the regulations take effect.

Subsection (c)(5) requires that the "Global Control Rule" from the RPA's take effect immediately in the fisheries, this is particularly important during the period during the Spring and/or early summer of 2001 when the fisheries are being managed under the 2000 regulations. Paragraph (5) modifies the Global Control Rule during 2001 to limit any reduction to not more than ten percent of the total allowable catch in any of the fisheries.

Subsection (c)(6) provides the North Pacific Council with the authority to recommend, and the Secretary of Commerce with the authority to approve, modifications to the RPAs contained in the regulations that will take effect in the Spring or early-summer of the 2001 fisheries. These modifications may include the opening of additional designated Steller sea lion critical habitat for fishing by small boats, the postponement of seasonal catch levels inside critical habitat for small boats, or other measures to ensure that small boat fishermen and on-shore processors in Alaska are not adversely affected during 2001 as compared to the fisheries before the July 19, 2000 injunction. This was specifically agreed to by both the Congressional and Administration negotiators to allow coastal Alaskan fishermen to fish in the safer waters closer to shore.

Subsection (d) appropriates \$20 million to the Secretary of Commerce to develop and implement a comprehensive research and recovery program for the Steller sea lion, and to study the myriad of factors which may be causing the decline of the Steller sea lion. Subsection (d) specifically requires that the theories of nutritional stress, localized depletion, and food competition with the fisheries be tested to determine their validity. This subsection also directs the Secretary of Commerce to implement non-lethal measures on a pilot basis to protect Steller sea lions from marine mammal predation, including killer whales, and to determine the extent to which predation may be causing the decline or preventing recovery. The Secretary is strongly encouraged to cooperate with the Alaska SeaLife Center, the North Pacific Universities Marine Mammal Consortium, the University of Alaska, and the North Pacific Council in the development and use of these funds. The Alaska SeaLife Center should receive \$5,000,000 of these funds to continue their important work on Steller sea lion science.

Subsection (e) provides \$30 million as a direct payment to the Southwest Alaska Municipal Conference to distribute to the fishing communities, businesses, western Alaska community development quota program groups, individuals, and other entities that have been hurt by the economic losses already inflicted as a result of Steller sea lion restrictions. The President of SWAMC is required to submit a written report to the Secretary of Commerce and the U.S. Senate and House appropriations committees within six months after receiving the funds to indicate how they have been distributed.

~~Mr. BYRD. Mr. President, in these waning days and hours of the 106th Congress, the focus in Washington is naturally on what action is taking place to resolve the remaining fiscal year 2001 appropriations bills and concluding the business of this Congress. However, all around us, life goes on. Our constituents in the steel industry must be among the few in America who will not be happy to see the 106th Congress adjourn sine die. Our constituents in the steel industry will see Congress's adjournment as a thinning of the bucket brigade that has spent the last two years trying to bail out an~~