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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Bishop H. Hasbrouck Hughes, Jr.

PRAYER

The guest Chaplain, Bishop H. Hasbrouck Hughes, Jr., Williamsburg, VA, offered the following prayer:

Let us pray:

O God, we bow in humble adoration before You this day as our Creator, Judge, and Sustainer.

As Creator, You manifest unfathomable power as the source of all life, all matter, all time and space, throughout a universe which knows no bounds.

As our Judge, it is to You we remain accountable, even as we exercise personal and collective judgments each day.

As Sustainer, You provide the natural resources of this bountiful land; and the human resources by which we help, and are helped by, one another. How grateful we are for Your manifold blessings.

Deliver us from approaching any day apart from reliance upon your guidance; especially in bearing the enormous responsibilities of leadership affecting the lives, security, hopes, and dreams, of the Nation's people.

Every Member of this assemblage feels the weight of high office; and today we ask for wisdom and strength as they undertake the tasks before them. May their decisions be harmonious with Your hope for humankind; and may the dream be unfading of a godly nation, where the blessings of liberty, justice, and peace are preserved for all. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

BISHOP H. HASBROUCK HUGHES, JR.

Mr. LOTT. Mr. President, before we give the opening script this morning, I yield to the distinguished Senator from Wyoming.

Mr. THOMAS. I want to thank Bishop H. Hasbrouck Hughes, Jr., for being here. Bishop Hughes has just retired from 8 years as the resident bishop of the Florida Conference of Methodist Churches. He has served nearly 40 years in various capacities in Virginia. Most importantly of all, the bishop's daughter, Kathi Wise, works for us in our office, and has been on the Hill for 18 years. We are very proud of her and very pleased to have you here, sir.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning the Senate will begin 3 hours of debate on H.R. 3396, the Defense of Marriage Act. At 12:30, following the debate, the Senate will recess until 2:15 today for the weekly party conferences to meet. At 2:15 following the recess, the Senate will begin two consecutive rollcall votes with the first being on the adoption of the Defense authorization conference report and the second on passage of the Defense of Marriage Act.

Following those votes, there will be 30 minutes for debate equally divided before there is a vote on S. 2056, the Employment Nondiscrimination bill. The Senate will then begin consideration of the Treasury-Postal appropriations bill with additional votes expected on that bill as we attempt to finish the remaining appropriations measures hopefully in the next 2 weeks.

As a reminder, there will be a joint meeting beginning at 10 a.m. on Wednesday to hear an address by Prime Minister Bruton of Ireland. All Members are asked to be in the Senate Chamber at 9:40 a.m. so we may proceed to the House of Representatives for that address.

SERGEANT AT ARMS GREG CASEY

Mr. LOTT. Mr. President, last Friday the Senate did adopt a resolution naming Greg Casey of Idaho to be the new Sergeant at Arms. It is a pleasure for me to be able to recognize Greg Casey. I think most Senators are familiar with him. He has been around Capitol Hill for a long time and has worked with Senator CRAIG and has been very close to Senator KEMPTHORNE. He has been very helpful in setting up the administrative operation in my office as leader.

With his background in Idaho, in business and government, I feel he will be an excellent Sergeant at Arms. He has a mighty responsibility of working with Senators on both sides of the aisle to make sure that we operate as efficiently and honestly as we possibly can. I am convinced that he will do an excellent job.

I yield to Senator CRAIG for comments in regard to his former chief of staff.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the majority leader for yielding this morning and reflect on the wise and judicious decision of the majority leader to choose my chief of staff, Greg Casey, to become the new Sergeant at Arms of the U.S. Senate.

As the majority leader mentioned, Mr. President, Greg and I and Senator KEMPTHORNE go back a good many

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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years in working in the political effort in Idaho and here in Washington. I had the privilege of hiring Greg to be a field director for me in my first congressional campaign. He came to Washington with me and served in a variety of capacities, ultimately becoming my chief of staff while I served in the House, left to go to Idaho to rebuild an organization called the Idaho Association of Commerce and Industry into a major force as a spokesman for business and industry in the State of Idaho. When I was elected to the Senate in 1990, I asked Greg to return with me to put my Senate staff together and he has served as my chief of staff since that time.

I am extremely excited for Greg and his family, and for Idaho, that the majority leader has chosen him to become the Sergeant of Arms here in the Senate, a very large responsibility. I am extremely proud that Greg now has the opportunity to serve in that capacity, not only for the Senate but for our country and for the State of Idaho.

I, on behalf of Idaho, can speak with a great deal of pride in saying we know Idaho is extremely proud today to have Greg Casey as the new Sergeant at Arms here in the U.S. Senate. Greg, congratulations. We will look forward to working with you, and also we will seek your counsel from time to time as it comes to the administration of my office and my offices in the State of Idaho.

Again, thank you, Mr. Majority Leader, for yielding. Let me now yield to my colleague, Senator DIRK KEMPTHORNE, who also has had a close working relationship with Greg Casey over many years.

Mr. KEMPTHORNE. Mr. President, I join in commending the majority leader for his decision in naming Greg Casey as our new Sergeant at Arms. It is an outstanding decision, and again I think it reflects well on the majority leader and the sort of individuals that he is surrounding himself with to carry out these very, very, critical issues and functions relating to this institution.

I have known Greg Casey for many, many years. We attended the University of Idaho together in the mid-1970's. In fact, it was at the University of Idaho that I had the honor to serve as student body president. I must acknowledge that Senator CRAIG also had the distinction of serving as student body president at the University of Idaho. It was in that capacity that I named Greg Casey to fill a vacancy that was on the student senate.

One of the things that I have always admired about Greg Casey is his devotion to what has to be done, his devotion at that time to the university, to the State, and as I have seen him in this atmosphere, his absolute devotion to this country.

We have named a patriot, now, to be the Sergeant at Arms of this institution. He is an individual who brings great enthusiasm to anything he does, a great energy level. He is an individual who brings innovation to everything he touches. I know whenever his tenure as Sergeant at Arms is complete he will be regarded as truly one of the best Sergeants at Arms that the U.S. Senate in its history ever had.

He also has the ability to stick to it. I think this is probably something that the majority leader, Senator LOTT, has recognized, and that is if you want a job done, have Greg Casey given the assignment because he will get it done, no matter what it takes, but he will do it with a style and with a dignity, and with a tenacity that you never have to doubt whether it will be done.

I also want to acknowledge that we talk about having good people around you. Well, Greg Casey has good people around him. In the late 1980's, he introduced me to a young lady that truly is a remarkable woman, Julia Laky, who then in 1990 became Mrs. Greg Casey. In the life that we have shared together, I had the honor as serving as best man at his wedding. Again, they are the sort of people that you are proud to say are our friends, we like them, the values that they have in their home are the values that America believes in. And I remember that, following the wedding, I guess it falls on the best man to make a toast. So I made the toast that their home would be blessed with more than just the two of them, and up there joining their family is Gregory Scott Casey, Jr. He is a fifth generation Idahoan. His dad is a fourth generation Idahoan.

I would like to say this to little Greg: Your dad is a great man, and he is someone that we all look up to. I know that just as little Gregory Scott Casey is in wonderful hands with his dad, Greg, and his mom, Julia, this Senate is in good hands with this new Sergeant at Arms, Greg Casey. So I am proud to call him a friend. He is someone that is going to serve us well. Again, I commend the majority leader for his decision in making this happen.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho, Mr. CRAIG, is recognized.

Mr. CRAIG. Mr. President, certainly Senator KEMPTHORNE and I, by our comments, can display only great pride in the fact that the majority leader has chosen Greg Casey to be our new Sergeant at Arms. We reflect that pride for our State of Idaho.

I say to Greg, his wife Julia, and Gregory, Jr., congratulations, we look forward to a good number of years working with you during your service in the U.S. Senate. I congratulate the majority leader for a wise choice.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, let me join with my colleagues in our congratulations to Gregory Casey for his appointment and our best wishes to him and his family in these very important new circumstances he faces. There are a number of people that have already spoken to his intelligence, ability, and his contribution to the Senate. I have had the opportunity to work with him as a member of the Ethics Committee and have watched with great admiration as he has taken on each of his difficult tasks in working with the Senators from Idaho.

So I know I speak for all of my colleagues on this side in wishing him our sincere congratulations. Isaac Bassett, who worked in this great Chamber for 64 years, up until 1894, left a diary of many thousands of pages. When he was appointed to his last position, he came to the floor and said there is no higher calling than that of public service in the U.S. Senate. I think Greg Casey appreciates that, understands that, and in the tradition of Isaac Bassett, and many of us who have had the great fortune to follow him, we look forward to working with him in a new role.

I yield the floor.

Mr. KENNEDY. Mr. President, I just want to say how impressed I am with the excellent comments and statements that have been made by my colleagues about someone that Members of the Senate have known over a long period of time. I have had the privilege of knowing Mr. Casey. But having the name Casey, if you track back over a long period, there must have been a Democrat in there somewhere. [Laughter.]

I know I can speak, as well, along with the minority leader and assure my colleagues that we will be fairly treated as well.

Congratulations, Mr. Casey.

Mr. LOTT. Mr. President, I believe we are ready now to go to the Defense of Marriage Act. Perhaps we will lay that bill down.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

DEFENSE OF MARRIAGE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 3396, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3396) to define and protect the institution of marriage.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I yield myself 10 minutes off of the time allocated to the Defense of Marriage Act.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, I will not take much of the Senate's time to express my strong support for the Defense of Marriage Act this morning. It has already been discussed in earlier debate, and I am sure it is going to be supported eloquently by speeches later on today from Senator NICKLES of

Oklahoma and others on both sides of the aisle.

I expect the outcome in the Senate will be lopsided when the vote is taken, as it was in the House, which passed the Defense of Marriage Act, as it is popularly called, by a vote of 342 to 67.

Judging from the calls and letters and comments I received when I was home during the August district work period—from all across the country, though—it is clear to me that this bill enjoys tremendous support among the American people.

President Clinton has promised to sign it into law. His Department of Justice has affirmed its position that H.R. 3396 ''would be sustained as constitutional if challenged in courts.''

This is not prejudiced legislation. It is not mean-spirited or exclusionary. It is a preemptive measure to make sure that a handful of judges, in a single State, cannot impose an agenda upon the entire Nation.

The Defense of Marriage Act is not an attack upon anyone. It is, rather, a response to an attack upon the institution of marriage itself.

This matter has received so much attention in the national press, that everyone should know by now what the problem is and why we need to pass DOMA, as it is usually referred to.

The problem is the serious possibility—some say even the strong likelihood—that the State court system of Hawaii would recognize as a legal union, equivalent or identical to marriage, a living arrangement of two persons of the same sex.

If such a decision affected only Hawaii, we could leave it to the residents of Hawaii to either live with the consequences or exercise their political rights to change things. But a court decision would not be limited to just one State. It would raise threatening possibilities in other States because of article IV, section 1 of the Constitution.

The article requires States to give ''full faith and credit'' to ''the public acts, records, and judicial proceedings of every other State.''

Would that mean a same-sex union would be entitled to equal recognition in South Dakota, Massachusetts, or my State of Mississippi? Both proponents and opponents of same-sex unions believe it would.

I believe we should not wait around to find out. What the Hawaiian court decides could also affect the operations of the Federal Government. It could have an impact upon programs like Medicare, Medicaid, veterans' pensions, and the Civil Service Retirement System.

If you redefine marriage, you should redefine eligibility for benefits under those and other programs. Imagine the financial and social consequences of taking such a step.

Inaction on the part of Congress would be equivalent to approval of what the Hawaiian courts may do. We can't afford such action.

No one should doubt that Congress does have the authority to act.

The same article of the Constitution that calls for ''full faith and credit'' for State court decisions also gives Congress the power to decide how that provision will be implemented. It says:

> And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

''And the effect thereof.'' Those words make clear what the Framers of the Constitution intended.

None of them, I don't think, could have foreseen the day when an American court would sanction same-sex marriages or unions, but they wisely provided for the possibility that some State court might do something like that someday. I don't know how to describe that kind of action. But it is a situation we are faced with now, and that is why we have this defense of marriage bill that we are debating this morning and will vote on probably around 2:30 or 2:45.

To force upon our communities the legal recognition of same-sex marriage would be social engineering beyond anything in the American experience.

When DOMA was discussed in committee, some objected that it violated States rights. Never mind that those who raised the objection never seemed to have any qualms about trampling those rights in the past in many instances.

DOMA actually reinforces States rights. It prevents one State from imposing upon all the others its own particular interpretation of the law.

The Defense of Marriage Act will ensure that each State can reach its own decision about this extremely controversial matter: The legal status of same-sex unions.

The Defense of Marriage Act, likewise, ensures that for the purposes of Federal programs, marriages will be defined by Federal law.

It is Congress' responsibility to say plainly what marriage is going to mean—what the spousal relationship is going to mean—in national programs that serve elderly, retirees, and the poor.

Our failure to do so would open up those programs to all sorts of confusion and claims and court actions.

This is more than a theoretical possibility. In 1970, a Federal court denied a same-sex couple legal recognition for veterans' benefits only because their State's law limited marriage to persons of opposite sex. I hate to think what would happen now if that case were brought in a State where these unions had the force of law.

Fortunately, it is not going to come to that. I hope we can get this bill passed overwhelmingly, in a bipartisan way, send it down to the White House, and have it signed into law very soon. We should not have ambiguity in this area. We should not have confusion. We should not leave it to court actions and challenges. This is a very important action. I think it will pass after a relatively short time and with surprisingly little opposition. But it is a serious matter. I think the American people are somewhat stunned that we would even have to pass such a law, but we do, and we are doing our job when we pass this legislation. It will be a small but a vital victory for the American family and for common sense.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mrs. FRAHM). The Senator from Massachusetts.

Mr. KENNEDY. As I understand it, the 3-hour time limit began when the legislation was laid before the Senate. Am I correct?

The PRESIDING OFFICER. The time needs to conclude by 12:30, so it would take unanimous consent to have the full 3 hours.

Mr. KENNEDY. If I could have the attention of the majority leader, would it be appropriate to have the 3 hours start at the time when the bill was actually laid down rather than at 9:30?

Mr. LOTT. We started, what was it, about 20 minutes until 10? Actually, I would prefer we do that to make sure we have the full 3 hours.

Mr. KENNEDY. I make that request then.

The PRESIDING OFFICER. Without objection, the recess will be delayed.

Mr. KENNEDY. I thank the Chair.

Madam President, I oppose the so-called Defense of Marriage Act, and I regret that the Senate is allocating scarce time at the end of this Congress to consider this unconstitutional, unnecessary, and divisive legislation.

There is, however, a silver lining to the Republican leadership's decision to schedule this debate. It gave many of us the opening we needed to raise a serious civil rights concern—the festering problem of unacceptable discrimination against gays and lesbians in the workplace. We debated that issue at length on Friday, and we will vote on it later this afternoon. I am very hopeful that a ban on job discrimination will pass the Senate. If it does, we will have the Defense of Marriage Act to thank for that achievement.

Nevertheless, I continue to be opposed to the Defense of Marriage Act for a variety of reasons.

We all know what is going on here. I regard this bill as a mean-spirited form of Republican legislative gay-bashing cynically calculated to try to inflame the public 8 weeks before the November 5 election.

I do not mean to say that opponents of same-sex marriage are intolerant, or bigots. Marriage is an ancient institution with religious underpinnings, and I understand that some people have deeply held religious or moral beliefs that lead them to oppose same-sex marriage.

But do they seriously believe this bill deserves this high priority? After all, the Hawaii court case that started all this won't be final for another 2 years, according to Hawaiian authorities, and the outcome of the case is far from certain. Even if the Hawaii courts eventually approve same-sex marriage, other

States have ample authority under under current law to reject that decision in their own courts.

In fact, States and local governments across the country are already dealing with this issue in their own ways. Some have enacted domestic partnership laws. In others, mayors and Governors have issued executive orders for public employers. They don't need help from Congress to address the subject. And Federal law, which has never recognized same-sex marriages, hardly needs clarification at this suspicious moment.

This contrived debate has been gratuitously brought before Congress 1 month before adjournment. It has been placed on a suspiciously fast track to enactment despite the press of other business. The obvious explanation is a crass desire for partisan gain at the expense of tolerance and mutual understanding.

This bill is designed to divide Americans, to drive a wedge between one group of citizens and the rest of the country, solely for partisan advantage. It is a cynical election year gimmick, and it deserves to be rejected by all who deplore the intolerance and incivility that have come to dominate our national debate.

Over the past few months, we have come together as a nation to oppose in the strongest possible terms the church arson epidemic. We heard leaders across the political, racial, and religious spectrum discuss the need to rededicate ourselves to the fundamental values of tolerance and mutual respect that are the backbone of any free society. I just wish the Republican leadership in Congress would practice what they preached in San Diego.

In any event, whether Senators are for or against same-sex marriage, there are ample reasons to vote against this bill, because it represents an unconstitutional exercise of congressional power. This bill attempts to use the full faith and credit clause—article IV, section 1—of the Constitution to give the States greater authority to refuse to recognize gay marriages if such marriages are made legal in other States. But the purpose and history of the full faith and credit clause make clear that the Framers of the Constitution never intended to give Congress this power.

The full faith and credit clause was included in the Constitution as a means of binding the original separate States into a United States of America. The Framers feared that local rivalries could cause States to reject each other's laws, and that a dangerously chaotic situation could result. The full faith and credit clause requires the States to respect each other's laws; it facilitates interstate commerce and strengthens our Federal system.

The Constitution gives Congress no power to add or subtract from the full faith and credit clause. The States that ratified the Constitution would never have granted such sweeping authority to Congress, and no Congress in 200 years has exercised such power.

It is true that the full faith and credit clause gives Congress the authority to prescribe the effect of one State's laws in other States. But this does not give Congress the power to say that any such laws shall have no effect.

In fact, for that reason, leading scholars have labeled this bill flatly unconstitutional. Prof. Laurence Tribe of Harvard Law School writes that:

> The full faith and Credit Clause cannot be read as a fount of authority for Congress to set asunder the states that this clause so solemnly brought together. Such a reading would mean, for example, that Congress could decree that any state was free to disregard any Hawaii marriage, any California divorce, any Kansas default judgment—or any of a potentially endless list of official acts that a Congressional majority might wish to denigrate. This would convert the Constitution's most vital unifying clause into a license for balkanization and disunity.

Conservative constitutional scholar Cass Sunstein of the University of Chicago reached a similar conclusion in testimony before the Judiciary Committee on July 11. Sunstein pointed out that if Congress possessed authority to negate the effect of State court judgments:

> . . . a good deal of the entire federal system could be undone. Under the proponents' interpretation, Congress could simply say that any law Congress dislikes is of 'no effect' in other states . . . This would be an extraordinary power in light of the needs of a commercial republic. Nothing in the background of the full faith and credit clause suggests that this was anyone's understanding of the clause.

In his testimony, Professor Sunstein emphasized that the Supreme Court's recent opinion in Romer versus Evans, striking down an anti-gay referendum in Colorado, also casts doubt on the validity of this bill. Like the Colorado referendum struck down in Romer, this bill is ''unprecedented * * * an oddity in our constitutional tradition drawn explicitly in terms of sexual orientation. Insofar as it draws the particular line that it does, it risks running afoul of Romer's prohibition on laws based on animus against homosexuals.''

Scholarly opinion is clear: The bill before us is plainly unconstitutional. But even if it were constitutional, the bill should be rejected because it is unnecessary and ill-advised.

Proponents of the bill claim to be motivated by the possibility that the Hawaii courts will validate same-sex marriage, forcing the other 49 States to recognize Hawaii marriages. But if Hawaii courts recognize same-sex marriages some day—and that is a big ''if''—the other States already have ample authority to defend their own marriage policies without meddling from Congress.

Dean Herma Hill Kay of the Boalt Hall School of Law is a nationally recognized expert on domestic relations law. She writes:

> The usual conflict of laws doctrine governing the recognition of a marriage performed in another state is that the state where recognition is sought need not recognize a marriage that would violate its public policy. A state with a clear prohibition against same-sex marriage could, if it chose to do so . . . refuse recognition.

Fifteen States have already made that judgment and decision. In other words, States already have the power that this bill pretends to give them. This is a matter for each state, not a matter for Congress. If Oklahoma refuses to recognize a Hawaii marriage because it violates Oklahoma public policy, that is Oklahoma's business. Congress can not give Oklahoma any more power than it already has. That is why the bill is not merely unconstitutional. It is, as Professor Sunstein calls it, a ''constitutionally ill-advised intrusion'' by Congress into an issue handled at the state level for the past 200 years.

For over two centuries, Congress has respected the right of States to establish their own laws of marriage, divorce, child custody, and other issues in domestic relations. It is ironic that our Republican friends who like to preach State rights are so quick to override State rights in this case.

The precedent created by this bill should alarm anyone who cares about Federal-State relations generally. If Congress invokes the full faith and credit clause to deny effect to unpopular State court judgments, why will it stop at gay marriages? Will Congress try to deny effect to unpopular commercial judgments? Will Congress try to deny effect to state court decisions protecting civil rights, divorce, child custody, or a wide range of different other issues?

As Professor Sunstein testified:

> This is not about same-sex marriage and homosexuality. This is about punitive damages, default judgments, product liability, everything else under the sun. From the constitutional point of view, this is not fundamentally a same-sex marriage act. This is federal permission to some States to ignore what other states have mandated. That is a very large step.

It is indeed. I would add only that it is a very large backward step. I urge the Senate not to take it, and to vote against this irresponsible and unconstitutional bill.

Madam President, I see the Senator from Minnesota rising. How much time would he require?

Mr. WELLSTONE. Madam President, 5 minutes?

Mr. KENNEDY. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, I thank my colleague from Massachusetts and I say to my colleague from Oklahoma, I hope I have not gone before him and that this would be OK right now.

Madam President, I wanted to speak to, or build on, the remarks of my colleague from Massachusetts, Senator KENNEDY, about the ENDA bill, the Employment Nondiscrimination Act. I listened to some of the debate. Actually, when I was back home in Minnesota, I saw some of what went on, on the floor on Friday. We had no votes, and on Friday evening I caught some of

it. I do not think I want to repeat the different arguments that were made. I would rather talk about this piece of legislation as it connects to people's lives.

I want to talk about a very close family friend. This friend of ours, over the years, really has had to live in a state of terror, though it has gotten somewhat better now. Several times, Madam President, he has had to go from one job to another, not because of the content of his character, not because of his ability, not because of his contributions to his employer or to his fellow workers or fellow employees, but because of his sexual orientation.

I really do think that the Employment Nondiscrimination Act is a matter of simple justice. I really hope that the U.S. Senate will vote for this piece of legislation. I am very proud to be an original cosponsor, because I believe if we vote for this piece of legislation, we really will have taken an enormous step forward toward ending discrimination in our country. It is just not right that a man or a woman, because of sexual orientation, should be in a situation where he or she could lose a job or not be able to obtain employment because of their sexual orientation. This is a basic civil rights issue.

There is no provision in this piece of legislation that calls for favorable treatment. There are no quotas. This piece of legislation just says we must extend basic civil rights protection against discrimination in employment to all citizens—to all citizens—in our country and we must end this discrimination based on sexual orientation.

I also want to mention, because I am very proud of my State, that in Minnesota, in 1992, we adopted very similar provisions to this piece of legislation in the Human Rights Act. We became the eighth State to guarantee protection against this type of discrimination. I would like to say, from the point of view of the business community, of the religious community, of communities within our larger Minnesota community, I think now there is very strong support for ending this discrimination.

This piece of legislation that we passed in our State has served our State well. If we pass this in the U.S. Senate and eventually pass this in the U.S. Congress, we will serve our country well. This is the right thing to do, to end discrimination in employment. What should matter is a person's ability. What should matter is the character of a person. What should matter is an employee's contribution to his or her business or place of work. What should not matter is sexual orientation.

We must end this discrimination. I hope my colleagues, Democrats and Republicans alike, will support this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, I yield myself such time as necessary.

I am pleased today to bring before the Senate the Defense of Marriage Act, along with Senator BYRD and I think 30 cosponsors. We have introduced a measure which I believe is simple, it is limited in scope, and it is based on common sense. It shares broad bipartisan support, including that of President Clinton.

The bill does but two things: First, the bill restates the current and long-established understanding that marriage means a legal union between one man and one women as husband and wife. The act also defines spouse as a person of the opposite sex who is a husband or a wife. These definitions apply only to Federal law.

Second, the bill says that no State shall be required to give effect to a second State's acts, records, or judgments respecting a relationship between persons of the same sex that is treated as a marriage under the laws of that second State.

There is nothing earth-shattering here. No breaking of new ground. No setting of new precedents. Indeed, there provisions simply reaffirm what is already known, what is already in place.

The definitions of S. 1999 are based on common understanding rooted in our Nation's history, our statutes, and our case law. They merely reaffirm what Americans have meant for 200 years when using the words marriage and spouse. The current U.S. Code does not contain a definition of marriage, presumable because most Americans know what it means and never imagined challenges such as those we are facing today.

As mentioned earlier, the act's definitions apply to Federal law only. The act does not—let me repeat—does not intrude on the ability of the States to define marriage as they choose. To the contrary, this bill protects the right of States to define marriage for themselves. This way, each State will be able to decide for itself the type of marriage it will sanction.

The Defense of Marriage Act invokes Congress' constitutional authority, under article IV, section 1, to prescribe the effect that shall be given to the public acts, records, and judicial proceedings of the various states with regard to the full faith and credit clause.

As my colleagues know, in May 1993 the Hawaii Supreme Court rendered a preliminary ruling in favor of three same-sex couples who applied for marriage licenses. The court said the State's marriage law discriminated against the plaintiffs in violation of the equal-rights provision of the State Constitution. The case was remanded to the lower courts for a trial, to see if the State could show a compelling state interest to justify the marriage law. That trial is starting today in Hawaii.

It has become clear that advocates of same-sex unions intend to win the lawsuit in Hawaii and then invoke the full faith and credit clause to force the other 49 states to accept same-sex unions.

Many States are justifiably concerned that Hawaii's recognition of same-sex unions will compromise their own laws prohibiting such marriages. Legislators in over 30 States have introduced bills to deny recognition to same-sex unions. Fifteen States already have approved such laws, and many other states are now grappling with the issue-including Hawaii, where legislative leaders are fighting to block their own courts from sanctioning such marriages. This bill would address this issue head-on, and it would allow each State to make the final determination for itself.

It seems to me that the strategy of those who are advocating same-sex unions is profoundly undemocratic. I cannot envision a more appropriate time for invoking our constitutional authority to define the nature of States' obligations to one another. As State Representative Terrance Tom from Hawaii testified before a House subcommittee:

> If inaction by the Congress runs the risk that a single judge in Hawaii may redefine the scope of legislation throughout the other 49 States, [then] failure to act is a dereliction of the responsibilities [Congress was] invested with by the voters.

Another reason this bill is needed now concerns Federal benefits. The Federal Government extends benefits, rights, and privileges to persons who are married, and generally it accepts a State's definition of marriage. This bill will help the Federal Government defend the traditional and commonsense definitions of the American people. Otherwise, if Hawaii, or any other State, gives new meaning to the words ''marriage'' and ''spouse,'' reverberations may be felt throughout the Federal Code.

The provisions of Federal law do not, of course, regulate only the activities of the Federal Government. Federal law also regulates private persons. Consider the implication of the Family and Medical Leave Act of 1993.

Shortly before passage of the act in the Senate, I attached an amendment that defines ''spouse'' as ''a husband or wife, as the case may be.'' When the Secretary of Labor published his proposed regulations, a considerable number of comments were received urging that the definition of ''spouse'' be broadened to include domestic partners in committed relationships, including same-sex relationships. However, when the Secretary issued the final rules, he stated that the statutory definition of ''spouse'' and the legislative history of the act precluded such broadening of the definition.

That small amendment, unanimously adopted, spared a lot of costly and unnecessary litigation, and it spared Congress the shock it would have received from the American people if we had allowed the word ''spouse'' to mean something it had never meant before.

As my colleagues know, the White House has said that the President will

sign this bill if ''presented to him as currently written.'' The U.S. Department of Justice says that it expects the bill will ''be sustained as constitutional if challenged in court.''

Enactment of this bill will allow States to give full and fair consideration of how they wish to address the issue of same-sex marriages instead of rushing to legislate because of fear that another State's laws may be imposed upon them. It will also eliminate legal uncertainty concerning Federal benefits and make it clear what is meant when the words ''marriage'' and ''spouse'' are used in the Federal Code.

This effort reaffirms current practice and current policy. The fact that some may even consider this legislation controversial should make the average American stop and take stock of where we are as a country and where we want to go.

This legislation is important. It is about defense of marriage as an institution and as the backbone of the American family. I urge my colleagues to join with myself, Senator BYRD, and the other cosponsors in support of the Defense of Marriage Act.

Madam President, one final comment. Some people have stated incorrectly that this bill would ban same-sex marriages. They are incorrect. This bill does not ban same-sex marriages. It says one State doesn't have to recognize another State should they legalize same-sex marriages. Big difference; a big difference. If one State wishes to legalize same-sex marriages, say, the State of Maryland, Massachusetts or any other State, they can certainly do so, and this legislation would not prohibit it.

What this legislation would do is say they would not have to recognize same-sex marriages if some other State should enact it. I think it is an important distinction.

Also, it says for Federal benefits and Federal benefits purposes, we define marriage as legal union between male and female, and we define spouse as a member of the opposite sex.

It is very simple, very plain common sense. It should become law. I am pleased the House of Representatives passed it by a 5-to-1 margin, bipartisan support in the House of Representatives. I likewise hope later this afternoon our Senate colleagues will pass it with an overwhelming margin as well.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Madam President, at the outset, I ask everyone listening to this debate to note that the Federal Government has yet to issue a marriage license. That is not within our purview. It is not something the Federal Government does. Yet, in this instance, with the so-called Defense of Marriage Act, we are moving into the marriage business unilaterally in order to prohibit the approval by one State of another State's decision to recognize a particular marital or domestic arrangement.

The Defense of Marriage Act—and I want to quote the act —will amend the U.S. Constitution's full faith and credit clause by authorizing any State choosing to do so to deny all effect to any public act, record, or judicial proceeding by which another State either recognizes such marriages as valid and binding, or treats such marriages as giving rise to any right or claim under the laws.

In other words, this legislation says if one State decides to accept a domestic arrangement that another State does not already have, that other State can prohibit or deny the recognition of such domestic relation arrangement by the State.

Many top scholars believe this provision of the bill is unconstitutional. Our Constitution, the U.S. Constitution, states:

> Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

The first sentence of that clause of our Constitution is very clear: Every State is required to recognize the official public acts and judicial proceedings of other States. As was stated by the Supreme Court in Williams versus North Carolina, the very purpose of the full faith and credit clause was to alter the status of the several states as independent foreign sovereignties, each free to ignore the obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation.''

Professor Tribe of Harvard, a noted constitutional law scholar, states further, in regard to this issue, that

> Congress possesses no power under any provision of the Constitution to legislate any such categorical exemption from the Full Faith and Credit Clause of article IV. For Congress to enact such an exemption—whether for same-sex marriages or for any other substantially defined category of public acts, records, or proceedings—would entail exercise by Congress of a ''power not delegated to it by the United States Constitution''—a power therefore ''reserved to the States'' under the tenth amendment to the Constitution.

He goes on to state that ''the proposed measure''—the domestic relations act, DOMA,

> . . . the proposed measure would create a precedent dangerous to the very idea of a United States of America. For if Congress may exempt same-sex marriage from full faith and credit, then Congress may also exempt from the mandate of the Full Faith and Credit Clause whatever category of judgments—including not only decrees affecting family structure but also specified types of commercial judgments—a majority of the House and Senate might wish to license States to nullify such contracts as their option. Such purported authority to dismantle the national unifying shield of article IV's Full Faith and Credit Clause, far from protecting States' rights, would destroy one of the Constitution's core guarantees that the United States of America will remain a union of equal sovereigns, that no law, not even one favored by a great majority of the States, can ever reduce any single State's official acts, on any subject, to second-class status; and, most basic of all, that there will be no ad hoc exceptions to the constitutional axiom, reflected in the tenth amendment's unambiguous language, that ours is a national Government whose powers are limited to those enumerated in the Constitution itself.

Professor Tribe essentially makes the point that this is not only not the Federal Government's business, but it is an assault at the very core of the national unity that we have enjoyed.

One of the real strengths of our system is that the Federal Government has limited powers, derived from the people, and those powers not explicitly given the Government are retained by the people and by the States. Our Constitution was and is as much about preventing the erosion of our liberties by Government as it is about setting up and implementing the processes of Government.

This bill, the Defense of Marriage Act, moved through the House of Representatives faster than any part of the contract on America. In fact, based on the level of rhetoric from some Members of Congress, you would think that our principal responsibility lies in the issuing of marriage licenses, and getting involved in domestic relations. That, Madam President, I think, suggests that the real objective of this legislation is not about legislating in the appropriate way for this Congress.

The second provision of the act further demonstrates that the Defense of Marriage Act is all about the politics of fear and division and about inciting people in an area that is admittedly controversial. The act would amend chapter 1 of title I by adding the following language:

> In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ''marriage'' means only a legal union between one man and one woman as husband and wife, and the word ''spouse'' refers only to a person of the opposite sex who is a husband or a wife.

Madam President, you may want to consider, that it was not very many years ago that 16 States in our country prevented marriage between the races, interracial marriage. In fact, in some States it was called miscegenation. It was not until 1967 that the U.S. Supreme Court outlawed State miscegenation statutes. When that case was argued before the Supreme Court, the attorney general of Virginia seriously argued that the Virginia statute passed constitutional muster because both the white partner and the minority partner were subject to the same criminal penalty.

That kind of statutory restriction, Madam President, on people's ability to make a commitment to one another may seem unbelievable today, but it was a reality of life in this country not

too many decades ago. Fortunately, our Supreme Court ultimately saw how inconsistent these statutes were to core American principles and declared them all unconstitutional. Just as importantly, the Supreme Court decision is no longer a matter of intense controversy; most Americans have come to understand just how unfair those State statutes were.

I point out, Madam President, I grew up, I would imagine the Presiding Officer also grew up at a time in our country when these statutes existed, and in fact I had the occasion to have a relative in my family married to a person who was not African American, who was white, and their marriage was illegal in half the States of this country. As a child, that did not make any sense to me. How was it that a State could decide that two people could not decide to make a domestic arrangement that they wanted to make? It did not make any sense to me then. The Supreme Court subsequently acted, and here we are faced with the exact same arguments, the very same arguments being made against domestic relations of another order. When two people decide to come together, it seems to me it should be a matter for them, their conscience, their God, and indeed that it, indeed, is inappropriate for this U.S. Congress to intervene in that decisionmaking.

As Dr. King stated so eloquently years ago, our Declaration of Independence was not just a matter of rhetoric and not an exercise in hypocrisy and not just words trotted out on suitable patriotic occasions, and then ignored while we all go about the business of real life. Dr. King knew that our Declaration of Independence was indeed a ''declaration of intent,'' and that our history has been a history of making progress, albeit sometimes in fits and starts, but making progress toward full implementation of those American values for all of us.

In our system, the Constitution protects our freedoms and prevents Government from taking those freedoms away. At the same time, the genius of the system is that, at its best, it brings us together to expand opportunity and to expand freedom. Gay and lesbian Americans, however, do not yet fully enjoy the equal protection of the laws promised to every American by the 14th amendment. And this legislation, it seems to me, is a step in the absolute opposite direction of extending the equal protection of the laws to Americans without regard to their sexual orientation, just as we moved so fitfully in this country to extend those protections to Americans without regard to their race.

It seems to me, Madam President, that if we examine the history, it will show the fundamental truth of the notion that this Congress should be involved in expanding, and not restricting, individual liberty, that we should not involve the Federal Government in decisions that will restrict liberty, indeed, if anything, we should involve our Government in providing people with opportunities to contribute to the total of our society to the maximum extent of their ability and to be whoever they are within the context of this society.

That, indeed, is what freedom, that, indeed, is what the whole constitutional framework is about in this country, as I understand it, and as many people understand it who hold sacred the promise of freedom and independence that this declaration gives us. Strides have been made, Madam President, to provide gay and lesbian Americans the equal protection of the laws, but DOMA is a retreat from that goal.

Finally, Madam President, I point out to anyone who is listening to the debate, not only the divisive nature of the debate which, of course, becomes pretty apparent, but the fact that it is almost curious that the very people who argue against the Federal Government as an activist Federal Government, the very people who argue in favor of smaller Government, have absolutely no compunction about encouraging the Federal Government to expand its activism, to expand its role, and expand its intrusiveness into our everyday lives when it comes to their own agenda. If the agenda has to do with restricting liberty, it is OK to have an expanded Federal role. When the agenda relates to encouraging expanding opportunity, then that is when they cry foul and argue we should have smaller Government.

Indeed, this legislation represents just the opposite of smaller Government. It represents an intrusion by the Federal Government in areas that we have never trod before. It represents a decimation of a concept of a United States of America by striking at the heart of the full faith and credit clause which binds us together, and it tears us apart as Americans, and it sets up a point of controversy between and among the States that ought not be here.

I hope that every person on this floor and every person who is going to look at and vote on this bill considers for a moment what the judgment of history might be, if 50 years from now their grandchildren look at their debate and look at their words in support of this mean-spirited legislation, and consider the judgment that will be cast upon them then.

I had for a moment thought to bring to this floor some of the floor debate and some of the debate that happened during the civil rights era when the very same arguments that are being made in favor of this legislation were made in favor of keeping African Americans in second class citizenship in this country. Those arguments ultimately failed. And as Dr. King pointed out, he said, ''The arc of history is long, but it bends towards justice.''

I hope that we will not contribute to the retarding of that arc in the direction of justice, that we will all recognize that this is an inappropriate legislative activity by the Federal Government, and that we leave it up to the States in their wisdom to decide what kind of domestic relations arrangements they will or will not allow, and that we allow, in the final analysis, for the opportunity of every American to enjoy the same protections under the law as every other American and that we do not single out gay and lesbian Americans for second class status and as second class citizens by legislation labeled specifically to their domestic relations when we have never legislated in that area before in this body. On that point, Madam President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Madam President, I rise in support of the Defense of Marriage Act. My objective this morning is to, No. 1, define what it is that we are here to protect, and No. 2, to define constitutionally what this issue is all about, because I sense that there is a great deal of misunderstanding in the country as to what we are trying to do.

I will talk very briefly about the Hawaii case and why we are here dealing with this issue. I would like to talk about its potential impact on other States, such as my State, Texas and then I would like to talk about a secondary, but nonetheless important, issue: the economic ramifications of what we are doing.

Let me be the first to say that the traditional family has stood for 5,000 years. There is no moment in recorded history when the traditional family was not recognized and sanctioned by a civilized society—it is the oldest institution that exists. The traditional family is found in the oldest writings of mankind, and is an institution which people decided was so important for happiness and progress that it was worth singling out and was worth giving special status above all other contracts in terms of a relationship among people.

So when some question what, 50 years from now, we are going to think about those are defending the traditional family today, I would just remind them that the traditional family has stood as the seminal institution which has formed the foundation for civilized society for some 5,000 years. While I am confident that there will be Senators debating other issues 50 years from now, I am even more confident that if, at that time, our society is one which we treasure and one which we admire and love, then it will be a society which respects and recognizes the special status of the traditional family.

We are here today because the traditional family is important to America. Further, it has always been important to civilization. Our Founders recognize that, and they set out a procedure in the Constitution which is as clear as any procedure could be as to what is Congress' role in this matter.

Let me begin by referring you to article IV, section 1, of the Constitution.

Article IV, section 1 says: ''Full faith and credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.''

In other words, article IV, section 1 of the Constitution requires States to recognize the contracts, the judicial proceedings, and the public records of every other State. Obviously, at the top of this list would be marriages. But it specifically gives Congress the power to prescribe under what circumstances such recognition will occur.

My first point is, those who say Congress has no role in this issue need only read the second sentence of article IV, section 1 of the Constitution to see that Congress has the only role in prescribing the circumstance under which one State must recognize a marriage that occurs in another State. We are here today doing exactly what the Founding Fathers prescribed in the Constitution that we should do.

Now, where did this issue come from? Well, its roots come from the fact that the Hawaiian constitution outlaws discrimination based on sex—basically, they have an equal rights amendment. In 1991, three different groups of people argued that they, in trying to engage in a same-sex marriage, were being discriminated against on the basis of sex, and that this violated the equal rights amendment written into the constitution of Hawaii. Essentially, their argument was that when two women or two men are denied a marriage license, one of them is being discriminated against based on the fact that they are of the same sex as the other person applying for the license. This is the foundation of the current judicial proceedings in Hawaii.

The Supreme Court in Hawaii ruled on this equal rights argument and sent the case back to the lower court, with the instructions that the lower court, in order to deny these three groups of people a marriage license, had to show that the State had an overriding interest in this issue. Now, obviously, we are hopeful such a case can be made and that the ruling will be in favor of preserving the special union between a man and a woman which forms the foundation of our traditional family.

The point is if the Hawaii court rules under the equal rights amendment of the Hawaii constitution—a provision that is not in the U.S. Constitution, though it was long debated as a potential addition—if the court rules in favor of single-sex marriages on the basis of sex discrimination, a failure to pass the Defense of Marriage Act here today will require the State of Texas, the State of Kansas, and every other State in the Union to recognize and give full faith and credit to single-sex marriages which occur in Hawaii.

There are those who say this is not a congressional matter, that it should be left up to the courts, but if this is left up to the courts, under article IV, section 1 of the U.S. Constitution, they will have no choice except to impose same-sex marriages on Texas, so long as they are sanctioned by Hawaii.

The Constitution allows Congress—in fact, gives us the responsibility—to prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof. What we are doing today in this bill is saying three things: No. 1, we are saying that there can be no question, as far as Federal law is concerned, that States have the right to ban same-sex marriages.

No. 2, we are saying that marriage is defined as a union between a man and a woman, and, therefore, with regard to the requirements of the full faith and credit clause, no matter what happens in Hawaii or any other State, no other State will be required to recognize a same-sex marriage as a traditional marriage.

Finally, we are saying that the Federal Government, itself, will recognize only marriages that occur between a man and a woman.

Now, let me talk very briefly about the economic ramifications of this. Speaking as a person who used to practice economics, when compared to the power of the family as the foundation of our civilization and our culture, dollars and cents—in this context—are not terribly important. But, as a secondary issue, they are important, and let me explain where.

A failure to pass this bill, if the Hawaii court rules in favor of same-sex marriages, will create, through the full faith and credit provision of the Constitution, a whole group of new beneficiaries—no one knows what the number would be—tens of thousands, hundreds of thousands, potentially more—who will be beneficiaries of newly created survivor benefits under Social Security, Federal retirement plans, and military retirement plans. It will trigger a whole group of new benefits under Federal health plans. And not only will it trigger these benefits for the Federal Government, but under the full faith and credit provision of the Constitution, it will impose—through teacher retirement plans, State retirement plans, State medical plans, and even railroad retirement plans—a whole new set of benefits and expenses which have not been planned or budgeted for under current law.

So here are the issues in very simple fashion: No. 1, is there anything unique about the traditional family? For every moment of recorded history, we have said yes. In every major religion in history, from the early Greek myths of the ''Iliad'' and the ''Odyssey'' to the oldest writings of the Bible to the oldest teachings of civilization, governments have recognized the traditional family as the foundation of prosperity and happiness, and in democratic societies, as the foundation of freedom. Human beings have always given traditional marriage a special sanction. Not that there cannot be contracts among individuals, but there is something unique about the traditional family in terms of what it does for our society and the foundation it provides—this is something that every civilized society in 5,000 years of recorded history has recognized. Are we so wise today that we are ready to reject 5,000 years of recorded history? I do not think so. I think that even the greatest society in the history of the world—which we have here today in the United States of America—that even a society as great as our own trifles with the traditional family at great peril to itself.

I intend to vote for the Defense of Marriage Act today because I want to defend, protect, and even perpetuate this historical recognition of the traditional family as the foundation for society. I believe the Federal Government is given clear a role in this debate by article IV, section 1 of the Constitution, which allows Congress to prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof. To fail to exercise our constitutional responsibility would mean that States which would not otherwise choose to recognize same-sex marriages would be forced to do so, if in this case Hawaii grants that recognition.

To say that we should stay out of this issue is to simply endorse same-sex marriages. I believe that we have an obligation to act. I believe this is a very clear, defining issue and I think it is one of those issues where it ought to be very clear where everybody stands. I stand with the traditional family. I do not believe 5,000 years of recorded history have been in error. I believe the traditional family—the union of a man and a woman, upon which our entire civilization is based—is unique, and I believe it is the foundation of our prosperity, our freedom, and our happiness. I want to defend this and I am confident that we will do so on this very day.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. Madam President, I will not need much more than 10 minutes or so.

Mr. KENNEDY. I think if you can do it in 10 minutes, that would be all right.

I yield 10 minutes to the Senator from Massachusetts.

Mr. KERRY. Madam President, I listened to my colleague, the Senator from Texas—and we will hear from others on this floor—talk about the need to defend marriages and to affirm a traditional marriage and to assert that this vote is somehow a vote that will define who is for traditional marriage and who is not.

Well, I don't agree with that definition of what this vote is about, and I do not want my feelings about, or opinions about, marriage or traditional marriage to be somehow tailored by political definitions. I am not for same-

sex marriage. I have said that publicly. I would not vote for same-sex marriage.

I do not believe that this vote is specifically about defending marriage in America. I am going to vote against this bill. I will vote against this bill, though I am not for same-sex marriage, because I believe that this debate is fundamentally ugly, and it is fundamentally political, and it is fundamentally flawed.

The Defense of Marriage Act declares today on the floor of the Senate what most Americans think is pretty obvious. It declares what no State has adopted to the contrary, and won't, I imagine, for some time. In fact, the trend among States is to the contrary, no State withstanding that trend. Therefore, I suppose we really should not be surprised that the U.S. Senate is spending its time in an exercise of this kind, which ought to properly feed the cynicism that already attaches to so much of what we do in Washington.

The truth that we know, which today's exercise ignores, is that marriages fall apart in the United States, not because men and women are under siege by a mass movement of men marrying men or women marrying women. Marriages fall apart because men and women don't stay married. The real threat comes from the attitudes of many men and women married to each other and from the relationships of people in the opposite sex, not the same sex. Yet, this legislation is directed at something that has not happened and which needs no Federal intervention.

Obviously, the results of this bill will not be to preserve anything, but will serve to attack a group of people out of various motives and rationales, and certainly out of a lack of understanding and a lack of tolerance, and will only serve the purposes of the political season.

If this were truly a defense of marriage act, it would expand the learning experience for would-be husbands and wives. It would provide for counseling for all troubled marriages, not just for those who can afford it. It would provide treatment on demand for those with alcohol and substance abuse, or with the pernicious and endless invasions of their own abuse as children that they never break away from. It would expand the Violence Against Women Act. It would guarantee day care for every family that struggles and needs it. It would expand the curriculum in schools to expose high school students to a greater set of practical life choices. It would guarantee that our children would be able to read when they leave high school. It would expand the opportunity for adoptions. It would expand the protection of abused children. It would help children do things after school other than to go out and perhaps have unwanted teenage pregnancies. It would help augment Boys Clubs and Girls Clubs, YMCA's and YWCA's, school-to-work, and other alternatives so young people can grow into healthy, productive adults and have healthy adult relationships. But we all know the truth. The truth is that mistakes will be made and marriages will fail. But these are ways that we could truly defend marriage in America.

Mr. President, this bill is not necessary. No State has adopted same-sex marriage. We have a judicial question before the court in Hawaii, and it is astonishing to me that the very people who make the loudest and most continuous arguments about Federal mandates and Federal intrusion and leaving the States to their own devices and let the States work their will, before any State in the country has made a choice to do otherwise those very people are leading the charge to have the Federal Government not just intervene, but intervene with a power grab that reaches, unconstitutionally, to do things that you cannot do by statute.

I oppose this legislation because not only is it meant to divide Americans, but it is fundamentally unconstitutional, regardless of what your views are.

DOMA is unconstitutional. There is no single Member of the U.S. Senate who believes that it is within the Senate's power to strip away the word or spirit of a constitutional clause by simple statute.

DOMA would, de facto, add a section to our Constitution's full faith and credit clause, article IV, section 1, to allow the States not to recognize the legal marriage in another State. That is in direct conflict with the very specific understandings interpreted by the Supreme Court of the clause itself.

The clause states—simple words—''Full faith and credit shall be given''—not ''may be given,'' ''shall be given''—''in each State to the public Acts, Records and judicial Proceedings of every other State.'' It says:

> And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

It doesn't say no effect. It doesn't say can nullify. It doesn't say can obviate or avoid. It says it has to show how you merely procedurally prove that the act spoken of has taken place, and if it has taken place, then what is the full effect of that act in giving full faith and credit to that State.

I think any schoolchild could understand that allowing States to not accept the public act of another is the exact opposite of what the Founding Fathers laid forth in the clause itself. Let me repeat:

> Full faith and credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.

Now, if we intend to change it—and that is a different vote than having the constitutional process properly adhered to. But it seems to me that what Congress is doing is allowing a State to ignore another State's acts, and every law that Congress has ever passed has invoked the full faith and credit of another State's legislation.

All of these laws share a basic common denominator. They all implement the full faith and credit mandate. They do not restrict it. Not once has it been restricted in that way. For example, the Parental Kidnapping Prevention Act of 1990 provided the States have to enforce child custody determinations made by other States. The Full Faith and Credit for Child Support Orders of 1994 provided that States have to enforce child support determinations made by other States. It did not say you could not do it. It did not say you could avoid it. It did not diminish it. It said you have to enforce it. The Safe Homes for Women Act of 1994 required States to recognize protective orders issued in other States with regard to domestic violence.

Those laws are the products of constitutional exercises of the appropriate congressional law in implementing the full faith and credit clause. The bill before us, a statute, is the exact opposite. It is an extreme unconstitutional attempt to restrict and undermine the basic fundamental approach which helps create the concept of a unified and single nation. Madam President, this bill is not just unconstitutional. It is not just unprecedented.

It is also unnecessary.

Right now, as we speak, there is no rash outbreak among the States to recognize same-sex marriage.

In fact, States—one after another—are moving in the opposite direction. For example, the State of Michigan passed a law which defines marriage as the union between a man and a woman and declares Michigan will not recognize a same-sex marriage conducted in another State.

This bill is a solution in search of a problem.

Madam President, even if the Hawaiian Supreme Court decides to recognize same-sex marriage, Michigan and a dozen other States have spoken against it. Resolving this tension rests squarely with the judicial branch, not the Congress. This is a power grab into States' rights of monumental proportions.

Madam President, it is ironic that many of the arguments for this power grab are echoes of the discussion of interracial marriage a generation ago.

Nearly 30 years ago, this country and this body heard similar arguments against striking State laws criminalizing interracial marriage. And, the issue was resolved by the Supreme Court in the case Loving versus Virginia.

Until the Loving case was decided, many southern States had laws banning interracial marriage. When the Supreme Court ruled that this ban was unconstitutional, one Congressman from Louisiana felt compelled to come to the floor of the Senate and rail against the decision in addition to the nomination of Thurgood Marshall. He said, ''this shows how far we are removed from the ideas of our Founding

Fathers. The Justices of the Court interpret laws not on the basis of two centuries of wisdom, but rather in line with current social fads and their own personal theories on how to create the perfect society.''

But that Congressman was wrong 30 years ago. And, thankfully the Court exhibited wisdom in overturning the ban. What if they had not? Pointedly and poignantly, Leon Higginbotham, Chief Justice Emeritus of the Third U.S. Court of Appeals, answers the question for us. He states that ''if the Virginia courts had been sustained by the United States Supreme Court, Clarence Thomas could have been in the penitentiary today rather than serving as an Associate Justice of the Supreme Court.''

Madam President, as late as 1981, in the midst of a discrimination case, a U.S. Senator threw his support behind a university which banned interracial dating and marriage. Defending a ban on interracial marriage in the 1980s.

Madam President, DOMA is unconstitutional, unprecedented and unnecessary. Again, I return to the original questions: What is its legislative purpose? What is its motivation? What does passage of this bill mean for the country?

It is hard to believe that this bill is anything other than a thinly veiled attempt to score political debating points by scapegoating gay and lesbian Americans. That is politics at its worst, Mr. President. It is a perfect exemplar of the polarizing issues E.J. Dionne describes in his book, ''Why Americans Hate Politics.''

In the past few years, legislative attacks on gay people have increased in frequency and scope. Trying to keep gay men and lesbians out of the armed services. Trying to keep AIDS educational materials free of any mention of homosexuality. Trying to take away the children of gay parents.

Certainly the struggle for civil rights is a long one and individual prejudices are difficult to overcome. The great civil rights teacher Martin Luther King observed:

> It is pretty difficult to like some people. Like is sentimental and it is pretty difficult to like someone bombing your home; it is pretty difficult to like somebody threatening your children; it is difficult to like congressmen who spend all of their time trying to defeat civil rights. But Jesus says love them, and love is greater than like.

Madam President, that is the ultimate irony. For a bill which purports to defend and regulate marriage, there has been so little talk of love here in this Chamber.

Madam President, as we quickly approach the end of the millennium, the problems facing average Americans and the pressures experienced by the American family are overwhelming—personal debt and bankruptcies are at an all-time high, divorce rates are skyrocketing, schools are crumbling, education costs are astronomical and health care costs continue to rise.

It is clear the Congress should be alleviating the pressures of the American family. That would be the best defense of marriage. If we want to defend marriage, we should be working to change the ugly reality of spousal abuse. We should be redoubling our efforts to eradicate alcohol, drug and other forms of substance abuse. We should acknowledge the pernicious ramifications of abandonment.

And we should commit our collective resources to creating educational opportunities for Americans, to securing health care and to easing the economic burden too many people feel today. We should bring Americans together with common purpose and empower individuals and communities to ease the pressure of today's increasingly complicated everyday life.

This bill does not bring people together. In fact, it does the exact opposite. It divides Americans. It is a stark reminder that all citizens who play by the rules, who pay their taxes and who contribute to the economic, social and political vibrancy of this great melting pot do not have equal rights.

I would have thought that the other side would have learned by now that there is a nasty boomerang effect to the politics of division. It rends the social and political fabric. It divides the country.

I have some experience with divided countries. I fought in one. I have looked into the eyes of hatred, bigotry, ignorance, of raw unbridled passion for conflict. Look to Northern Ireland, look to Bosnia, look to the Middle East—and see the end-product of the politics of division.

Let us stop this division. Let us balance the budget. Let us provide health security and retirement security. Let us protect our environment.

And, most of all, Madam President, let us give everyone a chance for an education. Education is the key to overcoming ignorance, to keeping families together, to providing a glimpse of the American dream. Bolstering education would do more to defend marriage than anything in this bill.

This is an unconstitutional, unprecedented, unnecessary and mean-spirited bill. I urge my colleagues to oppose it.

I yield the floor.

The PRESIDING OFFICER. The Senator has used the 10 minutes allowed.

Who yields time?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from West Virginia.

Mr. BYRD. Do I have control of 45 minutes?

The PRESIDING OFFICER. Yes, the Senator does.

Mr. BYRD. I thank the Chair.

Mr. President, I am pleased to join my colleague, the senior Senator from Oklahoma, in cosponsoring the Defense of Marriage Act. Although I am glad to work with Senator NICKLES in this effort, I must admit that, in all of my nearly 44 years in the Congress, I never envisioned that I would see a measure such as the Defense of Marriage Act.

It is incomprehensible to me that federal legislation would be needed to provide a definition of two terms that for thousands of years have been perfectly clear and unquestioned. That we have arrived at a point where the Congress of the United States must actually reaffirm in the statute books something as simple as the definition of ''marriage'' and ''spouse,'' is almost beyond my grasp. But as the current state of legal affairs has shown, this bill is a necessary endeavor.

Mr. President, there are some who say that the Senate is not dealing with a relevant matter here, that the time has not yet arrived for the Senate to debate this subject. I say the time is now, and this is a relevant matter. Action by the Senate and debate by the Senate are not something that should be delayed and put off until another day.

Let me read from ''The Case For Same-Sex Marriage,'' by William N. Eskridge, Jr.

Now, the author of this treatise supports same-sex marriage. Let me read extracts from the treatise which clearly indicate that this is a matter that is relevant. It is relevant now. Reading from page 46:

> Many of the gay marriages have been performed by religious groups formed specifically for the gay, lesbian and bisexual faithful.
>
> The situation is more complicated among mainstream religious denominations. A few are openly supportive of gay marriages or unions. Following a vote on the matter in 1984, the Unitarian Universalist Association now affirms the growing practice of some of its ministers of conducting services of union of gay and lesbian couples and urges member societies to support their ministers in this practice. The Society of Friends leaves all issues to congregational decision and thousands of same-sex marriages have been sanctified in Quaker ceremonies since the 1970's. Other denominations are still studying the issue.
>
> The validity of same-sex marriage has been debated at the national level by the Presbyterian, Episcopal, Lutheran and Methodist churches.

So why not debate it here, Mr. President.

> A committee of Episcopal bishops proposed in 1994 that homosexual relationships need and should receive the pastoral care of the church, but the church diluted and downgraded the report. After intense debate also in 1994, the General Assembly of the Presbyterian Church USA adopted a resolution that its ministers are not permitted to bless same-sex unions. The Lutheran Church in 1993 debated but did not adopt a report advocating the blessing and legal recognition of same-sex unions. The Methodists followed a similar path in 1992.
>
> The pattern in these denominations has been the following: an individual church will bless a same-sex union or marriage and the ministers and theologians then call for a study of the issue. A report is written that is open to the idea. The report ignites a firestorm of protests from traditionalists in the denomination. The issue is suppressed or rejected at the denominational level. Local churches and theologians again press the issue some years later and the cycle begins again. My guess—

This is the author's guess. It is not my guess. This is a guess by the author.

My guess is that one or more of the foregoing denominations will tilt towards same-sex unions or marriages in the next 5 to 10 years. Even the religions that are most prominently opposed to gay marriages have clergy who perform gay marriage ceremonies. The Roman Catholic Church firmly opposes gay marriage but its celebrated priest, John J. McNeill says that he and many other Catholic clergy have performed same-sex commitment services. Although Father McNeill's position is marginalized within the Catholic Church, it reflects the views of many devout Catholics. Support for same-sex marriage is probably most scarce among Baptists in the South.

The author says this:

You can be assured that same-sex marriage is an issue that has arrived worldwide and that efforts to head it off will only be successful in the short term.

So, Mr. President, to those who say that it is not yet time to debate this issue, let them read from the book, ''The Case for Same-Sex Marriage'' and hear what an advocate of same-sex marriage says.

You can be assured that same-sex marriage is an issue that has arrived, worldwide, and that efforts to head it off will only be successful in the short term.

The author closes the chapter as follows:

The argument of this book is that Western culture generally, and the United States in particular, ought to and must recognize same-sex marriages.

Therefore, Mr. President, the time is now, the place is here, to debate this issue. It confronts us now. It comes ever nearer.

There are those who say, ''Why does the Senate not debate and act upon relevant matters?'' This is relevant. And it is relevant today.

In very simple and easy to read language, this bill says that a marriage is the legal union between one man and one woman as husband and wife, and that a spouse is a husband or wife of the opposite sex. There is not, of course, anything earth-shaking in that declaration. We are not breaking any new ground here. We are not setting any new precedent. We are not overturning the status quo in any way, shape or form. On the contrary, all this bill does is reaffirm for purposes of Federal law what is already understood by everyone.

Mr. President, throughout the annals of human experience, in dozens of civilizations and cultures of varying value systems, humanity has discovered that the permanent relationship between men and women is a keystone to the stability, strength, and health of human society—a relationship worthy of legal recognition and judicial protection. The purpose of this kind of union between human beings of opposite gender is primarily for the establishment of a home atmosphere in which a man and a woman pledge themselves exclusively to one another and who bring into being children for the fulfilment of their love for one another and for the greater good of the human community at large.

Obviously, human beings enter into a variety of relationships. Business partnerships, friendships, alliances for mutual benefits, and team memberships all depend upon emotional unions of one degree or another. For that reason, a number of these relationships have found standing under the laws of innumerable nations.

However, in no case, has anyone suggested that these relationships deserve the special recognition or the designation commonly understood as ''marriage.'' The suggestion that relationships between members of the same gender should ever be accorded the status or the designation of marriage flies in the face of the thousands of years of experience about the societal stability that traditional marriage has afforded human civilization. To insist that male-male or female-female relationships must have the same status as the marriage relationship is more than unwise, it is patently absurd.

Out of such relationships children do not result. Of course, children do not always result from marriages as we have traditionally known them. But out of same-sex relationships no children can result. Out of such relationships emotional bonding oftentimes does not take place, and many such relationships do not result in the establishment of ''families'' as society universally interprets that term. Indeed, as history teaches us too often in the past, when cultures waxed casual about the uniqueness and sanctity of the marriage commitment between men and women, those cultures have been shown to be in decline. This was particularly true in the ancient world in Greece and, more particularly, in Rome. In both Greece and Rome, same-sex relationships were not uncommon, particularly among the upper classes. Plato and Aristotle referred to the existence of such relationships in their writings, as did Plutarch, the Greek biographer.

Homer, the Greek epic poet, in the ''Iliad,'' wrote of the love relationship that existed between Achilles and Patroclus. Homer relates that after Patroclus was slain by Hector, Patroclus appeared to Achilles in a dream saying, ''Do not lay my bones apart from yours, Achilles. Let one urn cover my bones with yours, that golden, two-handled urn that your mother so graciously gave you.''

As to the Romans, Cicero mentioned casually that a former consul, who was Catiline's lover, approached him on Catiline's behalf. This was undoubtedly during the time of the ''Catiline Conspiracy,'' which took place in the years 63 and 62 A.D.

Suetonius, the Roman biographer, relates that Julius Caesar prostituted his body to be abused by King Nicomedes of Bithynia, and that Curio the Elder, in an oration, called Caesar ''a woman for all men and a man for all women.''

While same-sex relations were not unknown, therefore, to the ancients, same-sex marriages were a different matter. But they did sometimes involve utilization of the forms and the customs of heterosexual marriage. For example, the Emperor Nero, who reigned between 54 and 68 A.D., took the marriage vows with a young man named Sporus, in a very public ceremony, with a gown and a veil and with all of the solemnities of matrimony, after which Nero took this Sporus with him, carried on a litter, all decked out with ornaments and jewels and the finery normally worn by empresses, and traveled to the resort towns in Greece and Italy, Nero, ''many a time, sweetly kissing him.''

Juvenal, the Roman satirical poet, wrote concerning a same-sex wedding, by way of a dialog:

''I have a ceremony to attend tomorrow morning.''

''What sort of ceremony?''

''Nothing special, just a gentleman friend of mine who is marrying another man and a small group has been invited.''

Subsequently in the dialog, ''Gracchus has given a dowry of 400 sesterces, signed the marriage tablets, said the blessing, held a great banquet, and the new bride now reclines on his husband's lap.''

Juvenal looked upon such marriages disapprovingly, and as an example that should not be followed.

Mr. President, the marriage bond as recognized in the Judeo-Christian tradition, as well as in the legal codes of the world's most advanced societies, is the cornerstone on which the society itself depends for its moral and spiritual regeneration as that culture is handed down, father to son and mother to daughter.

Indeed, thousands of years of Judeo-Christian teachings leave absolutely no doubt as to the sanctity, purpose, and reason for the union of man and woman. One has only to turn to the Old Testament and read the word of God to understand how eternal is the true definition of marriage.

Mr. President, I am rapidly approaching my 79th birthday, and I hold in my hands a Bible, the Bible that was in my home when I was a child. This is the Bible that was read to me by my foster father. It is a Bible, the cover of which having been torn and worn, has been replaced. But this is the Bible, the King James Bible. And here is what it says in the first chapter of Genesis, 27th and 28th verses:

So God created man in his own image, in the image of God created he him; male and female created he them.

And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth . . .

And when God used the word ''multiply,'' he wasn't talking about multiplying your stocks, bonds, your bank accounts or your cattle on a thousand hills or your race horses or your acreages of land. He was talking about procreation, multiplying, populating the Earth.

And after the flood, when the only humans who were left on the globe were Noah and his wife and his sons and their wives, the Bible says in chapter 9 of Genesis:

And God blessed Noah and his sons, and said unto them, Be fruitful, and multiply, and replenish the earth.

Christians also look at the Gospel of Saint Mark, chapter 10, which states:

But from the beginning of the creation God made them male and female.

For this cause shall a man leave his father and mother, and cleave to his wife;

And they twain shall be one flesh: so then they are no more twain, but one flesh.

What therefore God hath joined together, let not man put asunder.

Woe betide that society, Mr. President, that fails to honor that heritage and begins to blur that tradition which was laid down by the Creator in the beginning.

Moreover, the drive being spearheaded by a small segment of today's culture reflects a demand for ''political correctness'' gone berserk. I think of Muzzey, who wrote the American history text that I studied in 1927, 1928, 1929, who said in the very first sentence, ''America is the child of Europe.'' Now, Muzzey would have been hooted out of town for being ''politically incorrect'' in having said that. But that was nothing as compared with this.

This reflects a demand for political correctness that has gone berserk. We live in an era in which tolerance has progressed beyond a mere call for acceptance and crossed over to become a demand for the rest of us to give up beliefs that we revere and hold most dear in order to prove our collective purity. At some point, a line must be drawn by rational men and women who are willing to say, ''Enough!''

Certainly in today's far too permissive world, traditional marriage as an institution is struggling. Divorce is far too frequent, as are male and female relationships which do not end in marriage. Certainly we do not want to launch a further assault on the institution of marriage by blurring its definition in this unwise way.

The drive for the acceptance of same-sex or same-gender ''marriage'' should serve for us as an indication that we have drawn too close to the edge and that we as a people are on the verge of trying so hard to please a few that we destroy the values and the spiritual beliefs of the many. Moreover, to seek the codification of same-sex marriage into our national or State legal codes is to make a mockery of those codes themselves. Many legal scholars believe that only after a majority of society comes to a consensus on the legality or illegality of one issue or another should that issue be written down in our legal institutions. The drive for same-sex marriage is, in effect, an effort to make a sneak attack on society by encoding this aberrant behavior in legal form before society itself has decided it should be legal—a proposition which is far in the distance, if ever to be realized.

Mr. President, I have heard arguments to the effect that the bill may be unconstitutional. I totally disagree with that.

Insofar as the proposal would relate to State recognition of same-sex marriages contracted in other States, Congress is empowered by the full faith and credit clause, article IV, section 1 of the Constitution, to enact ''general Laws prescrib[ing] the Manner'' in which such Acts of other States ''shall be proved, and the Effect thereof.''

Congress has from the beginning placed on the books implementing legislation, and it has in recent years enacted more limited statutes relating to child support and custody.

Opponents of the present bill argue that while Congress has authority to pass laws that enable acts, judgments and the like to be given effect in other States, it has no constitutional power to pass a law permitting States to deny full faith and credit to another State's laws and judgment. There is no judicial precedent one way or another on this issue, but it is not at all clear why a general empowering of Congress to ''prescribe * * * the effect'' of public acts does not give it discretion to define the ''effect'' so that a particular public act is not due full faith and credit. The plain reading of the clause would seem to encompass both expansion and contraction.

However, the argument con and the response assumes that the full faith and credit clause would obligate States to recognize same-sex marriages contracted in States in which they are authorized. This conclusion is far from evident. It is clear that the clause mandates recognition by other States of the judgments of the courts with jurisdiction in another State. But controversy has always attended consideration of the question of what the clause obligates States to do with respect to the ''public acts'' of other States. The judicial decisions are mixed, but ''public acts'' have never been accorded the same recognition as judicial judgments. States have generally been recognized to have the discretion to refuse cognizance of ''public acts'' that are contrary to their own public policy. Thus, in prescribing the ''effect'' on States of State laws that permit or authorize same-sex marriages, Congress may be deemed to be exercising authority under the full faith and credit clause to settle an issue not definitive within the clause itself.

The actual policy of the States in recognizing marriages contracted in other States to persons who would not be permitted to marry in the State in which the issue arises is mixed. The general tendency, based on comity rather than on compulsion under the full faith and credit clause, is to recognize marriages contracted in other States even though they could not have been celebrated in the recognizing State. The trend in such promulgations as the Restatement (Second) of Conflicts of Laws and the Uniform Marriage and Divorce Act was to recognize marriages everywhere if they were legal where contracted. But a ''public policy'' exception has been asserted, and, recently, as the Hawaii litigation has proceeded, several States have enacted laws declaring recognition of same-sex marriages to be contrary to the public policy of those States.

Thus, it cannot be said that Congress would be contracting a right heretofore clearly prescribed by the full faith and credit clause.

There are constitutional constraints upon Federal legislation. The relevant one to be considered is the equal protection clause and the effect of the Supreme Court's decision in Romer versus Evans. Struck down under the equal protection clause was a referendum-adopted provision of the Colorado constitution, which repealed local ordinances that provided civil rights protections for gay persons and which prohibited all legislative, executive or judicial action at any level of State or local government if that action was designed to protect homosexuals. The Court held that under the equal protection clause, legislation adverse to homosexuals was to be scrutinized under a ''rational basis'' standard of review. The classification failed to pass this review, because it imposed a special disability on homosexuals not visited on any other class of people and it could not be justified by any of the arguments made by the State.

The impact of the case, and in other areas of governmental action adversely affecting gays, cannot be clearly discerned. Despite the Court's use of the rational basis standard, the opinion appears to view with skepticism the differential treatment of homosexuals as a class. At the least, we can say that the case requires the DOMA, if it becomes law, to be evaluated under the equal protection clause. That evaluation need not be fatal to the law. The proposal does adversely classify homosexuals as a class in defining what status, under the full faith and credit clause, States must accord.

The law would not preclude any State from recognizing such marriages. The Colorado amendment fell, not solely because of its differential classification but because the Court concluded, first, that the law was intended to affect adversely homosexuals as a class, and, second, that no rational basis could be asserted for the adverse treatment.

The proposal has been presented as one that would protect federalism interests and State sovereignty in the area of domestic relations, historically a subject of almost exclusive State concern. It is presented as a measure that permits, but does not require, States to deny recognition to same-sex marriages contracted in other States,

affording States with strong public policy concerns the discretion to effectuate that policy. Thus, while the proposal adversely affects homosexuals as a class, it can be argued that it is grounded not in hostility to homosexuals, not in a legislative decision to target homosexuals because of their homosexuality, but to afford the States the discretion to act as their public policy on same-sex marriages dictates.

So, Mr. President, I am not here today to blast anyone. I am not here today to lash out at anybody. I am not here today to attack anybody. I am here saying that we need to recognize this age-old institution of marriage for what it is, what it always has been under the Judeo-Christian concepts of human experience—the marriage union of male and female.

On a more pragmatic level although no less important, this bill also addresses concerns with respect to the matter of Federal benefits. As I am sure my colleagues are aware, although many other Americans may not be, the Federal Government extends certain benefits and privileges to persons who are married, but in almost all cases those benefits are given on the basis of a State's definition of ''marriage.'' In almost all cases at the Federal level, there is simply no definition of the terms ''marriage'' or ''spouse.''

Indeed, the word ''marriage'' appears in more than 800 sections of the Federal statutes and regulations, while the word ''spouse'' appears more than 3,100 times. And, as I have said, in all but a minute number of those instances—namely, the Family and Medical Leave Act—those terms are simply not defined. Until now, of course, there has never been a need to define them. Until now. That is why to debate this issue is relevant.

As I say, in debating the issue, I am not here to bash anyone. I am not here to bash anyone's personal beliefs. But if the State of Hawaii, or any other State, for that matter, redefines those terms, then what will happen at the Federal level? Who knows, for example, what the Social Security Administration is supposed to do when a so-called ''spouse'' of a same-sex marriage walks in and attempts to collect survivors benefits under the Social Security program? What is the Social Security clerk to say? Without a Federal definition—and that is what we are attempting to accomplish here—without a Federal definition of something that has been previously undefined, every department and every agency of the Federal Government that administers public benefit programs would be left in the lurch. We shall have sown the dragon's teeth!

Moreover, I urge my colleagues to think of the potential cost involved here. How much is it going to cost the Federal Government if the definition of ''spouse'' is changed? It is not a matter of irrelevancy at all. It is not a matter of attacking anyone's personal beliefs or personal activity. That is not my purpose here. What is the added cost in Medicare and Medicaid benefits if a new meaning is suddenly given to these terms? I know I do not have any reliable estimates of what such a change would mean, but then, I do not know of anyone who does. That is the point—nobody knows for sure. I do not think, though, that it is inconceivable that the costs associated with such a change could amount to hundreds of millions of dollars, if not billions—if not billions—of Federal taxpayer dollars.

Mr. President, for these reasons and others named by the opponents of same-sex or gender marriage, I hope that our colleagues here in the Senate will demonstrate their thorough opposition to efforts to subvert the traditional definition of ''marriage'' by going on record today against this very unnecessary idea.

Let us make clear that in our generation, at least, we understand the meaning and purpose of marriage and that we affirm our trust in the divine approbation—you do not have to be a preacher to say this; I am not a prophet or the son of a prophet; I am not a preacher or the son of a preacher; one does not have to be a prophet or a preacher—to affirm our trust in the divine approbation of union between a man and a woman, between a male and female for all time.

Mr. President, 41 years ago I was traveling with a House subcommittee of the Committee on Foreign Affairs. I visited the city of Baghdad, the city of the Arabian Nights, where Ali Baba followed the 40 thieves through the streets, and from which Sinbad the Sailor departed on his journey to the magnetic mountain.

I asked an old Arab guide to take me down to the old Biblical city of Babylon, where one of the famous seven wonders of the world, the hanging gardens, was created. As I reached the old city of Babylon I stood on the banks of the Euphrates River, that old river that is first mentioned in the Book of Genesis, which like a thread runs through the entire Bible, the Old Testament and the New, and is mentioned again in the Book of Revelation.

I stood on the site, or at least I was told I was standing on the site of where Belshazzar, the son of Nebuchadnezzar, held a great feast for 1,000 of his lords. Belshazzar took the cups that had been stolen from the temple by Nebuchadnezzar. He and his wife and concubines and his colleagues drank from those vessels, and Belshazzar saw the hand of a man writing on the plaster of the wall, over near the candlestick, and the hand wrote ''me'ne, me'ne, te'kel, uphar'sin'' and the countenance of Belshazzar changed, his knees buckled, and his legs trembled beneath him. He called in his astrologers and soothsayers and magicians and said, ''Tell me what that writing means,'' but they were mystified. They could not interpret the writing. Then the queen told Belshazzar that there was a man in the kingdom who could interpret that writing. So, Daniel was brought before the king and told by the king that he, Daniel, would be clothed in scarlet with a golden chain around his neck, and that he would become a third partner in the kingdom if he could interpret that writing. Daniel interpreted the writing:

> God hath numbered thy kingdom and finished it. Thou art weighed in the balances and art found wanting. Thy kingdom is divided and given to the Medes and Persians.

That night Belshazzar was slain by Darius the Median, and his kingdom was divided.

Mr. President, America is being weighed in the balances. If same-sex marriage is accepted, the announcement will be official, America will have said that children do not need a mother and a father, two mothers or two fathers will be just as good.

This would be a catastrophe. Much of America has lost its moorings. Norms no longer exist. We have lost our way with a speed that is awesome. What took thousands of years to build is being dismantled in a generation.

I say to my colleagues, let us take our stand. The time is now. The subject is relevant. Let us defend the oldest institution, the institution of marriage between male and female, as set forth in the Holy Bible. Else we, too, will be weighed in the balances and found wanting.

I thank all Senators and I yield the floor.

Mr. NICKLES. Mr. President, I wish to thank Senator BYRD for that statement and also for cosponsoring this legislation, and for the outstanding research that he did, putting it in a historical perspective, as well. I think his statement was very well made and I very much appreciate his assistance in passing this legislation today.

Mr. KENNEDY. I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California [Mrs. BOXER] has 10 minutes.

Mrs. BOXER. Thank you, Mr. President. Mr. President, yesterday I spoke about my views on discrimination in the workplace and on this Defense of Marriage Act. Today I summarize those remarks, as we head toward a vote on both of these bills.

First, I want to say I am proud of many of the companies in this country who have endorsed ENDA, which would stop workplace discrimination against gays and lesbians, and I urge my colleagues to join such blue chip companies as AT&T, Eastman Kodak, Genentech, Silicon Graphics, and Xerox, in supporting ENDA.

Now, there is a much longer list that I put into the RECORD yesterday, Mr. President, and I noted that many of those companies are based in California and they practice a policy of not discriminating. After all, what we are talking about here is individual performance, and one's sexual orientation should have nothing to do with that. If someone is qualified and does a good job, they should not be discriminated

against for any reason, including sexual orientation. I know that most of us in this body in our own offices practice nondiscrimination, so it seems to me quite an easy thing to do. I am very hopeful we can pass ENDA.

On the Defense of Marriage Act, I want to point out once again that this act, in my opinion, has nothing to do with defending marriage. As one who has been married for many years to the same person, I can truly say if we want to defend marriage, we should be discussing ways that truly help lift the strains and stresses on marriage. We all know what those are. We all know the financial strains and stresses on marriage.

As a matter of fact, when I heard that we were going to be discussing a bill called the Defense of Marriage Act, I was looking forward to seeing what it was because I honestly thought because it is called the Defense of Marriage Act that it would be doing something to help us defend marriage in this country. One in two marriages does end in divorce in this country, and in many cases they are tragic endings—tragic for the partners, tragic for the children, tragic for the extended families—and there are things that we could do, such things as paycheck security, Mr. President. Such things as pension security. Such things that the Senator from Connecticut brought to us in terms of the Parental Leave Act, which the President supports.

We ought to be looking at ways to give that additional 24 hours to working families so they can spend more time if their child needs them at a school appointment or some special doctor's appoint. These are the kinds of things we ought to be looking at. These are the kind of things that would defend marriage, defend families. I do not think this Defense of Marriage Act is about any of that.

I do think, however, it is about something else. I believe it is about hurting a whole group of people for absolutely no reason whatsoever. Not one group in this country that fights for fairness for gays and lesbians has asked us to legalize gay marriage here in the U.S. Senate. Not one Member of the House or Senate is proposing a bill that would legalize gay marriage or give benefits to domestic partners. Not one State in the Union has recognized gay marriage at all. As a matter of fact, many have absolutely said ''no'' to gay marriage.

So here we have a situation where we are watching a preemptive strike on a proposal that doesn't exist. Yes, there is a court that is looking at the subject in Hawaii, but that decision is many years away, according to legal scholars.

I ask unanimous consent to have printed in the RECORD pages 44 and 45 of the hearing on the Judiciary, where you have legal scholars telling us, in fact, that States will not have to recognize other States' gay marriages, if they so choose.

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

EXCERPT FROM THE SENATE JUDICIARY COMMITTEE HEARING ON THE DEFENSE OF MARRIAGE ACT, JULY 11, 1996

I am pleased to have the opportunity to speak to you today on S. 1740, the proposed Defense of Marriage Act. I will not address the issues of policy that are raised by S. 1740. Instead I will be speaking only to the constitutional issues, which are novel, complex, and somewhat technical.[1] Because of the novelty and complexity of the issues, any judgments on the constitutional issues must be at least a bit tentative.

To summarize my view: S. 1740 is unprecedented in our nation's history; it is probably either pointless or unconstitutional; and while the constitutional issues are far from simple, it is safe to say that S. 1740 is a constitutionally ill-advised intrusion into a problem handled at the state level.

S. 1740 responds to an old problem, not a new one, and that problem—diverse state laws about marriage has been settled for a long time without national intervention. Thus there is a reasonable view that S. 1740 is pointless; it adds nothing to current law. If S. 1740 is not pointless—if states must give full faith and credit to the relevant marriages—S. 1740 may well be unconstitutional. In the nation's history, Congress has never declared that marriages in one state may not be recognized in another; it has not done this for polygamous marriages, marriages among minors, incestuous marriages, or bigamous marriages. It is unclear if Congress has the authority to enact such a bill under the commerce clause, the full faith and credit clause, or any other source of national authority. In addition, S. 1740 raises serious issues under the equal protection component of the due process clause in the aftermath of the Supreme Court's recent decision in *Romer* v. *Evans*.

I. BACKGROUND: FEDERALISM AND RECOGNITION OF OUT-OF-STATE MARRIAGES

The impetus for S. 1740 is easy to understand. If one state—Hawaii—recognizes same-sex marriage, is there not a danger that other states, whatever their views, will be forced to accept same-sex marriages as well? Perhaps people will fly to Hawaii, get married there, and effectively ''bind'' the rest of the union to Hawaii's rules, forcing all states to recognize marriages that violate their policies and judgments. A national solution seems necessary if one state's unusual rules threaten to unsettle the practices of forty-nine other states.

This scenario is, however, unlikely, for the full faith and credit clause has never been understood to bind the states in this way. For over two hundred years, states have worked out issues of this kind on their own. It is entirely to be expected that in a union of fifty diverse states, different states will have different rules governing marriage. American law has carefully worked out practical strategies for ensuring sensible results in these circumstances, as each state consults its own ''public policy,'' and its own connection to the people involved, in deciding what to do with a marriage entered into elsewhere. In short: States have not been bound to recognize marriages if (a) they have a significant relation with the relevant people and (b) the marriage at issue violates a strongly held local policy.

Thus, for example, the first Restatement of Conflicts says that a marriage is usually valid everywhere if it was valid in the state in which the marriage occurred. But section 132 lists a number of exceptions, in which the law of ''the domicile of either party'' will govern: polygamous marriages, incestuous marriage, marriage of persons of different races, and marriage of a domiciliary which a state at the domicile makes void even though celebrated in another state. The Second Restatement of Conflicts, via section 283, taken a somewhat different approach. It says that the validity of a marriage will be determined by the state that ''has the most significant relationship to the spouses and the marriage.'' It also provides that a marriage is valid everywhere if valid where contracted unless it violates the ''strong public policy'' of another state which had the most significant relationship to the spouses and the marriage at the time of the marriage. Thus a state might refuse to recognize incestuous marriages, polygamous marriages, or marriage of minors below a certain age.

The two Restatements show that it is a longstanding practice for interested states to deny validity to marriages that violate their own public policy. Many cases have reflected a general view of this kind. See, e.g., *In re Vetas's Estate*, 170 P.2d 183 (1946); *Maurer* v. *Maurer*, 60 A.2d 440 (1948); *Bucea* v. *State*, 43 N.J. Super 815 (1957); *In re Takahashi's Estate*, 113 Mont. 490 (1942); *In re Duncan's Death*, 83 Idaho 254 (1961); *In re Mortenson's Estate*, 83 Ariz. 87 (1957). There is no Supreme Court ruling to the effect that this view violates the full faith and credit clause.

All this suggests that S. 1740 would respond to an old and familiar problem that has heretofore been settled through long-settled principles at the state level and without federal intervention. If some states do recognize same-sex marriage, the problem would be handled in the same way that countless similar problems have been handled, via ''public policy'' judgments by states having significant relationships with the parties. Different ''public policies'' will produce different results. This is consistent with longstanding practices and with the essential constitutional logic of the federal system. The greater irony is that the Hawaii legislature has recently made clear that a marriage is available only between a man and a woman, and hence there is no current problem that S. 1740 would address. I conclude that S. 1740 is constitutionally ill-advised because it intrudes, without current cause, into a traditional domain of the states.

If this traditional view is correct, S. 1740 is also pointless; it gives states no authority that they lack. But a lurking question remains: Why, exactly, does the full faith and credit clause not require states to recognize marriages celebrated elsewhere? The Supreme Court has not offered an explanation. Perhaps the answer lies in the fact that a marriage is in the nature of a contract, and hence it is not a ''public Act, Record, [or] judicial Proceeding'' within the meaning of the Clause. Perhaps the answer lies in the longstanding view that a state with a clear connection with the parties and strong local policies need not defer to another state's law. In either case there is no reason to enact S. 1740. But if the full faith and credit clause is interpreted to require states to respect certain marriages, and if S. 1740 negates that requirement, S. 1740 raises serious constitutional doubts.

II. CONGRESSIONAL AUTHORITY

Whether S. 1740 would be struck down as unconstitutional raised novel and complex issues. My conclusion is that no simple view

[1] I focus throughout on section 2. I do not believe that section 3 would be found unconstitutional, though it would be possible to raise questions under the equal protection clause, see *Romer* v. *Evans*, infra; see also W. Eskridge, ''The Case for Same-Sex Marriage,'' (1996); Kuppelman, ''Why Discrimination Against Lesbians and Gay Men Is Sex Discrimination,'' 69 NYU L. Rev. 197 (1994).

is plausible, and that in view of the fact that this sort of issue has always been handled at the state level, S. 1740 makes little constitutional sense.

(a) Full faith and credit

The purpose of the full faith and credit clause was unifying—the clause was designed to help create a ''United States'' in which states would not compete against one another through a system in which judgments could be made part of interstate rivalry. The clause's historic function is to ensure that states will treat one another as equals rather than as competitors. In this way, the full faith and credit clause is akin to the commerce clause, operating against protectionism, in which one state uses its power over its persons and territories to punish outsiders. See Jackson, Full Faith and Credit—The Lawyer's Clause of the Constitution, 45 Column L. Rev. 1 (1945).

For reasons just stated, the full faith and credit clause has not been understood to mean that each state must recognize marriages celebrated in other states. But does the full faith and credit clause authorize S. 1740 if it is understood to give states permission to ignore judgments by which they would otherwise be bound? This is not clear. An affirmative answer might be supported by the following language: ''And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the effect thereof.'' Perhaps Congress can say that some Acts, Records and Proceedings are of ''no effect.'' Perhaps Congress' power over ''the effect thereof'' means that Congress can decide which Acts, Records and Proceedings have ''effect.'' The question, then, is whether Congress may not only prescribe the manner of proof and also implement the clause by requiring ''effect'' upon certain proofs (what we might call the accepted ''affirmative'' power), but also say that certain Acts, Records, and Proceedings may be without effect when, in the absence of legislation, they would have effect (what we might call the ''negative'' power). Does the negative power exist, and how might it be limited? (Even if it does, Congress would have no power here if a marriage is not an Act, Record, or judicial Proceeding. I put that point to one side.)

This is a complex and difficult question, and no Supreme Court decision gives a clear ruling. A detailed historical study of the grant of power to Congress seems to suggest that the grant was designed to ensure that Congress could implement the full faith and credit clause by expanding the reach of state rules and judgments. That is because the clause has above all a unifying power. See Cook, The Powers of Congress Under the Full Faith and Credit Clause, 28 Yale LJ 421 (1919). In this view, the clause may well authorize Congress (for example) to make state judgments directly enforceable in other states, compel states to recognize rights created . . .

Mrs. BOXER. So one has to ask oneself, why are we doing this? I think the Washington Post today had an excellent editorial in which they say, ''Why is the Senate taking up this matter now?'' They also point out how this issue is years away—years away.

Well, I think we know why it is happening. It is election-year politics, and as one of the two Senators from California, I am not going to be part of that kind of politics.

As I said before, it is a preemptive strike on a nonexistent proposal. It is as if we decided, as a Nation, to bomb a country because we thought they were going to do something to harm us when, in fact, all they wanted to do is live in peace. Of course, America would never do such a thing. Why would we want to do it to a whole group of people?

I believe we are all Americans, Mr. President. I believe we do much better when we work together on issues, when we don't divide. If you read history books, you will see so many cases in history where a group of people is identified, and they are scapegoated, and they are treated differently, and they become nameless and faceless. It is what I call the politics of division, the politics of fear. I could never be associated with that kind of politics.

Mr. President, when I went into politics 20 years ago, I said to my constituents then—and I continue to tell them—that I would not always take the popular side of an issue. If I felt it was mean-spirited, I would come to the floor of whatever body I was in—and I have been in local government, I have been in the House, and now I am very fortunate to be in the greatest deliberative body in the world, the U.S. Senate—and say I felt the proposal was mean-spirited; it was scapegoating people, and I simply could not be a part of it. I think if I were to do that—and we all know what the polls show on this one—I think it would be an insult to my constituency and to me, and it would demean all of us, because I don't think that is why we get elected here. I think we get elected here sometimes to go against the wind. I think if we don't do that, it diminishes us.

Now, this vote isn't about how I feel on the issue of gay marriage. I think Senator JOHN KERRY said that very clearly. I have always supported the idea of communities deciding these issues without the long arm of the Federal Government. Many communities in my State recognize domestic partnerships for those who choose to make a commitment.

Frankly, I have to say, Mr. President, I haven't had one letter or phone call indicating that Congress should override these community decisions. So it isn't about how Senators feel on the issue of marriage or domestic partnerships. DOMA doesn't have anything to do with that. It certainly doesn't do anything, as I said, to defend marriages.

Now, we have read newspaper reports that the author of this bill on the other side happened to have been married three times. Now, I don't personally believe, if DOMA was the law, it would have had a difference on any of his marriages. Maybe he believes that, but I don't believe that is true. I believe if we were sincere and those of us who have long-term marriages would sit down and frankly discuss the stresses on our marriages and what needs to be done to defend our marriages, I don't believe we would list that our marriages are threatened by some community that is considering making domestic partnerships legal in their community.

So, to me, this is ugly politics. To me, it is about dividing us instead of bringing us together. To me, it is about scapegoating. To me, it is a diversion from what we should be doing. Why don't we use this time to pass President Clinton's college tax breaks, to ease the stress on our families today? Now, that would be defending marriage. That would be defending marriage. So by my ''no'' vote today, I am disassociating myself from the politics of negativity and the politics of scapegoating.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I am not positive if I heard my colleague from California correctly, but if you mentioned the sponsor of the bill has been married three times, I am the sponsor of the bill, and I haven't been married three times.

Mrs. BOXER. I said it was in the House. I meant the sponsor in the House.

Mr. NICKLES. I appreciate the correction, because I wasn't aware of that fact.

Mrs. BOXER. I said the sponsor of the bill in the House, clearly.

Mr. NICKLES. I yield 6 minutes to the Senator from Indiana.

Mr. COATS. Mr. President, I am pleased to rise today on the floor of the Senate, along with many of my colleagues, to support the Defense of Marriage Act. In doing so, I am reiterating my strong, unequivocal support for traditional marriage as a legal union between one man and one woman.

Marriage is the institution in our society that civilizes our society by humanizing our lives. It is the social, legal and spiritual relationship that prepares the next generation for duties and opportunities. An 1884 decision by the Supreme Court called marriage ''the sure foundation of all that is stable and noble in our civilization, the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement.''

I don't think anything has changed that would change that definition given by the Supreme Court more than a hundred years ago.

The definition of marriage is not created by politicians and judges, and it cannot be changed by them. It is rooted in our history, in our laws and our deepest moral and religious convictions, and in our nature as human beings. It is the union of one man and one woman. This fact can be respected, or it can be resented, but it cannot be altered.

I suggest that our society has a compelling interest in respecting that definition. The breakdown of traditional marriage is our central social crisis, the cause of so much anguish and suffering, particularly for our children.

Our urgent responsibility is to nurture and strengthen the institution of marriage, not undermine it with trendy moral relativism.

The institution of marriage is our most valuable cultural inheritance. It is our duty—perhaps our first duty—to pass it intact to the future.

Government cannot be neutral in this debate over marriage. It has sound reasons to prefer the traditional family in its policies. A social thinker, Michael Novak, has written:

> A people whose marriages and families are weak have no solid institutions . . . family life is the seedbed of economic skills, money habits, attitudes toward work and the arts of independence . . . parent-child roles are the absolutely critical center of social force.

So when we prefer traditional marriage and family in our law, it is not intolerance. Tolerance does not require us to say that all lifestyles are morally equal. It doesn't require us to weaken our social ideals. It does not require a reconstruction of our most basic institutions. And it should not require special recognition for those who have rejected that standard.

It is amazing to me—and I join Senator BYRD and others in this—and disturbing that this debate should even be necessary. I think it is a sign of our times and an indication of a deep moral confusion in our Nation. But events have made the definition of traditional marriage essential because the preservation of marriage has become an issue of self-preservation for our society.

We have a straightforward bill before us. We define ''marriage'' and ''spouse'' for the purposes of Federal law, and we ensure that no State will be required to give effect to a law of another State with respect to same-sex marriage. It is the reserve and the simplicity of the bill that I think ought to be commended. It does not overreach. It does not bring to bear the full range of authorities that Congress could invoke. Rather, it simply restates well-known and well-understood definitions and only legislates concerning a constitutional provision, the full faith and credit clause, which was to become the means by which same-sex marriages are promulgated throughout the States.

I'd like to discuss the two facets of the bill in greater detail. The definitions included in this bill for the words marriage and spouse are based on our common historical understanding of the institution of marriage, and simply state that marriage is the legal union between one man and one woman as husband and wife.

This definition is not surprising. But as Hadley Arkes wisely commented: ''in the curious inversion that seems characteristic mainly of our own time, the act of restating, the act of confirming the tradition, is itself taken as an 'irregular' or radical move. That we should summon the nerve simply to restate the traditional understanding is taken as nothing less than an act of aggression.'' But no act of aggression is being undertaken. Rather, the definition included in this bill merely restates the understanding of marriage shared by Americans, and by peoples and cultures all over the world.

The Defense of Marriage Act also legislates concerning the full faith and credit clause of the Constitution. Through this bill, Congress avails itself of the power reserved for Congress in the Constitution and ensures that no State be required to give legal authority to a relationship between two people of the same sex which is treated as a marriage under the laws of another State.

Let me be very clear. This bill does not outlaw same-sex marriages: it merely ensures that if one State makes same-sex marriages legal, no other State will be automatically required through the full faith and credit clause to uphold that marriage in their own State.

That is our prerogative. That is what we seek to do today, and that is what I believe we should do.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COATS. I ask if I could have one more minute.

Mr. NICKLES. I yield the Senator an additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. COATS. As I said earlier, it is disturbing that the debate is necessary at all. I am thankful for the opportunity to discuss the importance of traditional marriage. For too long too many people have just assumed that marriage will survive whether or not it is encouraged, nurtured, or promoted.

The sad news is that the evidence is in. Marriage, like any other institution such as communities, churches, and schools, can suffer, and is, without the critical support of Federal, State, and local governments, communities, religions, and societal norms.

We need to begin a process of reminding ourselves what marriage is. We must tell our children what it means to be married. We must encourage young men and women to get married. We must help married couples to stay together when times are difficult. There is no longer any doubt that the slow demise of marriage in our country has been terribly harmful to children. It is time that we remind this country and ourselves how critically important heterosexual marriage is to a healthy society.

The Defense of Marriage Act is a wake-up call for our society. This bill gives us clear guidance as to the definition of marriage. It tells the States, clearly, that they are responsible for the marriages within their State. This bill ensures that States maintain the freedom to establish their own definitions and policies relating to marriage.

I encourage all of my colleagues to use this debate and the ensuing vote to make their support and belief of traditional marriage absolutely plain. Without a doubt, this vote is of the utmost importance to our children and to the very future of this country.

I thank the Senator from Oklahoma for the time.

Mr. NICKLES. Mr. President, I compliment the Senator from Indiana for his excellent speech, and I will yield the Senator from South Carolina 3 minutes.

Mr. THURMOND. I thank the Senator.

Mr. KENNEDY. Mr. President, if the Senator will yield for a question, are we going to have the opportunity of going back and forth? Perhaps after this we would have that chance to do it.

I appreciate it.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND] is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I rise today as an original cosponsor and in support of the Defense of Marriage Act.

This needed legislation is a straightforward approach to protect the rights of the individual States to determine policy decisions appropriately within their borders. Simply stated, this bill provides that no State be required to recognize a same-sex marriage that may have been given effect in another State. Additionally, this bill reaffirms the 200-year-old Federal policy in this country concerning the use of the words ''marriage'' and ''spouse''—a marriage is the legal union of a man and a woman as husband and wife, and a spouse is a husband or wife of the opposite sex.

Mr. President, I can say without reservation that the fine people in my home State of South Carolina should not face the possibility of being forced to legally recognize same-sex marriages. This bill is needed to protect the right of every State to make their own determinations concerning the definition of a legal marriage.

Article IV, section 1 of the Constitution provides that full faith and credit be given in each State to the public acts, records, and judicial proceedings of every other State. Additionally, the Congress is granted the power to prescribe the manner in which State acts are given effect in other States. The Defense of Marriage Act is wholly consistent with the Constitution and protects the sovereignty of the States to make their own decisions concerning same-sex marriages.

Mr. President, I am amazed that we have reached the point in this country where the Congress must adopt this type of legislation to protect the sanctity of marriage. Because it is needed, I support the Defense of Marriage Act which reaffirms the notion of marriage as it has been recognized throughout 5000 years of civilization—marriage as a legal union between one man and one woman, as husband and wife.

Ms. MIKULSKI. Mr. President, I will vote for the Defense of Marriage Act. What this bill does is really quite simple.

It puts in the Federal law books what has always been the definition of a marriage—the legal union between one man and one woman. The bill also allows each State to determine for itself what is considered a marriage under that State's laws, and not to be bound by the decisions made by other States.

However, I would like to make some comments which I believe are important. First of all, I have been very concerned by the overheated rhetoric that has characterized the congressional and national debate on this issue. It has been divisive and much of it has been nasty and demeaning.

The last thing Americans need right now is another wedge issue. The last thing Americans need is an issue that turns us against one another, and that exacerbates bigotry and hate. It is time to stop the politics of hate. It might make for an exciting sound bite or a boost in the polls here and there, but it demeans us as a people. We are a better people than that.

We should recognize the politics behind this debate. It is an effort to make Members of Congress take an uncomfortable vote. It is an effort to put the President and Democrats on the spot, and at odds with a group of voters who have traditionally supported the President and the Democratic Party. I regret that. We owe it to the American people not to play politics with an issue as important as marriage.

My second point is this, and let me be very clear. I am against discrimination. My support for the Defense of Marriage Act does not lessen in any way my commitment to fighting for fair treatment for gays and lesbians in the workplace.

Later today we will have an opportunity to vote on legislation introduced by Senator KENNEDY, the Employment Nondiscrimination Act. This bill would end job discrimination based on sexual orientation. I am proud to be a cosponsor of this legislation and will proudly vote for it today. It is long overdue.

Mr. President, since I first came to the Congress I have made it a priority to fight to eliminate discrimination, whether it is discrimination on the basis of race, gender, disability or sexual orientation. Each of us deserves to be judged on the basis of our unique skills and talents and nothing else. Discrimination is wrong, plain and simple.

The Employment Nondiscrimination Act would extend Federal employment protections based on race, religion, gender, national origin, disability, and age to sexual orientation. In over 40 States, discrimination in employment based on sexual orientation is legal. Hardworking individuals can be fired from their jobs simply because of their sexual orientation.

And, as the law currently stands they have no legal recourse for discrimination based on sexual orientation. This amendment would extend the protections in title VII of the Civil Rights of 1964 and the Americans With Disabilities Act of 1990 to sexual orientation.

The Employment Nondiscrimination Act exempts from its coverage small business employing fewer than 15 people, private membership clubs, religious organizations, and education institutions controlled by religious organizations, as well as the Armed Forces.

Individuals should not be fired or denied a job simply based on their sexual orientation. Unfortunately, this kind of discrimination is rampant in both the public and private sectors. The extension of employment protections to sexual orientation is long overdue.

This is not about providing preferential treatment for any class of citizens. In fact, the Employment Nondiscrimination Act specifically prohibits preferential treatment.

The Defense of Marriage Act is about reaffirming the basic American tenet of marriage. The Employment Nondiscrimation Act is also about a basic American tenet—fairness. It is about fairness in hiring and fairness in treatment for people in their workplace.

I expect the Senate today will overwhelmingly approve the Defense of Marriage Act. And I support that. I hope that we will also pass—by an equally large margin—the Employment Nondiscrimination Act.

Mr. HATFIELD. Mr. President, today the Senate has before it an issue that has generated a great deal of debate across this Nation. I will support this legislation because I believe the question of State recognition of same-sex marriages must be resolved by each State individually, and not by one State on behalf of all others.

While the focus of this debate is whether members of the same sex may marry, the root of the matter is the full faith and credit clause of the Constitution, article IV, section 1. This clause provides that the States must recognize legislative acts, public records and judicial decisions of other states:

> Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Marriages are commonly given full faith and credit by other States. At this time, no State allows same-sex marriages, and a number have specifically outlawed them. Hawaii now appears to be on the verge of such recognition. If Hawaii becomes the first to allow same-sex marriages, other States would be required to recognize and give full faith and credit to those marriages.

The Defense of Marriage Act has been introduced in response to this possibility. The bill would restrict the effect of any state law that allows same-sex marriages to that state only. By making an exception to the full faith and credit clause, this legislation would allow each State to decide this divisive issue on its own.

The issue appears to be: Which side of the argument should have the burden of proof? If Congress does not act, the burden would be on those in opposition to same-sex marriages to affirmatively block them on a State-by-State basis. If Congress passes this legislation, those in support same-sex marriages would have to win recognition of such marriages on a State-by-State basis.

I believe each State should determine this volatile issue on its own, after a thorough debate. Therefore, I will cast my vote in favor of H.R. 3396.

Mr. MURKOWSKI. Mr. President, I rise in support of the Defense of Marriage Act.

Throughout the history of our Nation, family law has always been the province of the States and not the Federal Government. For we are a nation founded upon the principals of States' rights and limited Federal intrusion. And that is why this legislation is appropriate. The Defense of Marriage Act will ensure that each State shall be free to do what it believes is fitting and proper in regard to domestic law, including the recognition of same-sex marriages.

By defining the term marriage, Congress is protecting the individual sovereignty of each State. No State will now be required to recognize a same-sex marriage—and no State will be prevented from recognizing a same-sex marriage. Passing the Defense of Marriage Act is the surest method of preserving the will and prerogative of each and every State.

Additionally, the ramifications of the absence of a definition of marriage in Federal law are becoming apparent. The court case in Hawaii has merely brought some of those ramifications to our attention.

The Defense of Marriage Act does not prevent same-sex marriages at the State level; it merely defines marriages for Federal purposes, thereby establishing legal certainty and uniformity in federal benefits, rights and privileges for married persons.

I also rise to comment on the Employment Nondiscrimination Act. There are obvious and serious problems in employment discrimination and on its face, this bill may appear to resolve some of those problems. However, I believe that this bill will only heighten employment problems and discrimination based on sexual orientation.

The Employment Nondiscrimination Act will directly threaten an individual's right of privacy, a right specifically protected in the Alaska State Constitution. This bill will make sexuality an issue in the workplace because it will enable employers to ask employees questions regarding their sexual orientation. Indeed, the bill will require employers to keep records as to the sexual orientation of each and every employee in the same manner that employers are required to maintain records on other protected classes

under title VII of the United States Code. The Employment Nondiscrimination Act represents Federal intrusion in an area that most believe warrants the highest level of privacy.

I urge my colleagues to support the Defense of Marriage Act and to oppose the Employment Nondiscrimination Act.

Mr. KEMPTHORNE. Mr. President, I rise today to express my strong support for the Defense of Marriage Act [DOMA]. The bill we consider today is an important step in defending States rights—as we have worked so hard to do throughout the 104th Congress—and in officially declaring the intent of Congress with regard to the issue of marriage.

Earlier this year, the State of Idaho took action on the issue of same-sex marriages. The State legislature, by a combined vote of 87 to 10, joined 13 other States in passing legislation which clearly declares that Idaho will not recognize same-sex marriages conducted in other States. Idaho has long prohibited same-sex marriages and should be allowed to ensure that, should such unions be approved elsewhere in the United States, Idaho's longstanding policy will not be changed. As the Idaho State Senate president pro tem stated when the bill was being considered, ''[W]e should not change policy which has been there for 100 years because some other State changes policy.'' I could not agree more. The people of Idaho should not be forced to accept same-sex marriages, in violation of the longstanding policy of the State, merely because some other State decides to do so.

DOMA, therefore, merely serves to confirm that Idaho may do what it has already done. Acting under the guidance of the ''Effects Clause'' of the Constitution, section 2 of DOMA clarifies that a State has the right to deny other States' marriages which violate the public policy of that State. Opponents of this legislation have claimed that this portion of DOMA is unnecessary, and indeed, they may be correct. The courts have already upheld cases in which polygamous or incestuous marriages were not acknowledged by States outside of the one in which the marriage was performed. The courts may very well find the same thing with same-sex marriages. If so, section 2 is at worst redundant. If not, then it is imperative for Congress to use its constitutional authority to ensure that States are not required to recognize a marriage which is in violation of the policies of that State.

Section 3 of the bill establishes the Federal definition of the terms ''marriage'' and ''spouse.'' There is nothing shocking here. Combined, these terms appear in nearly 4,000 places in Federal statutes and regulations, yet they have not been defined because State laws on marriage are so similar as to make such a definition unnecessary. DOMA takes the step to clarify the intent of these words, so the Federal meaning of these terms will not be changed even if a State should decide to radically alter its definition of ''marriage'' or ''spouse.''

Under the bill, marriage is defined as ''a legal union between one man and one woman as husband and wife,'' and spouse is defined as ''a person of the opposite sex who is a husband or wife.'' Looking at the definition of marriage and spouse in the States, this is clearly how these terms are intended to be defined. DOMA in no way prevents any State from using its own definition of these terms, but it does ensure that for Federal purposes, the definition will remain constant.

Mr. President, as part of the welfare reform bill which this Chamber overwhelmingly supported, we stressed the importance of marriage. The first two findings in the bill said, ''Marriage is the foundation of a successful society,'' and ''Marriage is an essential institution of a successful society which promotes the interests of children.'' What we are doing today is saying that we want to protect that institution. We want to maintain marriage as it has existed from the foundation of the United States, and, in fact, as it exists throughout the world today. Establishing a Federal definition of marriage and ensuring that States are not required to accept marriages which violate their public policies are modest, yet very important, parts of that process.

Mr. BURNS. Mr. President, as a cosponsor of the legislation now before us, H.R. 3396, the Defense of Marriage Act, I rise today to express my strong support of this bill. This straightforward legislation does just two things: First, provides that no State shall be required—I repeat, no State shall be required—to give effect to a law of any other State with respect to a same-sex marriage. Second, the Defense of Marriage Act defines the word ''marriage'' and ''spouse'' for purposes of Federal law. Though this bill is short in length—just 2½ pages in fact—it is long in substance.

As most of you are aware, the issue of same-sex marriages and consequently the introduction of the Defense of Marriage Act has come to the political forefront in part because of a 1993 Hawaii State Supreme Court decision. In the case of Baehr versus Lewin, the Hawaii State Supreme Court rules that the Hawaiian Constitution discriminates against the civil rights of same-sex couples by declaring that a legal marriage can only exist between individuals of the opposite sex.

In response to this decision,the Hawaii State Legislature has since indicated that the question of same-sex marriages is one of public policy and that the court therefore had no jurisdiction to decide the matter. The legislature has further held that the institution of marriage is inexorably linked with procreation and therefore may be validly limited to male/female couples.

Though Hawaii's Legislature has made it unmistakably clear that marriage is limited only to a man and a woman, the same-sex marriage issue still thrives in the Hawaii courts, and a lower court is scheduled to begin considering the issue this month. Should this court rule in favor of legalizing same-sex marriages, the repercussions of such a decision would have quite a legal effect.

Mr. President, because article IV, section I of the U.S. Constitution, requires that every State honor the ''public Acts, Records, and judicial Proceedings'' of every other State, the Hawaii court decision could potentially create a situation in which the remaining 49 States, including Montana, would have to recognize same-sex marriages if couples from or married in Hawaii move to another State. In addition, because there is currently no definition of marriage on the books, the Federal Government would be forced to recognize same-sex marriages for Federal benefit purposes. Since the word ''marriage'' appears in more than 800 sections of Federal statutes and regulations, and the word ''spouse'' appears more than 3,100 times, Federal benefits, such as Veterans, Health and Social Security, would all be subject to revision. Given the budget difficulties we are currently facing, it would be an understatement to say that this could have an enormous financial impact on our country. That troubles me deeply.

I know that there are people who are concerned that this bill will diminish the power of States to determine their own laws with respect to marriage. Now, let me say that anyone who knows me well, understands that I have always supported giving power back to the States. And I would have serious reservations about supporting this legislation if it mandated to the State of Hawaii, the State of Montana, or any other State for that matter what marriages they can legally recognize. As written, this bill in no way does that.

By adding a second sentence to article IV, section I of the Constitution that reads, ''And the Congress may be general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be approved and the Effect thereof,'' the Framers of the Constitution had the foresight to give Congress the discretion to create exceptions to the mandate contained in the ''Full Faith and Credit Clause.'' Therefore, the Defense of Marriage Act, as provided for by this exception, permits us to tackle the issue of same-sex marriages head on and, I am pleased to note, allows States to make the final determination concerning same-sex marriages without other States' law interfering. Let me say that another way. This bill will not outlaw same-sex marriages, it simply exempts a State from legally recognizing a marriage that does not fit its own definition of marriage. Under this bill, States will still be free to recognize gay marriages if they so choose. Under this bill, States will still be free to recognize

gay marriages if they so choose. That is the way it should be, individual States deciding what is best for themselves.

Beside protecting the right of States to set their own policies on same-sex marriages, the Defense of Marriage Act puts Congress on record as defining the word marriage as ''the legal union between one man and one woman as husband and wife,'' and the word spouse as ''a person of the opposite sex who is a husband or wife.'' This is not groundbreaking language. It merely restates the current understanding. This language reaffirms what Congress, the executive agencies, and most Americans have meant for 200 years when using the words marriage and spouse—that a marriage is the legal union of a male and female of certain age in a holy estate of matrimony.

Mr. President, numerous polls show that the majority of American people, no matter their religious belief, clearly support protecting the sanctity of marriage. As a Nation we understand that the institution of marriage sets a necessary and high standard. Though most of us agree that everyone should have the right to privacy, most Americans believe the institution of marriage should be cherished and respected and so do I.

Although I know that this bill will not solve the problems that take place within individual marriages—particularly in light of statistics showing that one out of every two marriages in this country now ends in divorce—this legislation reaffirms that marriage between one man and one woman is still the single most important social institution. Marriage and the traditional values it represents is the heart of family life and has been shown to promote a healthy and stable society. Principles we sorely need to uphold in our country today.

Mr. President, at a time when it is becoming the exception, we have an opportunity today to reaffirm our commitment to the traditional two parent family. And I want to take a moment to thank all of those on both sides of the aisle who have worked so hard to bring this legislation to this point. I particularly want to commend Senator NICKLES for leading the way on this issue. On that note, because of Senator NICKLES efforts, and with the overwhelming support this bill received in the House earlier this summer, it looks as though we are going to see our way clear and pass this bill through Congress.

In closing, Mr. President, a number of my colleagues have delivered sound and eloquent arguments both in support of and in opposition to this bill today. I truly believe they do so with the most honorable of intentions. Let me remind my colleagues on both sides of this issue, however, that we are not the only voices speaking today. I have received literally thousands of letters and phone calls asking me to uphold the institution of marriage by voting for this legislation. I am sure many of my colleagues here in the Senate have as well. I trust you will listen to those voices.

Though I am fully aware that a vote for the Defense of Marriage Act will provide a reason for some to label me as intolerant, a bigot or uncompasionate—which I might add is not true—I am going to vote to send this bill to the President. I strongly urge my colleagues in the Senate to do the same. Thank you Mr. President.

I yield the floor.

Mr. FAIRCLOTH. Mr. President, I strongly support passage of the Defense of Marriage Act. It defies common sense to think that it would even be necessary to spell out the definition of ''marriage'' in Federal law. Yet it has become necessary, because what used to be a matter of self-evident truth has now become a topic of debate. The Defense of Marriage Act would make that definition clear, and it would protect States from being forced to recognize same sex unions recognized as marriages in other States.

Now, I don't claim to be an expert on what marriage is. But I think I can fairly confidently say what it should not be. First, it should not be simply a convenient arrangement that can be entered into or dissolved for frivolous reasons. Marriage forms families, and families form societies. Strong families form strong societies. Fractured families form fractured societies. So all of us have an interest in seeing that strong families are formed in the first place.

Same-sex unions do not make strong families. Supporters of same-sex marriage assume that they do. But that assumption has never been tested by any civilized society. No society has ever granted same-sex unions the same kind of official recognition granted to marriages, and for good reason.

In addition, marriage most certainly should not be just another means of securing government benefits. Yet this is one of the arguments that proponents of same-sex marriage use to justify this unprecedented social experiment. They claim that laws restricting marriage to persons of the opposite sex are discriminatory in part because, after all, same-sex partners are not entitled to health and other benefits extended to dependent spouses. I can think of few worse reasons for getting married. And I can think of few worse times to talk about creating yet another entitlement to government benefits.

Mr. President, some 15 States—including my State of North Carolina—have passed similar legislation clarifying the definition of marriage. Governors of several States have signed executive orders. And legislation is pending in some 20 other States. Even in the State of Hawaii—where a pending court case is helping drive this debate—the legislature has declared that marriage is defined as a legal union between one man and one woman.

Whatever happens in Hawaii, other States should not be forced to recognize same-sex relationships as marriages. This legislation would protect States rights to set standards in this area.

It is high time Congress spoke on this issue. I intend to vote for passage of the Defense Marriage Act, and I strongly urge my colleagues to do the same.

Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, I rise to address the legislation under consideration, the Defense of Marriage Act.

Proponents claim Congress needs to act swiftly to thwart an impending ''threat against the family.''

Let's put this in perspective.

Nearly 4,000 people have been killed in Los Angeles County alone in the last 5 years from gang-related violence. Criminal gangs are operating in more than 93 percent of American cities today. Children are being recruited to their death by gangs who prey on juveniles to do their bidding.

This is a threat against American families.

More than 10,000 people were hospitalized from methamphetamine abuse in California in 1994. Methamphetamine-addicted babies now outnumber crack babies in some hospitals.

And more than 1,000 toxic meth labs in California alone remain a public health threat because local jurisdictions don't have enough money to clean them up.

This is a threat against American families.

Right now, as we speak, some 15-year-old girl is dropping out of high school somewhere because she is pregnant, unmarried and unable to finish school. Teenage pregnancy is still at epidemic proportions in this country.

This is a threat against American families.

If we had our priorities straight, we'd be voting on legislation addressing these issues today instead of this bill.

Having said that, let me address the merits of the legislation before us.

I personally believe that the legal institution of marriage is the union between a man and a woman. But, as a matter of public policy, I oppose this legislation for two reasons: One, I believe it oversteps the role of Congress—setting a very bad precedent and perhaps even being unconstitutional; And Two, I believe it is unnecessary.

OVERSTEPS THE ROLE OF CONGRESS AND SETS A BAD PRECEDENT AND MAY BE UNCONSTITUTIONAL

I understand that the issue of same-sex marriage is one that generates strong feelings, and that an overwhelming majority of Americans are opposed to its legalization. That's why no State has, to date, ever sanctioned such unions.

But, even though some people hold deep moral convictions in opposition to the idea of same-sex marriage, and however substantial the majority opinion might be on this issue, Federal legislation is not the answer. In this case,

this bill will do nothing to settle the question of whether same-sex marriages ought to be recognized.

It will only add fuel to an already divisive and mean-spirited debate—a debate conspicuously timed to coincide with the upcoming elections. It will only perpetuate more litigation and more controversy. It will only generate more division. And, worst of all, it sets this Nation on the slippery slope of transferring broad authority for legislating in the area of family law from the States to the Federal Government.

To my knowledge, never in the history of this Nation—for over 200 years—has Congress usurped States' authority to define marriage or delineate the circumstances under which a marriage can be performed.

If Congress can simply usurp States' authority to determine what the definition of marriage is, what is next? Divorce? Will we tell States they are not required to recognize divorce judgements they disagree with?

Should the Federal Government have the power to decide it won't recognize a second or third marriage?

How about age? Will the Federal Government determine at what age a person is permitted to marry?

Whether one accepts the idea of same-sex marriages or not is not the central issue here. The legislation before us will not prevent States from recognizing same-sex marriages. The issue before us is whether we want to inject the Federal Government into an area that has, for 200 years, been the exclusive purview of the States.

Proponents argue that Congress' authority to legislate in this area comes from the Constitution's full faith and credit clause. However, this is a pretty exotic interpretation of Congress' authority under that clause. Congress, in it's 200-year history has never once used the full faith and credit clause to nullify rather than implement the effect of a public act or judgment by a State.

In fact, this bill would turn the full faith and credit clause on its head. If Congress enacts this bill, the consequences could reach into many other areas of law and interstate commerce.

University of Chicago Law Professor Cass Sunstein said it best in testimony before the Senate Judiciary Committee:

> Under the proponents' interpretation, Congress could simply say that any law that Congress dislikes is of no effect in other States. There are interest groups all over the Nation who would be extremely thrilled to see the possibility that Congress can nullify the extraterritorial application of one State's judgments that it dislikes. Californian divorces, Idaho punitive damage judgments, Illinois products liability judgments—all of them would henceforth be up for grabs.

There is also the question of whether or not Congress has the authority to single out one class of people to impose such a broad disability on. It raises the question of whether this law would stand up to constitutional scrutiny under the equal protection clause.

LEGISLATION IS UNNECESSARY STATES ALREADY HAVE THE POWER NOT TO RECOGNIZE OUT OF STATE MARRIAGES

Even if Congress has the constitutional authority to grant itself this broad new power, there is nothing in our Nation's history to suggest that this law is necessary.

Whether or not to recognize an out-of-State marriage is not a new issue. It is quite old. And one which States have dealt with quite frequently without Federal legislation. There are volumes of cases involving incest, polygamy, adultery, minors and more, where the States have grappled with these issues successfully without the Federal Government.

According to conflict-of-laws doctrine, States may already refuse to recognize out-of-State marriages when the marriage violates that State's public policy. For example, expressions of public policy may be found in State statutes, State case law, or pronouncements by State attorneys general.

Section 283 of the Restatement of Conflicts of Law states:

> A marriage which satisfies the requirements of the state where the marriage was contracted will everywhere be recognized as valid, unless it violates the strong public policy of another state which had the most significant relationship to the spouses and the marriage at the time of the marriage.

A host of State court decisions dating back to the 1880's demonstrate States ability to invalidate out-of-State marriages on public policy grounds.

For example, many States differ in what age they allow a person to enter into a marriage contract. Some States allow people to marry as young as 14. Other States do not permit such marriages or require parental consent.

State courts have made determinations on what marriages they will recognize based on their own public policies regarding age and other issues:

In Wilkins versus Zelichowski, a New Jersey court use public policy grounds to annul a marriage performed in Indiana involving a female under the age of 18.

In Catalano versus Catalano, a Connecticut court invalidated a marriage between an uncle and his niece declaring that "[a] state has the authority to declare what marriages of its citizens shall be recognized as valid, regardless of the fact that the marriages may have been entered into in foreign jurisdictions where they were valid."

In Mortenson versus Mortenson, an Arizona court applied the public policy exception to void a marriage performed in New Mexico between two first cousins.

STATES ARE ALREADY LEGISLATING IN THIS AREA

States are no less capable of dealing with the issue of same-sex marriages than they have been with other marriage issues. In fact, 15 States already have passed legislation either banning same-sex marriages or prohibiting the recognition of out-of-State same-sex marriages. Many others have or are currently considering similar legislation.

Many States already have statutes or case law reflecting State policy toward same-sex marriage. California law, for example, limits marriage to a "civil contract between a man and a woman," and has considered State legislation against recognition of out-of-State same-sex marriages.

The bottom line is, States have the authority to do what this legislation would do without Federal intervention, and should be left alone to deal with these issues according to their own laws and constitutional parameters.

I would be the first to say, that, if one State decides to recognize same-sex marriages, and if any other State is forced to recognize same-sex marriages against their own public policy as a result, then Federal legislation would be a reasonable course of action.

But, at the very least, Congress should wait until the Hawaii case works its way through the courts—which by all estimates could be several years away from final resolution—before entering into this fray and further complicating the legal issues involved.

For a Congress whose mantra has been returning power to the States, this legislation, it would seem, is a serious retreat from that idea, giving broad new power to the Federal Government in an area historically left under State control. I hope my colleagues will consider this and vote no on this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ASHCROFT). Who yields time?

Mr. KENNEDY. Mr. President, I yield 7 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank the Senator. Let me say in regard to the Defense of Marriage Act, I agree with my colleagues who have risen and raised questions as to the motivations of why this legislation is before us. It is clearly, in my view, premature.

I hope, because this so-called Defense of Marriage Act is going to pass, that for those who claim they truly want to protect domestic relationships, partnerships that are not the traditional marriage relationships, we will consider that so that the protections in hospital rooms and other places where domestic partnerships are denied today is something all of us will determine we are going to resolve.

I do want to use this time, because I think we are on the brink, Mr. President, of adopting historic legislation in the midst of all of this, to speak in behalf of the Employment Nondiscrimination Act. I commend my colleagues, Senator KENNEDY of Massachusetts, my colleague from Connecticut, Senator LIEBERMAN, and Senator JEFFORDS from Vermont for their leadership on this issue. I am urging my colleagues to support the Employment Nondiscrimination Act.

The history of our country thus far has been a history of the gradual extension, refinement and perfection of the guarantees of human freedom. By removing the denials of freedom experienced by some Americans, we are strengthening and giving greater validity to the freedom of all Americans.

Mr. President, those words were spoken by another Senator from Connecticut 32 years ago during the consideration of the landmark 1964 Civil Rights Act. Those words were spoken by my father in this Chamber. I believe those words are as germane today as they were when they were uttered 32 years ago. Over our entire history, this Congress and this Nation embarked on a quiet but monumental revolution, and that was to realize the full aspirations of our Founders that all men and women are truly created equal.

Throughout our history, Americans have strived to extend those rights to all Americans regardless of their skin color, religion, gender, disability, or political belief. But today, one group of Americans continues to be left unprotected in the workplace. That is gay and lesbian Americans. The Employment Nondiscrimination Act would go a long way toward extending greater equality to these Americans and ensuring them that they will be judged more by the strength of their labors than by their sexual orientation.

Much has changed in the 30 years since my father and others fought to enact civil rights legislation. At the time it was a controversial notion. It inflamed great passions. It tied up this body for weeks on end, the very notion that we would not be allowed to discriminate against people based on the color of their skin.

Today, I would suggest that if we were considering the 1964 Civil Rights Act, a resolution would be carried on a voice vote unanimously without any debate and any division. That was not the case 32 years ago. But for the reasons that I believe have more to do with intolerance and ignorance and moral courage, this country continues to allow gay and lesbian Americans to be judged not by their abilities or even the content of their character but by the prejudice of others. The amendment we are considering today is a commonsense response to this outrage. I hope we all want to say to gay Americans that when you are on the job in this country, you will be judged in the same manner that any American will be judged. The American people know this is the right thing to do. In fact, 84 percent of Americans believe that employers should not be allowed to discriminate based on sexual orientation.

Prominent business leaders, from Xerox, Microsoft, and RJR Nabisco, support this legislation. In fact, more than 650 private businesses include sexual orientation in their antidiscrimination policies. Political leaders past and present are also behind this effort.

From our former colleague, the Senator from Arizona, Senator Goldwater, to civil rights leader Coretta Scott King, the Governor of New Jersey, Christine Todd Whitman, and more than 30 Senate Democrats and Republicans—they all urge the adoption of this amendment. In fact, ironically, 66 of us in this body—66 of us, and 238 House Members, already have nondiscrimination policies for their employees. If just 66 in this body would ask the country to do what they do in their own offices, then we can adopt this legislation.

In my home State of Connecticut we have such protection for gay and lesbian workers. Has our business community suffered untoward consequences? Has the moral character of our State been dramatically harmed? Has Connecticut been overwhelmed by an onslaught of litigation? Have quotas been established for hiring gay workers? All of these issues have been raised in this body over the last several days, and to every one of them the answer in Connecticut has been ''no.'' And in every other State where this has been adopted, the answer has been ''no.'' In fact, Connecticut's antidiscrimination law is considered a success in providing recourse for those Americans affected by antigay bias, in giving them the guarantee they will be judged by the abilities of their labor and not their lifestyles.

In my view, this debate is behind the curve of where the American people are on this issue. The business community and the vast majority of American people recognize that gay Americans deserve and should be treated equally in the workplace. I believe this Congress must follow their lead. It is never a happy event when an American loses his or her job. It is particularly difficult when it is because of events out of one's control, such as downsizing, layoffs, companies moving offshore. We all understand the pain that people go through when they lose their jobs because of those circumstances.

But I can imagine few things worse than for one to lose a job because of the intolerance of others, and that is what exists today in the workplace. Rightly, we have acted to combat these wrongs when they are committed against people because of race, gender, age, and disability. I believe we must take this opportunity to extend that protection further to gay and lesbian Americans.

I urge all of my colleagues to join us in supporting this bill and providing to gay Americans the protections against job discrimination they so desperately need and deserve.

I thank my colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. There remain 7 minutes and 11 seconds.

Mr. NICKLES. I yield the Senator from Kansas 5 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I would like to speak for just a few moments on the Defense of Marriage Act. I will speak in support of it. But it is an issue relating to marriage that I think is one that is an example of where divorce and related domestic matters have traditionally been subject to State law. I believe they should remain so.

Same-sex marriage is a concept with which few Americans are comfortable, and I do not believe that the judgment of one court in a single State should hold sway over the rest of the Nation. States should have the ability to disregard same-sex marriages if they so choose, and this legislation would permit them to do that.

Many aspects of this debate are troubling, as it touches not only on questions of law and the Constitution, but also on deeply held personal views about values, cultural traditions, and religion. As legislators, we are not always adept at debating matters such as this, and we find ourselves on far less comfortable ground in debating Federal legislative approaches to highly personal matters. We are more adept at debating matters of law and policy. But here I think we are on uncertain territory, and we have had already differing views expressed during the course of this debate.

Unfortunately, such debate sometimes occurs in an atmosphere of rigidity and intolerance. They are not dialogs aimed at reaching any sort of understanding but, rather, become shouting matches, which can happen in the public arena in our own States, not aimed at reaching any sort of understanding, in which each side becomes securely stationed behind its line in the sand. The terms of engagement are set by extremists at both ends. I have been picketed by both sides, out in my own State, in Kansas.

The debate over this legislation has been no exception. Nothing will make the issues any easier, but no purpose is served by abandoning civility and a respect for differing viewpoints in the process. Nor should we forget that at the heart of the debate over homosexuality are individual Americans. An abstract subject takes on different dimensions when given the face of a friend, a family member, a coworker. The things we all hold dear—family, friendships, a job, a home—present a unique set of challenges for the gay community. It should come as little surprise that, like anyone else, gay men and women would like to live their lives without being defined only by their sexual orientation.

Shortly after the August recess, I visited with a young man from Kansas who made a strong plea in opposition to the Defense of Marriage Act, arguing that fear was the driving force behind the measure. Although I was not persuaded to change my position on the legislation, I was deeply moved by his very genuine desire to move the debate beyond stereotypes and unchallenged assumptions.

Congress is not the ideal forum for the resolution of these issues, nor will

any piece of legislation settle them. However, the tone we set in our deliberations is one which will be echoed around kitchen tables and worksites throughout the Nation. Let that tone be one which honors our democratic traditions of reasoned debate, responsible decisionmaking, and respect for all individuals.

I yield the floor.

Mr. KENNEDY. I yield 7 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, the legislation before this body obviously touches upon a deeply personal and emotional area. The institution of marriage is a vital foundation of any ordered society including this one. However, I think it is important amid a great deal of talk about the need to defend marriage, that we look at the context in which this legislation is brought before this body.

As a member of the Senate Judiciary Committee, I recently had an opportunity to attend a hearing on this legislation and review the arguments made by both sides. Based upon that record, it was obvious that both sides feel very strongly about the positions they hold. However, having reviewed the arguments, I have reached the conclusion that this legislation is neither necessary nor appropriate for the Federal Government to enact at this time.

First, it is not clear that this is even an appropriate area for Federal legislation. Historically, family law matters, including marriage, divorce, and child custody laws, have always been within the jurisdiction of State governments, not the Federal Government. Throughout my tenure in this body, I have opposed legislation which needlessly extends Federal jurisdiction into issues that have traditionally been the domain of the State and local governments. For this reason, I opposed crime legislation that expanded Federal law enforcement into areas traditionally handled by the State and local law enforcement. Similarly, I opposed efforts to federally mandate helmets for motorcycle riders, because I believed that States should retain that authority. This legislation is yet another example of a continuing trend of the Federal Government needlessly injecting itself into areas of the law which have been historically left to the States.

Second, and perhaps more telling, the alleged urgency of this Federal intervention is wholly unwarranted. The simple and undeniable fact is that no State currently recognizes same-sex marriage, nor does it even remotely appear that any State legislature may be contemplating doing so. While some of my colleagues voice a concern over a court case in the State of Hawaii, resolution of that trial will not determine this matter with any finality. There will be a series of appeals, no doubt. Even if the Hawaiian State courts find the Hawaiian constitution compels recognition of same-sex marriage, final resolution of this issue is at least a couple of years away. Somehow, this is still deemed a priority in the waning days of the 104th Congress. It is ironic that this Congress would set aside time needed for addressing issues such as the Chemical Weapons Treaty and funding for Head Start, to address a perceived problem which does not exist today and will not exist, if ever, for at least 2 years.

And this is from the same Congress that, for the second year in a row, will likely fail in its fundamental responsibility to pass all of the appropriations bills necessary to keep the Government operating. The same Congress that stalled passage of health insurance reform for nearly 9 months and took nearly as long to give the working families of this Nation a much-deserved and overdue raise in the minimum wage has somehow made this issue a priority.

Mr. President, even at some point in the future the Hawaiian State courts reach the conclusion that same-sex unions must be recognized under their constitution, there is a great deal of uncertainty as to what effect, if any, that decision might have on other States.

Legal opinions vary on this, but there is plenty of legal opinion that the States simply would not be compelled to give recognition to these marriages from other States. A number of legal scholars believe that States already have the authority, under traditional conflict of laws doctrines, to refuse to recognize marriages which are contrary to their own laws or public policy. If this is the case, States do not need the Federal Government granting them permission to exercise a right which they already hold. Until that view is resolved differently, it seems to me we should defer to the power of the States to address this issue on their own.

Some scholars believe that States would be compelled to recognize these unions by the full faith and credit clause of the U.S. Constitution, irrespective of this statutory effort to say otherwise. And still others oppose this bill because it, seemingly for the first time, assumes that Congress has the power to determine the applicability and scope of the full faith and credit clause, a position which would signal a significant change in the traditional application of this provision.

The degree of uncertainty surrounding the constitutional implications of this legislation is striking. That uncertainty, coupled with the fact same-sex marriage is not legal anywhere in this country, suggests to me we should move with caution. It is far more prudent, in my opinion, given the personal and divisive nature of this issue, to wait until a real, not a speculative, conflict arises between the States.

So, in my opinion, this legislation is unwarranted. Congress and the American people face many pressing challenges, challenges we all heard so much about at the recent conventions, challenges ranging from the need to reduce the Federal deficit to increasing educational opportunities and job security for all Americans and preventing the spread of drugs and crime in our country. Real problems which affect the lives of millions of Americans today.

(Mrs. KASSEBAUM assumed the chair.)

Mr. FEINGOLD. Madam President, I cannot think of a lower priority for the Federal Government than to spend this time interfering with the private laws of law-abiding citizens. Before we endeavor to address problems which do not even exist, we should dedicate ourselves to solving those that do. The people of this Nation expect and deserve nothing less, and, therefore, Madam President, I will oppose this legislation.

EMPLOYMENT NONDISCRIMINATION ACT

Let me say with regard to the ENDA bill, that is a piece of legislation I will support and cosponsor. It does, in fact, deal with a real problem in this country, unlike the DOMA legislation, and I hope that we have a strong positive vote of putting the Senate in favor of ending discrimination in that area.

Mr. President, I rise today to offer my strong support for the Employment Nondiscrimination Act. I want to commend my colleague from Vermont, Senator JEFFORDS, and my colleague from Connecticut, Senator LIEBERMAN, as well as my colleague from Massachusetts, Senator KENNEDY, for their dedication to bringing this important piece of legislation before this body and to the attention of the American people. I am a cosponsor of this legislation and believe it should be adopted for very simple, but important and fundamental reasons.

Mr. President, there can be no doubt that the history of this Nation is marked by our continuing efforts to stop discrimination—be it in the workplace, in our schools, or in our places of public accommodation. It is also equally true that this Nation's history is marked by the simple notion that if one works hard and keeps their nose to the grindstone, then they too may share in the American dream. Yet, in this country today, these simple but important foundations of our culture are denied to gay and lesbian Americans for no other reason than that they are in fact, gay or lesbian.

Mr. President, this legislation would attempt to stop that practice and prohibit employment discrimination against individuals because of their sexual orientation. To date only nine States, including my home State of Wisconsin, have passed comprehensive legislation to ban employment discrimination based on sexual orientation. In the 41 remaining States, however, it is permissible to discriminate against a worker based upon that workers sexual orientation irrespective of their qualifications, dedication to their job, or work performance.

What this legislation would do is to simply ensure that basic American

right to fair and just treatment in the employment arena cannot be denied based solely upon a person's sexual orientation. It provides, in essence, the right for gay and lesbian workers to be treated like everyone else—to be judged on the merits of one's contributions, not their sexual preference.

Mr. President, it is essential to note that this bill confers no special or preferential rights upon gays and lesbians. It exempts small businesses, the military, and religious organizations and explicitly prohibits preferential treatment, including quotas. The focus of this effort is directed at stopping employment discrimination which exists today. The discrimination targeted by this measure is real. It is not speculative or merely a possibility at some point in the future—it is, in fact, occurring today. If this Nation is to reach its full potential in these ever changing economic times, then we must acknowledge and welcome the contribution of all hard-working Americans in the workplace. The Employment Nondiscrimination Act does just that. It is a sound, and in my view, necessary step to helping ensure the opportunity for millions of Americans to earn a living free of the fear of discrimination. It has the support of Members of both political parties, church and civic leaders, the President, as well as major corporations—corporations which know first hand the value of a discrimination free workplace. We should learn from their experiences.

The notion that someone could be fired solely because they are gay or lesbian should be offensive to each of us. Just a few weeks ago, for 8 days of political conventions, both major political parties spent countless hours in a battle to seem more inclusive, more tolerant, more fair than the other. This legislation offers Members of both parties a legitimate opportunity to move from rhetoric into action and provide gay and lesbian Americans the opportunity to work and earn a living free of the fear of losing their jobs solely because of their sexual orientation.

The very premise of job discrimination contradicts traditional American values and we must do all we can to stop it. We should adopt this legislation.

I thank the Chair.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Madam President, how much time remains on both sides?

The PRESIDING OFFICER. There are 3 minutes for the Senator from Oklahoma and 29 for the Senator from Massachusetts.

Mr. NICKLES. Madam President, I ask unanimous consent for an additional 2 minutes and recognize the Senator from Missouri for 5 minutes.

Mr. KENNEDY. I object, unless we have 4 minutes equally divided.

Mr. NICKLES. I ask unanimous consent both sides have an additional 2 minutes.

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

Mr. NICKLES. I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Madam President, I thank the Senator from Oklahoma.

I am grateful for this opportunity to rise in support of this legislation, known as the Defense of Marriage Act. I believe it is important for us to outline exactly what this bill would do and what it would not do, because in much of the discussion, it is portrayed as a measure which would overrule State laws and somehow snatch from States the capacity for defining what a marriage is within the State.

The truth of the matter is, this would not change the capacity of States to define for their own purposes the nature of marriage in any State in America. It would define, for purposes of the Federal Government, what constitutes a marriage. And that is very important, because unless we have a Federal definition of what marriage is, a variety of States around the country could define marriage differently—they have not to date—and if they were to define marriage differently, people in different States would have different eligibility to receive Federal benefits, which would be inappropriate.

It has been said that it is not important to do this because there have not been any States making these changes. I think it is pretty clear that it is important to do this because States are on the brink of making such changes, one State's law having been stricken by its highest court on the basis that it was unduly discriminatory.

Let me just indicate that as long ago as in the 1970's, a male demanded increased educational benefits from the U.S. Government when he claimed that another male individual was his dependent spouse. The Veterans' Administration turned him down, and the Veterans' Administration was sued. The outcome turned on a Federal statute that made eligibility for the benefits contingent on his State's definition of ''spouse'' and ''marriage.''

If the definition is different in one State for Federal benefits than it is in another State, we will find that States will be able to accord benefits to citizens in a way which is irrational and inconsistent, giving citizens of one State higher benefits or different benefits than citizens of another State.

It is time for the Federal Government to define what a marriage is for purposes of Federal benefits which, obviously, come at the expense of the taxpayers of this country. It is not unreasonable at all, for purposes of Federal benefits, whether it is Social Security, education benefits, or veterans benefits of one kind or another, for this Congress to say these are the conditions under which those benefits flow. They should be uniform for people no matter where they come from in this country. People in one State should not have a higher claim on Federal benefits than people in another State.

For that reason, it is entirely appropriate for us, as a Congress, to say that we want a Federal benefits structure that follows a uniform definition of ''marriage,'' and for purposes of the Federal benefits program, we have this definition, and that is what this law provides.

Second, this law then says that a State will not be required to recognize another State's definition of marriage if that includes individuals of the same sex. Now, every State has benefits that flow to those who are married. It comes from the fact that there are real societal and social benefits to marriages. Marriages bring children into the world. That is the next generation.

Unfortunately, it is the young people who defend the country when we are assaulted from abroad. And if you don't have children who grow up to be in the work force, who pays for the retirement of those who have already retired? We have set up our society on the basis of children who come into the world, and we honor the institution that brings children into the world and gives them values, by according special standing to marriage. That is not only done at the Federal level, which we already have addressed, it is done in every State in America.

A State ought to be able to say you are going to get these benefits if you are in this category, if you meet this definition of marriage. But if we use the term marriage in one State and then we allow another State to define it as something entirely different than what the first State which was developing the benefit structure intended, we have really allowed one State to define for other States what will be the qualifying characteristics for their laws and their benefits.

It is clear to me that a State should have the right to say that these are the characteristics of the relationship which will result in our State according you either the deduction or the special benefit, whether it relates to taxes or education or inheritance or the like. States should have the right to do that on their own terms.

So this proposal simply defines, in a uniform way for Federal benefits, the nature of what a marriage is, and it says that no State shall be able to impose its definition of marriage on other States.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. KENNEDY. Madam President, as I understand it, now there are 31 minutes remaining for our side?

The PRESIDING OFFICER. That is correct.

Mr. KENNEDY. Madam President, I yield 20 minutes to the Senator from Virginia, 6 minutes to the Senator from Nebraska, and 5 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. Mr. President, as one who represents a traditionally conservative State, it's not easy to take on this issue. In fact, many of my friends and supporters have urged me to sit this one out because of the potential political fallout, but I can't do that. I feel very strongly that this legislation is fundamentally wrong—and feeling as I do I would not be true to my conscience or my oath of office if I failed to speak out against it. I believe we have an obligation to confront the very real implications of the so-called Defense of Marriage Act.

Despite it's name, the Defense of Marriage Act does not defend marriage against some imminent, crippling threat. Maintaining the freedom of States to define a civil union or a legal right to benefits cannot—and will not—harm the strength and power of marriage. Neither can it diminish the love between a husband and a wife, nor the devotion they feel toward their children.

Whether the Government should give official sanction to same-sex relationships does raise some extremely difficult issues, Mr. President—issues of morality, of religion, of child-bearing, of marriage and of the intimacies of life. But this legislation is not really about these difficult questions of domestic relations. As a constitutional matter, it is about placing the Federal Government in the midst of an issue firmly and historically within the jurisdiction of our States. And as a political matter, it is about denying a class of people benefits that no single State has yet conferred.

This bill also raises fundamental questions about the nature of our Federal system of Government, including the powers of the States under our Constitution and the scope of the full faith and credit clause. I believe the full faith and credit clause does not enable one State to legislate for another, and so the States don't need the protection of a Federal statute in this case. I also believe that it's inappropriate for the Federal Government to get involved in defining marriage—something States have done for themselves throughout our history.

These are important issues, Mr. President, and they deserve a full discussion, but they are not the issues that make this debate so difficult—or so important.

For beneath the high-minded discussions of constitutional principles and States rights lurks the true issue which confounds and divides us: the issue of how we feel about intimate conduct we neither understand nor feel comfortable discussing.

Mr. President, scientists have not yet discovered what causes homosexuals to be attracted to members of their own sex. For the vast majority of us who don't hear that particular drummer it's difficult to fully comprehend such an attraction.

But homosexuality has existed throughout human history. And even though medical research hasn't succeeded in telling us why a small but significant number of our fellow human beings have a different sexual orientation, the clear weight of serious scholarship has concluded that people do not choose to be homosexual, any more than they choose their gender or their race. Or any more than we choose to be heterosexual. And given the prejudice too often directed toward gay people and the pressure they feel to hide the truth—their very identities—from family, friends and employers, it's hard to imagine why anyone would actually choose to bear such a heavy burden unnecessarily.

The fact of the matter is that we can't change who we are, or how God made us and that realization is increasingly accepted by succeeding generations. It has been my experience that more and more high school and college students today accept individual classmates as straight or gay without emotion or stigma. They accept what they cannot change as a fact of life. Which brings to mind one of my favorite prayers:

God, grant me the serenity to accept the things I cannot change
The courage to change the things I can,
And the wisdom to know the difference.

I suspect that for older generations fear has often kept this issue from being discussed openly before now—fear that anyone who expressed an understanding view of the plight of homosexuals was likely to be labeled one. Because of this fear, the battle against discrimination has largely been left to those who were directly affected by it. Mr. President, I believe it is time for those of us who are not homosexual to join the fight. A basic respect for human dignity—which gives us the strength to reject racial, gender and religious intolerance—dictates that in America we also eliminate discrimination against homosexuals. I believe that ending this discrimination is the last frontier in the ultimate fight for civil and human rights.

Most Americans accept the basic tenet that discrimination for any reason is wrong. We grow uncomfortable, however, with some of its implications. The question we face now is whether that discomfort warrants continued discrimination.

Although we have made huge strides in the struggle against discrimination based on gender, race and religion, it is more difficult to see beyond our differences regarding sexual orientation. It's human nature to be uncomfortable with feelings we don't understand or share and to step away from those who are different. But it's also human resolve that allows us to overcome those impulses, to step forward and celebrate those many qualities we share. The fact that our hearts don't all speak in the same way is not cause or justification to discriminate.

There are not many in this Chamber who truly seek to discriminate. Some here support the Defense of Marriage Act because many of the good people they represent believe that homosexuality is morally wrong, and therefore same-sex unions should not be permitted by the Government. A number of our colleagues have told me privately that they are not comfortable supporting this legislation, but the political consequences are too great to oppose it.

Others admit that they intend to discriminate, but they believe that discrimination here is justified. They justify their prejudice against homosexuals by arguing that homosexuality is morally wrong—thereby assuming it is not a trait but a choice, and a choice to be condemned.

But history has shown that current moral and social views may ultimately prove to be a weak foundation on which to rest institutionalized discrimination.

Until 1967, 16 States, including my own State of Virginia, had laws banning couples from different races to marry. When the law was challenged, Virginia argued that interracial marriages were simply immoral. The trial court upheld Virginia's law and asserted that ''Almighty God created the races white, black, yellow, malay, and red, and he placed them on separate continents. The fact that he separated the races shows that He did not intend for the races to mix.'' *Loving* v. *Virginia*, 388 U.S. 1 (1967). The Supreme Court struck down these archaic laws, holding that ''the freedom of choice to marry'' had ''long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.''

Today we know that the moral discomfort—even revulsion—that citizens then felt about legalizing interracial marriages did not give them the right to discriminate 30 years ago. Just as discomfort over sexual orientation does not give us the right to discriminate against a class of Americans today.

Ultimately, Mr. President, immorality flows from immoral choices. But if homosexuality is an inalienable characteristic, which cannot be altered by counseling or willpower, then moral objections to gay marriages do not appear to differ significantly from moral objections to interracial marriages.

Mr. President, at its core marriage is a legal institution officially sanctioned by society through its Government. This poses the dilemma of whether a society should recognize a union which the majority either can't relate to or believes is contrary to established moral tenets or religious principles. We find ourselves again at the intersection of morality and Government, a place where some of our most divisive and complicated social issues have torn at us throughout our history as a Nation. Prayer in school, abortion, the death penalty, assisted suicide—these most troubling issues of our day force us to confront the difficulty of legislating where social mores and individual liberties collide.

I believe social mores can and should guide our Government. But sometimes we need to choose between conflicting moral judgments. For example, some believe very deeply that no matter how heinous a crime a person commits, the death penalty is immoral because no human should take the life of another. But while we respect those views, we have legally restored the death penalty. Many believe homosexuality is immoral, but many also believe that discriminating against people for attributes they cannot control is immoral. When moral objections are used to justify blatant discrimination, however, we need to tread carefully.

In this case, we should tread more carefully still, because marriage is also a religious institution. Religious ceremonies evoke powerful images: a couple committing themselves to each other before God and family, a union blessed and supported by religious teachings, a ceremony based on scripture and biblical studies. But we have to remember today that government has a role only in the civil institution, separate and distinct from marriage as a religious ceremony.

The truth is, this bill will not affect, one way or another, how individual religions deal with same-sex marriages. Government sanction of gay marriages does not alter the religious institution, and as author Andrew Sullivan has argued, ''Particular religious arguments against same-sex marriages are rightly debated within the churches and faiths themselves.'' Religions that prohibit gay marriages will continue to do so, just as some refuse to permit marriages between individuals of different faiths. Such couples simply have to forgo the religious blessing of the marriage, and be content with only civil recognition of their union.

Marriage, as a civil institution, recognizes the union of two individuals who are so committed to each other that they seek to have their civic rights and responsibilities formally merged into one. And, Mr. President, when that civil institution is separated from a religious ceremony, and that civil institution is recognized by a sovereign State, then denying Federal recognition of that union amounts to nothing short of indefensible discrimination.

Unfortunately, Mr. President, discrimination is not new in this country. Countless courageous Americans have risked their careers and even their lives to defy discrimination. We forget today how difficult these acts were in their own time. We forget how different our world would be if these pioneers had taken the easy path. One thing we do know, Mr. President, is that time has been the enemy of discrimination in America. It has allowed our views on race and gender and religion to evolve dramatically, inevitably, in the American tradition of progress and inclusion.

We're not there yet, Mr. President. In matters of race, gender, and religion, we've passed the laws, implemented the court decisions, signed the executive orders. And every day we work to battle the underlying prejudice that no law or judicial remedy or executive act can completely erase. But we've made the greatest strides forward when individuals, faced with their moment in history, were not afraid to act. And time has allowed us to see more clearly the humanity that binds us, rather than the religious, gender, racial, and other differences that distinguish us. But I fear, Mr. President, that if we don't stand here against this bill, we will stand on the wrong side of history, not unlike the majority of the Supreme Court who upheld the ''separate but equal'' doctrine in Plessy versus Ferguson. And with the benefit of time, the verdict of history is not likely to be as forgiving as we might believe it to be today.

Mr. President, I believe we ought to continue to let the States decide if and how they want to confront the issue of a civil union between members of the same sex. They decide it in all other instances. In fact, they have managed it without congressional interference for 200 years. As the supreme court of Hawaii has recently noted, in the very case which has led to the introduction of the Defense of Marriage Act, ''the power to regulate marriage is a sovereign function reserved exclusively to the respective States.''

Most of us are uncomfortable discussing in public the intimacies of life. And most of us are equally uncomfortable with those who flaunt their eccentricities and their nonconformity, whether gay or straight.

But in the end, we cannot allow our discomfort to be used to justify discrimination. We are not entitled to that indulgence. We cannot afford it. But doing the right thing is not always easy and I know this is not an easy vote even for those who may agree with my argument.

It is, in a very real sense, a test of character and I hope as many colleagues as possible will take time to reflect before casting their vote. If enough of us have the courage to vote against the Defense of Marriage Act, I believe we can convince the President to do what I know in his heart of hearts he knows he should do to this discriminatory legislation. A nation as great as ours should not be enacting the Defense of Marriage Act.

Ultimately, Mr. President, I would say to our fellow Senators: you don't have to be an advocate of same-sex marriages to vote against the Defense of Marriage Act. You only have to be an opponent of discrimination.

Mr. President, I'll conclude today with the words of a courageous American whom I seldom quote but to whom I'm eternally indebted. President Lyndon Johnson often said, ''It's not hard to do what's right, it's hard to know what's right.'' We know it is right to abolish discrimination. And if we reflect on what this bill is—an attempt to discriminate—rather than on what it is packaged to be—a defense of marriage—we will come down on the right side of history.

With that, Madam President, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 6 minutes.

Mr. KENNEDY. Could the Senator yield for a unanimous-consent request?

Mr. KERREY. I yield.

Mr. THURMOND. Madam President, I ask unanimous consent that prior to the two consecutive votes scheduled at 2:15, there be 2 minutes of debate equally divided in the usual form.

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

Mr. KERREY. Madam President, the Defense of Marriage Act [DOMA] is proposed and sold as a simple measure, limited in scope, and based on common sense. It is none of these things. DOMA certainly cannot be called a simple measure when it proposes to have the Federal Government intervene in matters previously reserved to the States. Conservative advocates of States rights should not brush aside this interference merely because they find a purpose which holds special appeal to them. And with this law the Federal Government will have taken the first—and if history is a good guide, probably not the last—step into the States' business of marriage and family law.

DOMA certainly cannot be called limited in scope except for those of us who will be unaffected by this abridgement of rights. The small class of citizens affected do not believe this law is limited in scope. Of course the fact that only a relatively few homosexual couples will be affected begs the question: Why should we heterosexuals worry? We have more important business to tend to. Why should we put ourselves at risk for a small minority of men and women who are willing to make a lifetime commitment to another human being but, whose love of someone of the same sex violates others' personal beliefs? Two reasons. First, these couples are not hurting us with their actions; in fact they may be helping us by showing us that love can conquer hatred. Second, we may be next. That's how the rights of the majority are threatened: One minority group at a time.

As to the third representation made by supporters, DOMA does not appear to me to be based on common sense. Common sense tells me: Do not pass a law that is not needed. And DOMA is not needed. States can already refuse to recognize marriages that violate their strong public policies. For example, if Nebraska's Legislature chooses to not recognize a marriage contract between under-age couples, it can do so. The courts have upheld that right. The court would also uphold Nebraska's right to not recognize a same-sex marriage in another State although no State currently allows such marriages.

In fact, same-sex marriage laws are not sweeping their way through State

legislatures. Local politicians are just as nervous or frightened of this issue as we are. Rather than getting ahead of an issue that is heading our way, we are losing our way to save our political heads.

So why worry about DOMA? I worry because despite references to the contrary we are doing much more than passing a law that is not needed. We are establishing, in the Federal code, a prohibition against a narrow class of people; a Federal law will preempt State law and discriminate against these individuals by saying they cannot do what all other Americans can legally do. And, we are establishing a means to carry out other Federal remedies to State-level family law problems. I would vote against DOMA if it only did the first of these things. However, it is the second which should strike fear into the heart of heterosexual Americans who wonder if this could affect them some day. The answer is it can and probably will. Even if it is not your loved one who is unable to visit you on your deathbed because laws forbid non-family members from entering your room, this bill could someday touch your life.

For example, once this bill has passed and been signed into law, advocates of Federal involvement in personal decisions may propose adding other language. They may say: Let's examine the heterosexual activity which common sense and empirical evidence tells us is a threat to the institution of marriage: divorce. Divorce—not same-sex marriage—is the No. 1 enemy of marriage. And, with a Federal definition of marriage in chapter 1 of title 1 of the United States Code, future Congresses would have a Federal vehicle to attack divorce. DOMA's language, which provides that "'marriage' means only a legal union between one man and one woman as husband and wife," could easily be amended to prevent States from recognizing divorce decrees which occurred in the 1st year of marriage, 2nd year, or the 10th year. Beyond divorce, we could add custody language or other Federal requirements on married couples. Supporters of DOMA say they are not creating a Federal certificate of marriage. True enough today. However, they are creating an easy way for us to reach that goal.

Supporters of DOMA say a Federal definition of marriage is needed because Federal benefits are at risk. This is making a mountain out of a mole hill. Even if the same percentage of homosexual Americans were married as heterosexual Americans, 40 percent, the threat to the Treasury would be modest. Approximately 5 percent of the population is gay or lesbian. Therefore, we are only talking about 2 percent of the population that could possibly benefit if same sex marriages were recognized. Further, Congress can choose to exclude same-sex partners from any Federal benefit it chooses, as we did with the family and medical leave legislation.

Proponents also say, the current United States Code does not contain a definition of marriage, presumably because Americans have known what it means. Not true. Federal definitions of marriage, divorce, child custody, and other family matters have been omitted because Americans have known what it means when the Federal Government starts to legislate in new areas. Americans know that once we start, we cannot stop.

Heterosexual Americans who wonder why they should be concerned with a law that restricts the freedom of a minority class should be advised: The bell that tolls for them could soon toll for thee.

Heterosexual Americans should know: Marriage is not under attack from rising numbers of homosexual Americans who are making commitments to each other. Marriage is under attack when a person is too busy, too preoccupied, and too concerned about taking care of No. 1 to take care of No. 2 or 3 or 4. Marriage is under attack in that moment when a man or woman is tempted to forget their commitment to love "until death do us part."

My mother and father's generation did not forget. My generation unfortunately did. My children's generation, thank God, appears to be remembering again. And in this remembering lies the hope for marriage and other sacred traditions so important to our Nation. Not a Federal statute.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. WYDEN. Thank you, Madam President. Madam President, at the heart of this debate is a judgment each Senator must make about what the Federal Government ought to stick its nose into.

This has been a Congress dedicated to the proposition of reducing the role of the Federal Government in the lives of our citizens. This Congress has sought to turn away the Federal desire to intrude and leave important decisions to private individuals and, if necessary, local and State government.

Marriage has historically been a private matter between two people. It has long been a matter that has been reserved for the States. Now the Congress that has sought to contract Federal power hungers for Federal regulation of the institution of marriage. This Federal expansionism makes no sense to me.

When I talk with gay and lesbian Oregonians, they invariably ask me about the concerns held by the majority of Americans. They ask about jobs and wages and health care and crime. Not once has a gay or lesbian Oregonian come to me and asked that the Federal Government endorse their lifestyle. They simply ask to be left alone. In this regard, they are very similar to what I hear from ranchers and small business owners and fishermen and scores of other of our citizens.

One of the fundamental principles on which our Nation was built is the freedom to enjoy life, liberty, and the pursuit of happiness. The Constitution doesn't give Congress or the States the power to specifically exclude an individual or group of individuals from the enjoyment of life, liberty, or the pursuit of happiness. But this legislation would.

Is the legislation constitutional? Where in the Constitution does it say equal rights for all—except those that the majority disagrees with? This bill is not only of dubious constitutionality, it seems to me to be a repudiation of traditional conservatism. It is conservative, Madam President, to keep private conduct private. It is certainly conservative to promote monogamy. It is conservative to promote personal responsibility and commitment.

This bill isn't conservative; it is Big Brother to the core. My judgment is that this is a subject the Federal Government ought not stick its nose into.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 4 minutes.

Mr. BRADLEY. I ask unanimous consent to continue until my speech is finished.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BRADLEY. Madam President, the first point to make is that this issue should not be coming before us today. No State in the United States has passed a law that recognizes same-sex marriages. To the contrary, 15 States have passed laws prohibiting them. I wish I did not have to deal with this issue. It makes me feel uncomfortable. I feel I'm on ground full of quicksand. But, as a Senator, one is asked to vote to decide, so that is what I am doing today.

My views on gay issues have evolved over the years. I have always been opposed to discrimination on the basis of race, gender, ethnicity. Then I came to see that the same concerns about discrimination have to also apply to sexual orientation, if I were to carry the logic of civil rights to its natural conclusion.

But the countervailing thought in a society as diverse as ours is that opponents of gay rights have rooted their opposition to religion. Many opponents assert that God has not ordained homosexuality. These individuals sometimes use the power of Scripture to perpetuate the idea that homosexuality is a choice, and if you choose it, similar to choosing anything that Scripture prohibits, you are guilty of flaunting your dismissal of God's will and strictures. These individuals also sometimes use Scripture to perpetuate blatant discrimination, hiding behind Scripture to cover up an underlying intolerance.

Madam President, I believe that homosexuality is not a choice. Homosexual behavior, on occasion, might be a choice. But having a homosexual orientation and being a gay is not a choice. I believe that it is more similar

to being born with red hair than it is to choosing to tell a lie. The latter requires a decision; the former just is. You can cover up the former, but underneath the dyes and wigs the hair is still red.

At the same time, I believe there is no denying the fact that large numbers of Americans have deeply held religious beliefs about homosexuality and marriage. Even in questions of discrimination against gays, there is a conflict between religious faith and rights. Madam President, I have resolved that conflict in my own mind by saying that in things secular rights shall prevail, be dominant.

I believe, for example, that there should be no discrimination against gays in housing and employment, and that is why I have been a long supporter of gay rights in these areas, with the proviso that religious institutions that would see these anti-discrimination laws as interfering with their freedom of religion are exempted. ENDA, in my view, does that. It achieves the balance between ending discrimination against gays and respecting freedom of religion. The issue of gay marriage, in my view, does not achieve that balance.

I believe marriage is, first of all, a predominantly religious institution. For example, it is one of the sacraments of the Christian faith, but it is also, in our society, a secular institution. Therefore, it is fraught with a degree of ambiguity. In all cases, it has been a state that exists between a man and a woman. In no country in the world, in no religion that I know of, does the state of marriage exist between two people of the same sex. Therefore, when we contemplate giving state sanction to same-sex marriages, we need to proceed cautiously.

At the same time there are many partners of same-sex relationships who have loving and committed relationships over many years. The question arises, how do we acknowledge the existence of these committed relationships—the partner's desire to be at the bedside of his or her dying partner or to see that a partner receives the benefits that accrue to a survivor of a long and loving relationship?

One might point out that the only way we can do that now is through marriage. There ought to be another way, and I am prepared to look for that other way, but I do not see marriage as flexible enough an institution to accept such redefinition at this time. Too many people in too many places of too many faiths see it as the state that exists between a man and a woman, and they see same-sex marriages as an incomprehensible trespass.

Madam President, that is what this bill is all about. That is what the so-called DOMA legislation is all about. It says marriage should not be redefined to include individuals of the same sex because marriage with all its religious connotations is different from a secular desire to get housing or a good job.

So, Madam President, in trying to balance the religious and historical idea of marriage with the need for extending rights, I say that rights should extend up to but not include recognition of same-sex marriages.

I yield the floor.

RECESS

The PRESIDING OFFICER. The Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2:15 p.m.; Whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997—CONFERENCE REPORT

The Senate resumed the consideration of the conference report.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, this Defense authorization bill has been done from the very outset in a very bipartisan spirit. Senator NUNN, I am sure, will speak on that side to that effect. We have worked together, Republicans and Democrats, to bring into the Senate a bill that we feel is fair and just. The House has already passed this particular bill. The President has said he will sign this particular bill. I urge all Senators to vote for this bill and show support for our Armed Forces, the men and women who are sacrificing by serving our country and risking their lives to protect the liberty and freedom of this country.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 1 minute.

Mr. NUNN. Mr. President, I share the sentiments of the Senator from South Carolina. This is a good bill for the men and women who serve in our military. This bill is an increase over the President's budget, but it is a decrease in real terms from last year's budget. So the decline in defense spending continues downward, but it is an incremental step upward from the President's budget.

The President said he will sign this. Virtually every provision in the House bill that the administration objected to has been either taken out of this conference report or has been handled in a way satisfactory to the administration. That would include the arms control provisions relating to the ABM Treaty and missile defense. It would also include those members of the military service who have HIV who, under the House bill, would have been automatically expelled from the service. That provision has been dropped.

So I urge those on this side of the aisle to vote for this bill as a strong step forward for our Nation's security.

Mr. GLENN. Mr. President, I rise in opposition to the conference report on the National Defense Authorization Act for Fiscal Year 1997. I oppose the conference report for many of the reasons I opposed the Senate bill. Unfortunately, the conference report is in many respects worse than the Senate bill.

The conference report includes $11.2 billion in unrequested funds, including almost $1 billion in additional funding for ballistic missile defense, hundreds of millions of dollars for unrequested military construction projects, and billions of dollars for weapons programs the Pentagon does not think it needs.

Another troubling aspect of the conference report involves land conveyances. I have been very concerned by the yearly practice in which Members of Congress include special land conveyances in the Defense authorization bill enabling the transfer of Federal property outside of the requirements of the Federal Property Act of 1949. Having been unable to curb outright the practice of making these sweetheart land deals, I have worked to ensure that the properties are screened by the General Services Administration to make sure that there is no other Federal interest in the properties. The conferees found the idea of protecting the Federal taxpayers' assets so distasteful that they refused to require a Federal screening for the land conveyances contained in the House bill. This decision is unacceptable in my view and I did not sign the conference report in large part due to this decision.

In addition, the conferees adopted a provision from the Senate bill which affords special retirement rights to a select group of employees affected by base closure. There has been no demonstrated need for this authority that will cost the American taxpayer millions of dollars in the out years and it is unfair to the hundreds of thousands of other Federal employees who have been affected by ongoing efforts to downsize the Government.

I would also mention my concern with a provision in the conference report that terminates the defense business operations funds [DBOF] in the year 1999. The purported reason for this provision as I understood from its proponents is to instill more discipline in the Defense Department's financial management. I have been concerned about the state of the Government's financial management for years. I have worked to enact legislation creating the inspectors general and the chief financial officers. I have held numerous and long detailed hearings on the condition of DBOF. I agree that the Pentagon has an obligation to the American taxpayer to focus more attention on getting its financial house in order. But, I do not agree that terminating DBOF will accomplish anything other than to create chaos where we should be seeking progress.

In addition, I have concerns about section 1033 of the conference report which significantly expands an existing program within the Department of Defense regarding the transfer of excess

personal property. The Senate bill was silent on this issue. The House bill however expanded an existing DOD program which enables State and local agencies involved in drug enforcement activities to have a preference to obtain excess DOD personal property. The House bill expanded this program to enable all law enforcement activities to have this preference. Beyond that the conference added counterterrorism as an additional preferential category.

Now I bow to no one in my willingness to take action to enforce our drug laws and to fight terrorism. And it may be entirely appropriate for excess small arms and ammunition to be made available to law enforcement agencies for these purposes. However, I have serious concerns regarding the conference's approach. In particular, I have questions about the effect this provision will have on other entities entitled to receive excess property as a public benefit. I'm speaking not about small arms parts, but about computers, furniture, vehicles, and other equipment. Under current law potential beneficiaries to this equipment include, State agencies, hospitals, schools, the homeless, and other worthy causes. I do not believe that this concern was adequately considered in the conference. I intend to work with other Senators and Congressmen who share my concerns to clarify how the Secretary of Defense intends to implement this provision, and to take corrective legislative action if necessary.

The conferees also dropped a provision from the Senate bill that would allow women who are serving in the military or who are servicemembers' dependents from obtaining abortions in overseas military medical facilities. We have debated this issue repeatedly and I am very sorry the conferees again chose not to afford women who are stationed overseas the same basic rights available to women living in the United States.

Finally, I mention a number of House provisions that were dropped in conference: the so-called multilateralization and successor state provisions affecting the Anti-Ballistic Missile Treaty, the provision to repeal the don't-ask, don't-tell policy and the provisions relating to servicemembers diagnosed with HIV. I am genuinely pleased that these provisions were dropped from the conference report. However, I do not believe the mere elimination of completely unacceptable provisions from the conference report is a sufficient reason to support the conference report.

HUMANITARIAN DEMINING

Mr. LEAHY. Mr. President, I would like to ask a question regarding section 1304 of the pending fiscal year 1997 National Defense Authorization Act. This provision would amend title 10, section 401 entitled ''Humanitarian and civic assistance provided in conjunction with military operations.''

The point that I would like clarified is whether the annual $5 million cap in new subsection (c)(3) would be a U.S. Governmentwide cap, or whether it is a cap on only DOD humanitarian assistance appropriations.

Mr. THURMOND. I can assure Senator LEAHY that the cap imposed by section 1304 applies only to funds made available to the Department of Defense for humanitarian and civic assistance. It was not intended as a U.S. Governmentwide cap. It does not apply to funds that are made available to other Federal agencies such as the Department of State or the Agency for International Development.

Mr. LEAHY. I thank the Senator for his explanation.

Mrs. MURRAY. Mr. President, I rise today to express my extreme disappointment in the outcome of the House and Senate conference on the Department of Defense authorization legislation. The Senate's version of this legislation contained an amendment offered by myself and Senator SNOWE to allow women servicemembers stationed abroad to obtain privately funded abortions at military facilities. It was very unfortunate that this provision was dropped from the final version of this legislation during negotiations between the Senate and the House.

Mr. President, my amendment simply restored a policy which responds to the unique needs of women serving overseas in our armed services. This policy, which was in place between 1973 and 1988 and between 1993 and 1996, allowed women to use private resources for medical abortion services at military hospitals. This policy is necessary to ensure the health and safety of women servicemembers because overseas health care facilities often do not provide comparable and safe care. Women serving our country in the Armed Forces deserve the same quality of care as women in the United States and to put them at risk is dangerous, unnecessary, and plain wrong.

Further, as I have said before, requiring a woman to travel to the United States to perform this procedure only delays a very time-sensitive procedure and increases the cost—both for the individual and the taxpayer—when a woman is stationed abroad.

We have had many debates in the 104th Congress about a woman's right to choose. My amendment simply guaranteed that women who serve in our Armed Forces have the same rights as women in the United States. It is a right women service personnel have held for most of the last 23 years.

Dropping my amendment is yet another in a long series of actions taken by this Congress to eliminate a woman's right to choose. From the first days of the 104th Congress to the closing hours of this second session, women have seen the new majority seek to undermine their rights at every opportunity. It saddens me to see the will of the Senate and the health care options of women serving in the Armed Forces traded away to the voices of extremism.

This Congress must know that the women and men of this country are awake and aware of these actions. We will be back. I assure you.

Mr. MCCAIN. Mr. President, I rise today in support of the conference agreement on the fiscal year 1997 National Defense Authorization Act. I urge all of my colleagues to support this bill, which represents a reasonable and balanced compromise between the House and Senate on a number of very difficult issues.

Mr. President, I want to take a few minutes to highlight just a few of the very positive aspects of this bill.

This bill provides $265.6 billion for defense activities for the coming fiscal year, implementing the decision of the Republican Congress to add $11.2 billion to the President's defense budget request. We fought hard for the last 2 years to add a total of $18 billion to the inadequate defense budgets of this administration, because we recognized the need to ensure both current and future readiness of our military services.

In the Readiness Subcommittee, we provided $1 billion more than the budget request for operations and maintenance of the Armed Forces, and $270 million more than requested for ammunition procurement. These increases will ensure sufficient funding for day-to-day operations and training for the coming fiscal year.

The bulk of the added funding was allocated to military modernization programs. The bill authorizes an additional $6 billion for procurement of modern weapons systems, including tactical aircraft, sealift and airlift assets, improved communications systems, surveillance and reconnaissance, and other important warfighting equipment. The bill also adds $2.6 billion for research and development to maintain the technological edge of our military forces on the battlefields of the future, including a significant increase in both theater and national missile defense programs.

The bill also includes a number of legislative provisions which, I believe, will serve the best interests of the taxpayer and the Department of Defense.

First, the bill includes a new discretionary waiver of domestic source restrictions for our allies with whom we have reciprocal defense procurement agreements. This provision, which was included in the Senate bill, will provide the needed flexibility for the Secretary of Defense to purchase the best equipment at the lowest price for our military services. It will also help to promote continued free trade among our allies, rather than threatening reciprocal trade in defense items by restricting the United States to buying only American-made products. In my view, this is one of the most important provisions in this bill because of its potential to save money and preserve our longstanding positive defense trade balances with our allies.

The bill also authorizes $14 million in a newly established account under the

control of the Secretary of Defense for antiterrorism activities and programs. This provision was added to make funds available for urgent, emergency requirements necessary to deter or defend against terrorism directed at our military personnel. The bombing of the U.S. military housing complex in Dhahran demonstrated the need for such an account.

Last year, the Congress approved the enactment of several provisions related to accounting for missing service personnel which the Chairman of the Joint Chiefs of Staff and our warfighting CINC's opposed, arguing that they would interfere with their ability to conduct their missions in the event of war. This bill repeals several of those provisions without harming or limiting in any way the ability of the Department of Defense to continue its intensive program to locate and recover the remains of all those missing in action in wartime.

I am particularly pleased that the conferees agreed to drop from the bill both the Senate and House provisions regarding discharge of military personnel who test positive for the HIV virus. This allows the Department of Defense to continue its current policy of nondiscrimination and fair treatment of all military personnel with conditions which prevent them from deploying with their units.

The bill authorizes compensation for Vietnamese commandoes who participated in United States wartime operations in Vietnam and were captured by North Vietnam. Payment of these amounts is a matter of fairness and is long overdue.

The conferees also approved a Senate provision, cosponsored by myself, Senators LIEBERMAN, COATS, and ROBB, which directs the Department of Defense to conduct a new assessment of U.S. national security strategy and military force structure requirements. This provision provides specific guidance to the Department for its Quadrennial Defense Review. The provision also establishes a nonpartisan panel of national security experts to review the Department's work and to provide an independent assessment of alternative force structures and strategies. In light of the continuing changes in the post-cold-war world, I believe it is necessary to conduct such a comprehensive reassessment of our national security posture.

The bill also requires the Chairman of the Joint Chiefs of Staff to provide an assessment of the readiness requirements of each of the services, using a tiered readiness concept that I discussed in a March 1996 white paper. This report is important to the development of this concept, which could result in savings in operation and maintenance funding which could be reallocated to the modernization accounts where a significant shortfall remains.

The bill also includes language requiring fair pricing of United States military equipment to be transferred to Bosnia under existing drawdown authority. Since the equip and train program for the Bosnian Muslims is an essential part of the exit strategy for United States troops serving in the peace implementation force [IFOR] in Bosnia, it is essential that the program be implemented properly and promptly if we are to meet the end-of-1996 withdrawal deadline for IFOR.

Finally, the bill includes a provision requiring organizers of civilian sporting events to reimburse the Department of Defense for the cost of providing security and other support services, only if the event makes a profit. This provision is designed to ensure that defense dollars are available for defense purposes, but it will have no effect on the availability of our military services to provide needed security assistance at these events.

Again, I thank Chairman THURMOND and his staff for achieving such an excellent conference agreement on these important issues.

At the same time, Mr. President, I regret that the conferees deleted the Senate's provisions related to competitive allocation of workload among public and private maintenance depots. The Senate tried to take a positive step toward fair and open competition for depot maintenance work. I am sorry that the conferees were unable to agree to include these provisions, because it could have saved the taxpayers money and allowed the Pentagon to shed excess capacity at its government-owned depots.

The most controversial aspect of the depot issue is the 60–40 rule which requires that at least 60 percent of all funds expended on depot maintenance be spent in public depots, owned and operated by the Department of Defense. I believe that this 60–40 rule is arbitrary and prevents the Department of Defense from taking actions that could potentially result in a savings of billions of dollars. I would like to point to a recent report by the Congressional Budget Office entitled ''Reducing the Deficit: Spending and Revenue Options.'' This report contains a section dealing with the depot issue and the potential savings that could be realized by relying upon the private sector to perform much of the work that the current 60–40 rule requires to be performed by the public depots. According to this report, cumulative savings after 6 years might amount to roughly $400 million, rising to over $3 billion after 10 years if the total workload assigned to public depots on a sole source basis is reduced to 30 percent. CBO estimates that, in the long run, DOD might save on the order of $1 billion annually if it used public depots only for those tasks that could not be handled competitively in the private sector. Estimated savings of shifting from public to private production range from 20 to 40 percent.

Mr. President, although readiness has been used as the justification for maintaining the arbitrary 60–40 rule, I believe that it is a justification without foundation. DOD already relies on the private sector to repair many specialized components on its most up-to-date systems. Furthermore, since we rely upon the private sector industrial capability to supply our military forces with this equipment, it seems unreasonable to distrust this same private sector capability to maintain the equipment.

That is the only major legislative provision which was resolved in a way that I cannot approve. In fact, let me say that I was very pleased with the resolution of a number of legislative provisions adopted in the last few days of the Senate's consideration of this bill. The conferees chose to remove legislative earmarks for all of these projects and considered each on a case-by-case basis. Of the most egregious legislative earmarks attached to the bill, none were included in this final conference agreement as legislative earmarks. For that wise decision, I thank the conferees.

However, Mr. President, I note with serious disappointment that many of the special interest and pork-barrel items, to which I objected in the additional views I filed with the Committee, are included in this conference agreement.

These programs are: $850 million in unrequested, low-priority military construction projects—$150 million more than the Senate-passed bill; $780 million for unrequested Guard and Reserve equipment, including $189.6 million for four C–130J aircraft; $470.7 million for nine additional C–130J aircraft, only one of which was requested by the Air Force; $15 million for continued aurora borealis research and construction of the High Frequency Active Auroral Research Program [HAARP], for which there is no current military requirement or validated use; $13 million for an unnecessary, duplicative, and cumbersome bureaucracy for oceanographic research, which the Navy does not need or want; and $701 million for advance procurement of a second new attack submarine, and language repeating the earmarking of these new submarines divided evenly between Newport News Shipbuilding and Electric Boat Shipyard.

Mr. President, these pork-barrel projects add up to approximately $2.8 billion. I am astonished that, once again, after fighting hard to sustain a much-needed increase in the defense budget, the conferees chose to spend these funds on pork.

Last year, we wasted $4 billion, or more than half of the total defense budget increase, on pork-barrel projects. I suppose this year's bill shows progress of a sort—we are only wasting $2.8 billion.

But, Mr. President, I will say again that the American people will not stand for this type of wasteful spending of their tax dollars. If, we, in Congress refuse to halt the pork-barreling, it will be more and more difficult to explain to the American people why we

need to maintain adequate defense spending. I would prefer that the $2.8 billion wasted on pork-barrel projects had not been included in the bill. I hope that, next year, with the very real threat of a line-item veto of some of these items, the Congress will stop wasting defense dollars on these kind of special interest items.

Mr. President, let me conclude by saying, again, that I believe this is, overall, a very good conference agreement on the Defense authorization bill. Chairman THURMOND, Senator NUNN, and the staff on both sides of the Senate Armed Services Committee should be commended for their excellent work. I urge my colleagues to support this conference agreement.

Mr. BINGAMAN. Mr. President, I will vote for the fiscal year 1997 National Defense Authorization Act. I signed the conference report on this bill insofar as it pertains to bill language. I did not, however, sign the conference report's report language because I do not agree with the report language on the missile defense provisions, all of which were dropped from the bill. Several of my Democratic colleagues on the Senate Armed Services Committee took a similar position on the conference report's ballistic missile defense report language.

I will vote for the national defense authorization bill because, unlike last year, the vast majority of provisions in the bill are the result of bipartisan drafting and have full bipartisan support. I commend Senator THURMOND and Senator NUNN for their efforts to improve the process of the Senate Armed Services Committee during this legislative session. I would also like to commend Senator SMITH for fostering a cooperative working relationship on the Acquisition and Technology Subcommittee.

Mr. President, let me briefly talk about the report language on arms control and ballistic missile defense. In order to get this bill signed by the President, the majority agreed very late in the conference to drop all of the provisions regarding multilateralization of the ABM treaty and theater missile defense demarcation, which the President's advisers had objected to. If these provisions had not been dropped, I would not be supporting this bill, nor would the President be prepared to sign this bill. However, having given up the bill language, the majority attempted in this report language to revive what they had given up. As a matter of law I would urge the President to treat this report language as totally nonbinding and certainly not representing the views of this conferee, and perhaps not even representing the views of the majority of conferees. This report language was first presented to the minority in the middle of the last night of conference, and we had no opportunity to discuss it at member level. I felt compelled to make my very strong views known, that this language is unacceptable to me and as I just said should be treated by the administration as not in any way having the force of law.

The provisions dropped by the conferees raised serious legal and constitutional issues and would have infringed upon the President's prerogative to make foreign policy. What could not be achieved in bill language cannot be revived through report language. That is the strongly held view of at least this Senator.

Mr. President, that having been said, there is much that is good in this bill. While I do not believe that all of the additional funding included in this bill is warranted, there are many provisions that I worked to have included and that will strengthen our national security. These provisions include the extension of flexible section 845 authority to carry out advanced research projects to the services; the clarification of the section 2371, other transactions authority, to spur broader use by the services; a fair compromise with the administration with regard to dual-use technology programs; the reduction in the total amount allocated for the renovation of the Pentagon by $100,000,000; very strong support for the Department of Energy's stockpile stewardship program; very strong support for the Nunn-Lugar program and the Department of Energy's nonproliferation efforts. I also strongly supported the additional funds for the tactical high-energy laser program with Israel, and cosponsored an amendment with Senator KYL to restrict remote sensing over Israel. I supported a pay raise and an increase in the basic allowance for quarters for our troops, which I believe is well deserved. The bill also includes a provision supported by the Environmental Protection Agency that could speed the process for opening the waste isolation pilot plant while retaining EPA's clear authority on health and safety matters.

I have previously stated that we are entering a period of military-technical transformation. I believe that by maintaining a strong lead in advanced technologies, and using these technologies as a force multiplier, we can meet our national security requirements with a smaller force structure and at reduced costs. I believe many of us on the Senate Armed Services Committee will be looking hard at the implications of these changes for our military during the coming years.

I would like to address one issue that has raised some questions from my constituents in New Mexico. The House National Security Committee inserted a provision, sponsored by Congressman THORNBERRY, which allows certain Department of Energy sites, including the Pantex plant in Congressman THORNBERRY's district, to report directly to the headquarters office in Washington, DC, rather than through the Albuquerque Operations Office. The provision adds no value to the performance or reporting authorities for the Department of Energy. Indeed, if carried out, it would likely lead to balkanization within the weapons program. I am working with Senator DOMENICI to block this provision in the energy and water appropriations bill. If this attempt fails, I will pursue this issue in the next Congress to have the provision repealed.

Despite my concerns regarding the excessive funds which have been allocated for missile defense, I will vote for the National Defense Authorization Act. The effort to prepare this legislation was significantly improved since last year, resulting in a bill which contains many provisions which I can wholeheartedly support. Despite some differences on emphasis or funding amounts, I believe we have struck a reasonable balance. I would again like to commend Senator THURMOND and Senator NUNN on their leadership on this defense authorization bill. I would also like to acknowledge that we are losing several valued members of the Senate Armed Services Committee at the end of this legislative year. Senator NUNN, Senator EXON, and Senator COHEN will all be retiring and moving on to new challenges. Senator NUNN, of course, is the ranking member and former chairman, and has dedicated countless hours over the past 24 years to the Armed Services Committee work. His expertise and strong leadership are widely recognized and will certainly be missed.

Senator EXON has been our leader on strategic issues for the past 10 years. His contributions both there and in tying our committee's work to the Budget Committee will be sorely missed.

Senator COHEN has been one of the most productive members of the committee, a leader on issues ranging from acquisition reform to arms control matters and one of the members of the majority who has most frequently reached out to the minority to formulate truly bipartisan policies.

We have all benefited from their participation and membership on the Senate Armed Services Committee. They will be sorely missed by this Senator. I would also like to thank the many Senate Armed Services Committee staff members who work so diligently on this complex and lengthy legislation and support us so well. I want to particularly thank Bill Hoene, who, this year, took on supporting the Acquisition and Technology Subcommittee, as well as supporting the Strategic Forces, and John Etherton, who has supported the Acquisition and Technology Subcommittee for many years. They were an effective team.

The PRESIDING OFFICER. The question now occurs on agreeing to the conference report to accompany the Defense authorization bill, H.R. 3230. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The result was announced, yeas 73, nays 26, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—73

Abraham	Feinstein	Lott
Akaka	Ford	Lugar
Ashcroft	Frahm	Mack
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Graham	Mikulski
Bingaman	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Nunn
Bryan	Gregg	Pressler
Burns	Hatch	Reid
Campbell	Heflin	Robb
Chafee	Helms	Roth
Coats	Hollings	Santorum
Cochran	Hutchison	Shelby
Cohen	Inhofe	Simpson
Conrad	Inouye	Smith
Coverdell	Jeffords	Snowe
Craig	Johnston	Stevens
D'Amato	Kassebaum	Thomas
Daschle	Kempthorne	Thompson
DeWine	Kennedy	Thurmond
Dodd	Kyl	Warner
Domenici	Levin	
Faircloth	Lieberman	

NAYS—26

Boxer	Harkin	Murray
Bradley	Hatfield	Pell
Brown	Kerrey	Rockefeller
Bumpers	Kerry	Sarbanes
Byrd	Kohl	Simon
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Moseley-Braun	Wyden
Glenn	Moynihan	

NOT VOTING—1

Pryor

The conference report was agreed to.

Mr. THURMOND. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFENSE OF MARRIAGE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to the vote on passage of H.R. 3396, the Defense of Marriage Act.

Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 1 minute.

Mr. President, during the debate this morning, we had excellent presentations by the Members who spoke at length about the serious legal and constitutional concerns raised by this bill. The first concern was that for over 200 years the States themselves have had sufficient power in recognizing or not recognizing marriage conditions in other States. They have done that for 200 years, and 15 States now have already indicated they would not recognize same-sex marriages, so they have the authority already after 200 years.

Second, by trying to enhance or diminish the full faith and credit provisions of the Constitution, that is basically unconstitutional. We cannot enhance full faith and credit. We cannot diminish it. It is a constitutional issue, and authority and action by statute cannot affect it. Therefore, I think, there are serious questions about the constitutionality.

Third, Mr. President, this is really, I think, a dangerous precedent. Today it is marriage, tomorrow it may be divorce, the third day it may be custody. Where will it end?

Mr. President, I do not think support of this is wise judgment. The States have the authority to be able to deal with it. It is particularly not necessary at the present time. I hope the legislation will be defeated.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, today the State of Hawaii's court is considering a case that would legalize same-sex marriage. This bill does not ban same-sex marriage, it just says that any State does not have to recognize a marriage performed in a State that does legalize same-sex marriage either through the courts or through legislation. I think this is a positive bill. Senator BYRD spoke eloquently on it.

In addition to that, this bill defines marriage as a legal union between male and female. It is almost absurd or unheard of to think we would have to do that. A lot of people, a lot of gay activists are requiring that we do that.

Mr. President, I urge our colleagues to support this legislation. It is constitutional. We do have opinions from the Attorney General and others in the Justice Department saying that it is constitutional. I urge my colleagues to support this important piece of legislation today.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. A rollcall has not been requested.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 14, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—85

Abraham	Bryan	Coverdell
Ashcroft	Bumpers	Craig
Baucus	Burns	D'Amato
Bennett	Byrd	Daschle
Biden	Campbell	DeWine
Bingaman	Chafee	Dodd
Bond	Coats	Domenici
Bradley	Cochran	Dorgan
Breaux	Cohen	Exon
Brown	Conrad	Faircloth
Ford	Johnston	Pressler
Frahm	Kassebaum	Reid
Frist	Kempthorne	Rockefeller
Glenn	Kohl	Roth
Gorton	Kyl	Santorum
Graham	Lautenberg	Sarbanes
Gramm	Leahy	Shelby
Grams	Levin	Simpson
Grassley	Lieberman	Smith
Gregg	Lott	Snowe
Harkin	Lugar	Specter
Hatch	Mack	Stevens
Hatfield	McCain	Thomas
Heflin	McConnell	Thompson
Helms	Mikulski	Thurmond
Hollings	Murkowski	Warner
Hutchison	Murray	Wellstone
Inhofe	Nickles	
Jeffords	Nunn	

NAYS—14

Akaka	Kennedy	Pell
Boxer	Kerrey	Robb
Feingold	Kerry	Simon
Feinstein	Moseley-Braun	Wyden
Inouye	Moynihan	

NOT VOTING—1

Pryor

The bill (H.R. 3396) was passed.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMPLOYMENT NONDISCRIMINATION ACT OF 1996

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2056, the Employment Nondiscrimination Act of 1996, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2056) to prohibit employment discrimination on the basis of sexual orientation.

The Senate resumed consideration of the bill.

Mr. KENNEDY. May we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Massachusetts.

Mr. KENNEDY. I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Ms. MOSELEY-BRAUN. I thank the Chair. I thank the Senator from Massachusetts.

Mr. President, every American should have the opportunity to work, to use their talents to the fullest extent possible, and no one should be discriminated against. No one should be denied the opportunity to work at jobs they are qualified to fill. That is why I am so proud to be a cosponsor of S. 932, the Employment Nondiscrimination Act, along with 30 of my colleagues.

Strides have to be made to provide gay and lesbian Americans with full and equal protection of the laws promised every American by the 14th amendment. Nowhere is the absence of that protection felt more insidiously than in the area of employment.

The Employment Nondiscrimination Act prohibits employment discrimination based on sexual orientation. It

creates no special rights, or quotas, it merely grants gay and lesbian Americans the same rights afforded other Americans in the workplace. The legislation exempts religious organizations and businesses with fewer than 15 employees, prohibits preferential treatment, and does not require an employer to provide benefits to domestic partners. It also does not apply to the Armed Forces.

It is so important to enact this bill into law. This bill is not about special rights; it is, instead, about equal rights, equal protection. Congress has the power to act to protect your rights, and overwhelming majorities of Americans support doing so. Every Member of Congress should support ENDA, because this legislation embodies American values. It is an essential step to take if we are to continue making progress toward ensuring equal opportunity for all Americans.

A broad coalition of religious, labor and business leaders have endorsed the bill, including the United Methodist Church, the Presbyterian Church, the ACLU, and the National Education Association.

The American Bar Association endorsed the bill when they stated:

> Over the years, and with some struggle, this Nation has extended employment discrimination protection to individuals on the basis of race, religion, gender, national origin, age, and disability. ENDA takes the next necessary step by extending this same basic protection to another group that has been vilified and victimized—gay men, lesbians, and bisexuals. All workers, regardless of their sexual orientation, are entitled to be judged on the strength of the work they do; they should not be deprived of their livelihood because of the prejudice of others.

Ending employment discrimination is an area where Federal action is needed to protect individual liberty and opportunity. Furthermore, it is important to provide a stable, healthy, and productive work environment for employees. Many companies have already adopted their own antidiscrimination policies, recognizing the negative impact discrimination can have on our country's transition into the 21st century's global workplace. They know that there is no place for discrimination in this country.

Furthermore, this is an issue of economic competitiveness. Our work force is what makes America strong. If we are going to head into the 21st century as strong as we can, we need to utilize the talents of all. Every American stands to benefit when each citizen is given a chance to contribute to the maximum extent of his or her ability.

This is also about fundamental fairness. Each of us should be allowed to fully participate in society, regardless of our gender, race, or sexual orientation. Americans should not be held back by conditions that have nothing to do with merit, or talents and abilities.

If there is any objective that should command complete American consensus, it is ensuring that every American has the chance to succeed—and that, in the final analysis, is what this bill is about. No issue is more critical to our country, and nothing makes a bigger difference in a person's life than opening up opportunities.

At this time there is no truly effective recourse for sexual orientation job discrimination in 41 States across the Nation. Currently, nine States have laws that prohibit discrimination on the basis of sexual orientation in employment, as well as in other areas, such as housing. But the vast majority of gay men and lesbians across the country have no protection.

Opponents of ENDA claim that this legislation will provide gay men and lesbians with special treatment and cause a proliferation of litigation, but that is not the case. ENDA prohibits giving preferential treatment to any individual based on sexual orientation. Thus, employers may not provide special treatment to gay men, lesbians, or heterosexuals. The bill provides that an employer may not use the fact of an individual's sexual orientation as the basis for positive or negative action against that individual in employment opportunities.

Furthermore, existing data suggests that ENDA will not result in much litigation. Consider the experience of the District of Columbia whose Human Rights Act (1977) was the first statute to bar employment discrimination on the basis of sexual orientation. The D.C. Department of Human Rights states that in fiscal year 1995, 435 discrimination complaints were filed. Out of the 435 complaints, only 20 were based on sexual orientation. The nine States having statutes giving legal remedies to employees suffering from sexual orientation job discrimination follow the same pattern as the District.

Although Illinois does not have an employment discrimination statute, the city of Chicago has an ordinance protecting gay men and lesbians from discrimination in the work place. Due to this city ordinance, Chicago residents have protection against discrimination. And it works. For example, in October 1991, a Chicago man, shortly after being hired as a waiter at a restaurant told his manager that he was gay. From that point on, the manager yelled and screamed at the man using derogatory epithets. None of the other employees were called similar names.

After a few months on the job, the man's shifts were cut from 6 to 7 shifts per week to 2 to 3 shifts per week. The assistant manager stated that the hours were being reduced because the waiter complained about carrying three hot plates at once and because he brought a donut into the restaurant. However, none of the other waiters carried three hot plates at once, nor were other employees penalized for bringing food into the restaurant. No one else on the staff had their shifts cut for the above reasons.

Because Chicago has a city ordinance protecting gay men and lesbians from employment discrimination, this man was able to file a complaint with the city of Chicago Commission on Human Relations. The commission found substantial evidence that the ordinance was violated. The restaurant appealed the case to the State courts and the court upheld the commission's decision.

It is clear that discrimination in the workplace still occurs. Without national legislation to protect all Americans, cases of discrimination against gay men and lesbian women will continue to occur unchallenged.

The basic principle we should keep in mind is that every American must have the opportunity to advance as far in their field as their hard work will take them. Gay and lesbian Americans should not have to face discrimination in the workplace, including being fired from a job, being denied a promotion, or experience harassment on the job just because of their sexual orientation.

As a matter of fundamental fairness and because all workers should be entitled to legal protection in the work force, I will enthusiastically support this legislation.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield to the Senator from Kansas 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for up to 3 minutes.

Mrs. KASSEBAUM. I would like to reiterate my opposition to the legislation before us.

Last Friday, we had a thorough debate on the Employment Nondiscrimination Act during the course of which important arguments were made why it should not become law.

First, Senator HATCH pointed out the relationship between this bill and title VII and how the use of statistics in certain cases will also be available under this bill. The net result is that under this bill, as under title VII, statistics may be used by the EEOC as evidence of discrimination. Employers, as a defensive measure, may feel compelled to keep track of the sexual preferences of their employees. This is an example of the unintended consequences that may flow from this bill.

Second, Senator ASHCROFT pointed out that the bill itself acknowledges that there are legitimate reasons why in certain situations the law should not apply. For example, the bill exempts the military as well as religious organizations and their not-for-profit activities. His question, which I think is a good one, is: If there are reasons for exempting these employers, may not these same reasons apply to other employers in the private sector?

Finally, Mr. President, I want to repeat my own principal objection to this bill. I do not believe that relying on more lawsuits and litigation, as this bill would do, will promote greater tolerance in the workplace. I believe prejudice and discrimination can be fought

in other ways, and I hope that it would be done—leading by way of example.

The Senator from Massachusetts [Mr. KENNEDY], who is the author of the legislation, pointed out numerous examples of employers who adopted their own nondiscrimination policies, and I applaud those efforts, but I do not believe we need to create another legal cause of action with compensatory and punitive damages that will only lead to more division in the workplace, not less.

Mr. President, I urge my colleagues to vote against this bill, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for up to 2 minutes.

Mr. CHAFEE. Mr. President, I wish to take a moment to make two comments in favor of this bill, the Employment Nondiscrimination Act, or ENDA.

I believe the matter before the Senate is a very simple one: Whether or not sexual orientation is a factor that should be considered in employment decisions. In my view, the answer is clear. The only factor that should be considered in the workplace is the ability of an employee or potential employee to do the job at hand. Since sexual orientation, like race or ethnicity, has nothing to do with job ability, it seems to me it has no place as a basis for discrimination.

There is nothing particularly radical about this proposition, Mr. President. It is a singularly American belief that each and every person shall be judged not on unrelated factors such as color or gender but on their merits. In the workplace, that translates to an individual's job skills and capabilities. To judge a person otherwise, I believe, goes against the grain of what this whole country stands for. As Barry Goldwater recently noted, ''job discrimination against gays or anybody else is contrary to each of our founding principles.''

Other Senators have recounted tales of gays and lesbians who have suddenly lost their jobs when employers discovered their sexual orientation. These instances are shocking and, I believe, shameful. No one deserves such treatment.

So let me make one point clear, Mr. President. An employee whose behavior in the workplace is inappropriate deserves no protection from sanction. A gay employee who makes inappropriate statements or otherwise conducts him or herself in an inappropriate manner should not be countenanced. That is clear. The same would apply to a nongay individual who conducts him or herself inappropriately. That conduct would not be tolerated.

As my colleague from California, Mrs. FEINSTEIN, put it last Friday, ''Do something that is improper conduct, and it all changes.'' Any kind of untoward behavior, no matter from whom it comes, must not be permitted.

This bill before us would provide basic protection to Americans who are subject now to arbitrary and unreasonable job denial or dismissal. I think that is appropriate, Mr. President, so I urge support of this measure.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 2 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized for up to 2 minutes.

Mr. ROBB. Mr. President, I understand the difficulty many Members may have with the prospect of same-sex marriages, and so I understand why the vote completed just a few minutes ago was so tough for many Senators. But this one shouldn't be. Those of us who support the Employment Non-Discrimination Act have a simple plea—let's end discrimination in the workplace.

We can't forget, Mr. President, that we are a nation made prosperous and strong by the labor of millions of American workers. And each American worker—whether they build houses, pave roads, serve meals in country diners, or manage corporations—deserves to be judged by their dedication to their job and the quality of their work.

It is indefensible, that in a great country like ours men and women can lose their jobs, be passed over for promotions, or suffer harassment because they have—or are perceived to have—a different sexual orientation than the rest of us.

And for their part, American businesses deserve a work force which embodies maximum talent and minimal prejudice and dissention. Surely ending discrimination will improve productivity and enhance employee satisfaction. Former Senator Barry Goldwater, just quoted by the Senator from Rhode Island, wrote in support of this legislation: ''job discrimination excludes qualified individuals, lowers work-force productivity and eventually hurts us all. It's not just bad—it's bad for business.''

So this bill, Mr. President, which extends Federal employment discrimination protections modeled after those currently in place for race, gender, age, and disability to sexual orientation, is good for American businesses and good for American workers.

It is moderate, reasonable, and eminently fair. This vote on this bill ought to be an easy one. It specifically rejects special rights and preferences. It exempts businesses with 15 or less employees, as well as all religious institutions and educational nonprofits owned or managed by religious organizations. It does not affect the U.S. military. It does not provide benefits for same-sex partners.

I first became a cosponsor of the 1994 act in the midst of a very difficult reelection campaign. But I knew that equality on the job ought to be the right of every single American, that prejudice divides us, that discrimination is wrong, and that I could justify my support for this bill to anyone.

Mr. President, this bill is not about special rights for anyone. It is about equal rights for everyone. I urge my colleagues to vote ''yes'' to the Employment Non-Discrimination Act.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I yield the Senator from Indiana 4 minutes.

Mr. COATS. Mr. President, today's debate concerns an issue of extreme import and controversy—extending civil rights protection to sexual orientation.

This is an issue of great importance because, for the first time in our history, Federal legislation would protect an individual's behavior, rather than an individual's status, as traditional civil rights laws have done. The practical impact of this bill is that employers will no longer be able to consider or hold an employee accountable for any acts related to their sexual orientation.

The fact that this issue—the extension of civil rights to an individual's behavior—is controversial goes without saying. This is an issue about gay rights in the workplace, which the American people have not reached a moral consensus. Many Americans, including business people, those who support strong traditional families, and persons with religious or moral objections, have serious concerns about promoting homosexuality as a lifestyle. This is important, because if this bill becomes law, it will give the Federal stamp of approval to activities that are still considered illegal in many States. It is significant also because individual employers, employees, forprofit religious organizations and enterprises will no longer be able to conduct their business without the fear of Federal intrusion and potentially costly litigation.

Mr. President, we are not speaking of extending rights that every citizen of the United States is guaranteed—rather we are considering special rights for persons based on their lifestyle choice, as evidenced by their behavior. I share the concern of many that no person be subjected to violence and hatred simply because they do not meet with societal approval. But I am just as concerned about individuals who, because of sincerely and deeply held religious or moral convictions, find certain lifestyles to be morally unacceptable and yet are told by the Government that those beliefs must be kept private and may not be applied to their business decisions. These individuals are told that the first amendment's protections do not apply to the way they run their businesses, their family bookstore, or their day care center. This should not be the case.

I ask my colleagues to join with me in voting to preserve one of our Nation's most cherished rights: The freedom to freely exercise our religious beliefs and to not be coerced by the Government into accepting into our employ those whose behavior violates our deeply held religious convictions.

I yield back any time I have.

Mr. KENNEDY. I yield 2 minutes to the Senator from Vermont, a cosponsor on this important legislation.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I have spoken at length on this issue previously so I will not extend my remarks to any great extent. I remind people what we are talking about here.

First of all, we ought to have a sense of the public; 84 to 85 percent of the people in this country say, ''What is the issue? Pass the bill.'' Nobody should be inquired of about their sexual preference or whatever in getting employment. They ought to be allowed to work.

The questions about all these things that have been brought up—there are exceptions to almost all of them. The religious organizations are excepted, nonprofits are excepted. The rights of employers in all these areas are protected. There is no question here.

My question is why should I or why should my wife or my kids be asked, when they go to get a job in this Nation, ''Where are you living and who are you living with?'' And, if it is of the same sex, be inquired of as to what their sexual preferences are, their sexual activities? To me, that is a disgrace, to allow that to happen in this Nation of freedom, where working is so important, where our people ought to be free to work where they please and ought to be able to have a life they want and to live free from that kind of intimidation.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 2 minutes to the Senator from Connecticut, a cosponsor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. LIEBERMAN. Mr. President, I rise to support the bill. This bill offers us an opportunity to take, not only a fundamental principle of American life and history, but in my opinion the driving impulse of the American experience, which is equal opportunity, and apply it to a specific circumstance. The basic question here is whether a person who works hard, plays by the rules, does the job, is entitled to be protected from discrimination in hiring, in promotion, in salary, based on a very private and personal decision which is that person's sexual orientation.

You do not have to decide the question of whether you believe homosexuality is right or wrong. You do not have to decide the question of whether domestic partnership is right or wrong. You do not have to decide the question of whether one's sexual orientation is a matter of choice or whether you are born with it, to vote for this bill. All of that is irrelevant.

The question here is whether we are going to protect a category of our fellow Americans, fellow citizens, fellow human beings—children of God—from being discriminated against based on their sexual orientation; a private matter.

I say the answer has to be ''yes.'' In 1996, it is time to offer that protection to keep the promise of the American Constitution and the American dream. This is a narrowly circumscribed bill. By God, this bill even says to an employer you can regulate the clothing of someone working for you if that is an issue.

I support the bill and ask all my colleagues to do the same.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield the Senator from Utah 4 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for 4 minutes.

Mr. HATCH. Mr. President, everybody here knows I have worked hard to pass the hate crime statistics bill, I worked hard with the distinguished Senator from Massachusetts to pass AIDS bills and do other things that benefit people who are gay and lesbians. I believe that we should respond to the needs of our citizens in these regards. Special protected status in the law, however, is another matter. I, therefore, oppose this legislation.

Mr. President, I oppose this legislation. This bill represents a massive increase in Federal power. The Federal bureaucracy will have a field day with this bill. The bill will be a litigation bonanza. Moreover, this bill deals in a blunderbuss way with an issue much more complex than issues raised by legislation addressing race, ethnicity, and gender. Sexual orientation involves conduct, not immutable nonbehavioral characteristics.

Indeed, during the debate about homosexuals in the military, Gen. Colin Powell made this point in responding to the suggestion that discrimination against homosexuals in the military should be equated with racial discrimination. He said,

> Skin color is a benign, non-behavioral characteristic. Sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument.

Indeed, this very bill exempts employment in the U.S. military, although it does not exempt the National Guard.

It is totally indefensible to say that a black person should be denied the right to teach children of any race in any of our public or private schools. But should the Senate run roughshod over the concerns of parents and educators about having homosexuals teach their kids?

I mentioned last week on the floor that Loudoun County, VA, parents and educators wanted to fire a male health and physical education teacher at a middle school, who was also an assistant athletic coach at a high school because of public homosexual conduct, in this case, participation in homosexual videos. Such concern is not triggered just by participation in videos. It can be triggered by public displays of romantic, physical affection between two persons of the same sex.

In Loudoun County, the school superintendent said,

> We believe that teachers, as people who are chosen to be instructors as well as leaders of our young people, should be exemplary in their professional as well as personal lives. What we have here is an allegation of a lifestyle that is not in keeping with that. If the allegations are true, that is not conduct befitting a teacher.

One parent of a daughter who attended a school where this person taught said she believed that what people do in their private lives is their business—unless they are teachers. ''I want our teachers to have the highest moral fiber. I'm not comfortable with him doing both.'' A school board member said,

> Here we have a teacher in a middle school working with children who are at that age where they are struggling with their identity. This is obviously a person who has made bad choices. To give someone like this access to children at that stage of development would be irresponsible of us.

And just because some of the citizens of Loudoun County and across this country do not share the view of public morality of some of the sponsors of this measure, who seek to cast aspersions on opponents of this legislation, does not make those citizens bigots.

Moreover, those proponents of this bill who, wrongly in my view, support blatant, intentional discrimination on the basis of immutable characteristics such as race and ethnicity in teacher hires in order to provide role models to students, are in no position to lecture parents concerned about the conduct of teachers as role models. Finally, I want to know how it is that proponents of a bill that itself exempts the military can dismiss the concerns of parents about the conduct of their children's teachers.

I note, Mr. President, that if a school district wanted to dismiss, or decline to hire, a male teacher, for example, who engages in romantic, physical displays of affection in public with his male partner, this bill makes such a dismissal or refusal illegal—unless the school district will do the same regarding a male teacher's equivalent display of romantic affection for his wife or girlfriend.

Additionally, this bill will empower the EEOC to require employers to collect statistics on the sexual orientation of their employees.

One proponent of this bill last week said the bill does not give the EEOC this authority. That is wrong. The bill,

at section 11, gives the EEOC, ''with respect to the administration and enforcement of this act'' the same power the EEOC has to administer and enforce title VII of the 1964 Civil Rights Act. Under title VII, the EEOC collects statistics on the race, ethnicity, and gender of employees. Would the EEOC request such information? No one in this body can assure us that the EEOC won't do so at some time in the future. Remember, the EEOC is one of those entities responsible for the growth and development of quotas and other preferences under title VII, relying heavily on statistics in the process.

Moreover, it is well established that statistics can be used in intentional discrimination cases under title VII, such as pattern or practice cases. So, notwithstanding language in the bill about prima facie cases of disparate impact, this bill does not at all preclude the use of statistics in sexual orientation cases.

Suppose a complainant, alleging that he was discriminatorily denied a promotion because he is a homosexual, asserts that a supervisor made anti homosexual remarks, and one or two more complainants make the same allegations. Those allegations, and evidence of a supervisor's anti homosexual remarks, could be combined by a Federal enforcement agency or private plaintiffs' lawyer with statistics on the number or percentage of homosexuals in the job in question, or the promotion rates based on sexual orientation, or both, to press a case of a pattern or practice of discrimination.

Finally, let me note that this bill will lead to reverse discrimination and preferences in favor of homosexuals, and I will mention just one way that will happen. The bill's provision allegedly barring preferential treatment does not affect judicial power to enforce this bill. This bill gives the courts the same jurisdiction and powers as such courts have to enforce title VII of the Civil Rights Act of 1964. Further, the procedures and remedies applicable for a title VII violation are available under this bill.

Under title VII's section 706(g), the Federal courts are authorized to order such affirmative action as may be appropriate in cases of intentional discrimination. The Supreme Court has said, unfortunately, that there are some cases in which a court may order numerical and other forms of preferential relief under title VII. Moreover, such preferential relief can be entered as part of a consent decree with the Federal Government, which wields enormous leverage over employers in these costly lawsuits, and in cases with private plaintiffs' lawyers.

Proponents of this legislation have argued that it will not produce much litigation, because there have been very few cases brought in the States with similar laws. That prediction is not persuasive. By authorizing the EEOC to become involved in and to initiate law suits based on gender-preference discrimination, this bill would lead to scores of thousands of new law suits against persons acting on the basis of strongly held religious views. Consider the case of religious broadcasters, for example. This bill would force religious broadcasters to engage in hiring and promotion practices that are contrary to their reasonable, deeply held religious views. We should not force citizens to endorse sexual practices that are contrary to their religious views. This bill, however, would do just that.

Let me also say that my support for the Hate Crimes Statistics Act, which Senator SIMON and I have gotten through the Senate and enacted into law twice, is fully consistent with my position on this bill. My view that absolutely no one should be subjected to violence or vandalism because of who they are is, of course, widely shared. But it does not follow from the fact that while everyone, including homosexuals, should be free of violence, society must confer affirmative civil protections on the basis of sexual orientation not available, I might add, to everyone else.

Let me just add this. There is a religious side to this that must be considered. There are sincerely believing, mainstream religious people in this country who believe we have gone too far in this matter. Can you imagine a religious broadcaster, because they are in a profitmaking business, having to comply with the provisions of this act?

I urge the defeat of this legislation.

Mr. HATFIELD. Mr. President, throughout my career in public service, amounting to over four decades now, I have fought to end discrimination and advance the ideal of equal opportunity in society. One of my first successes as a young Oregon State legislator in the early 1950's was as the sponsor of the Oregon Public Accommodations Act, which prohibited discrimination on the basis of race in public accommodations. With this new law, Oregon set an example for the Nation.

The Public Accommodations Act was the first of many divisive civil rights debates in which I have become involved. I have also played a role in many other civil rights advances as this Nation has attempted to stamp out the irrational and hateful scourge of discrimination. These efforts have often taken the form of extending protection from discrimination in the workplace. Over the years, we have focused on discrimination on the basis of race, gender, national origin, age, religion, and disability. These laws are based on a simple premise: Employees should be judged on the work they do, not on the basis of prejudice not related to workplace performance.

The time has arrived to take the next logical step toward equality of opportunity in the workplace. Senate bill 2056, the Employment Nondiscrimination Act which would prohibit discrimination in employment on the basis of sexual orientation is such a step. The Employment Nondiscrimination Act focuses on a group of citizens who have been victimized and vilified like few other minority groups in this Nation's history. Oregon has not been spared from this prejudice, and I speak here today on behalf of many Oregonians touched by it. One prominent example took place in Medford, OR, last year where two women were murdered. Their murderer confessed that he killed them because of his hate for homosexuals.

While we will not be able to wash this type of deep-seeded hatred from our society merely by enacting a Federal statute, employment relations is narrowly focused and appropriate for a Federal statement of national policy, as we have demonstrated many times. This legislation now before the Senate takes a very measured approach toward addressing this difficult problem. It does not create special protections, preferences, or hiring quotas for gay people. As has been the case in prior civil rights statutes, particularly the Civil Rights Act of 1991, this legislation specifically prohibits quotas on the basis of sexual orientation. This prohibition is further undergirded by a provision that prohibits an employee from bringing a disparate impact suit.

Religious organizations are given a broad exemption from this proposal. The armed services are also exempt, as are small businesses with fewer than 15 employees. Moreover, no business would be required to provide benefits to an employee's same-sex partner.

As this Nation turns the corner toward the 21st century, the global nature of our economy is becoming more and more apparent. If we are to compete in this marketplace, we must break down the barriers to hiring the most qualified and talented person for the job. Prejudice is such a barrier. It is intolerable and irrational for it to color decisions in the workplace.

The employee manual for my office has for some time included a specific provision prohibiting discrimination based on sexual orientation. A majority of the Fortune 500 companies have reached this same conclusion. It is time for this body to do the same. It is time for our laws to reflect a point of fundamental fairness: An employee should be free from discrimination at work because of personal characteristics unrelated to the successful performance of his or her job.

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of the Employment Nondiscrimination Act, or ENDA, to urge my colleagues to support this historic and important legislation.

This bill would ensure that no American citizen is discriminated against in employment because of their sexual orientation. It's a simple, straightforward bill. And it stands for a fundamental American principle: the principle that discrimination of any kind is wrong.

Mr. President, our Nation was founded over 200 years ago by people who had

migrated to America largely to escape persecution. The earliest Americans often didn't fit in where they used to live. They were different. Maybe they belonged to a religious minority. Maybe they had different political ideas. Or maybe they were ostracized merely because of the way they looked.

These earliest Americans left their homes, their communities, and their homelands to live in a new kind of nation. A nation that not only tolerated differences, but honored them.

From the beginning, Mr. President, this respect for individual differences—perhaps more than anything else—is what has defined us as Americans. It lies at the heart of our culture. It's embedded in our Constitution. And, in the eyes of the world, it's what makes America the special place it is.

Unfortunately, Mr. President, our Nation has not always lived up to our own highest principles. And it's often taken great battles to make sure that we do.

It took almost 100 years and a civil war to eliminate slavery.

It took another 100 years, and enormous social strife, to outlaw racial discrimination.

And it took a long, difficult effort to win women the right to vote, and to prohibit sex discrimination.

Unfortunately, Mr. President, the fight for equal rights for all Americans is not over. Today, it is still legal to fire someone because they are gay, lesbian, or even heterosexual—or merely for being perceived as such.

This kind of discrimination affects hardworking Americans in all sorts of jobs, no matter how well they perform their duties. With hundreds of such cases documented, and many others undocumented, countless Americans fear losing their jobs to discrimination.

Mr. President, today we have another opportunity to restore our commitment to American principles. But, this time, we can do it without the bloodshed and division of previous battles.

Today we have an opportunity to extend the Civil Rights Act, and to say to each and every American, that you have a right to be treated as an individual in employment. You have a right to be judged on the quality of your work. A right to be judged on the basis of your performance. And sexual orientation is irrelevant.

Mr. President, the right to be treated as an individual in employment is consistent with the great American tradition of individual liberties. And so it should not be surprising that it enjoys strong public support. Most Americans believe that people should not be denied a job, or a promotion, simply because of their sexual orientation.

But discrimination against homosexual Americans remains a serious problem. Many employers just will not hire a gay or a lesbian. Or they will fire or fail to promote them once they have been hired.

Sometimes, Mr. President, employment discrimination is based on raw and malicious bigotry—open hatred of people different than themselves.

But often, the discrimination is more subtle. Often, employers don't hate gays. They're just uncomfortable with them. They're uneasy with the concept of homosexuality. And, so, all other things being equal, they'll choose to hire someone with whom they're more comfortable.

Mr. President, from the perspective of an individual employer, that decision may seem entirely reasonable. But that's equally true of employers who are just uncomfortable with blacks. Or employers who are just uncomfortable with Jews.

For those employers, we say: you may be uncomfortable with blacks or Jews. But you may not discriminate against them. Because it's wrong. It's wrong morally and ethically. And it's not fair.

The same reasoning applies in the case of discrimination based on sexual orientation.

Mr. President, individual employers are not making these decisions in isolation. Millions of employers are making similar decisions. And together, they can create a systemic bias with serious consequences.

In the case of homosexuals, this bias limits their opportunity to find meaningful employment. It limits their ability to make ends meet financially. It limits their ability to live full and satisfying lives, and to make meaningful contributions to society.

Mr. President, that's not right. Every American should have the opportunity to live the American Dream. Every American. No matter their race. No matter their religion. And no matter their sexual orientation.

Mr. President, as Senator LIEBERMAN said on the floor last week, we are all God's children. Each and every one of us.

And if we allow hate and discrimination against anyone, we damn our own loved ones. We shame ourselves. And we violate the fundmental principles upon which this great Nation was based.

Mr. President, let me just close by recalling the words of the Declaration of Independence. All men are created equal. They are endowed by their creator with certain inalienable rights. Among those are life, liberty, and the pursuit of happiness.

Mr. President, let us live up to the principles of that Declaration. Let us be true to our values as Americans. And let us ensure that our own loved ones enjoy the respect and dignity that each and every American deserves.

I urge my colleagues to support this legislation.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts controls 5 minutes 30 seconds.

Mr. KENNEDY. Mr. President, I yield myself 5 minutes.

Mr. President, for 200 years, we have tried to free this Nation from forms of discrimination. Discrimination was written into the Constitution of the United States, and the American people have paid a fierce price for discrimination over its history.

We fought a civil war in the 1860's. It really was not until the late 1950's that we began to rally in support of the work of Dr. Martin Luther King—by businessmen, by laborers, by church leaders, by all Americans—and said, ''Let's finally get serious and free ourselves from discrimination.''

We all remember what happened with the Japanese internment, one of the darkest periods in American history at the beginning of World War II. And still this country went ahead with that dastardly act.

So in the 1960's, we began to make progress on the issues of race, with the 1964 and 1965 act. Many of the arguments I just heard on the floor of the U.S. Senate were made during that particular debate. Then in 1965, we freed ourselves from a national-origin quota system in immigration, we freed ourselves from the Asian Pacific triangle that was left over from the early part of the 1900's, called the yellow peril. We made progress.

We made progress on race. Then we began on religion and national origin. Then we began to make progress on gender. We did not include an equal rights amendment that said there were ''founding mothers'' as well as Founding Fathers, but, nonetheless, we began to knock down the walls of discrimination on the issues of gender, and we became a more powerful and significant and stronger nation.

In recent years, we have made progress with regards to Americans with disabilities. Six years ago we passed that legislation to say to 44 million Americans, ''We will do everything we can to recognize it isn't disability, it is ability, it is what you can do, what you can contribute, that you can be a part of the American dream.'' That has been the path that we have taken in this country, and we have an opportunity to take a very important and significant step by supporting ENDA.

Just the other night, under the leadership of Senators DOMENICI and WELLSTONE, we began to make progress in terms of knocking down the discrimination that exists with regard to mental health in our country. That exists out there. It exists in our health care systems. We began to knock down that barrier as well with the action that was supported by Republicans and Democrats alike.

Mr. President, today we have the chance to take a meaningful forward step on the road to make America America. We have a really important opportunity to turn our back on bigotry, to turn our back on intolerance, to turn our back on discrimination. We can take an important step in the progress of making America America.

America will only be America when we free ourselves from discrimination,

and this particular legislation, carefully crafted, tries to say, ''If you work in America, if you have the ability to work, you can work, and you ought to be judged on your ability to work and not on the issues of sexual orientation.'' That is the case.

We know that discrimination against gay men and lesbian women exists in this country today, No. 1.

No. 2, we know that there are no laws to protect them.

No. 3, we know that the whole issue of gay men and lesbian women is an immutable condition. It is a condition of life.

What we are trying to say is when Americans want to work and can work and do a job, they ought to be able to be judged on the job that they are going to do and not on one of these other factors.

We can free ourselves from discrimination against those gay men and lesbian women in the employment place. This is a targeted response to that challenge, and I hope we will support it and pass it overwhelmingly.

I withhold the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma controls 5 minutes 40 seconds. The Senator from Massachusetts 1 minute 26 seconds.

Mr. NICKLES. Mr. President, I rise in opposition to Senator KENNEDY's bill, and I urge my colleagues to do the same.

Senator KENNEDY's bill before us elevates sexual orientation to special status under the Civil Rights Act. It grants Government approval, acceptance, and protection to homosexual and bisexual behavior under the Civil Rights Act.

Sexual orientation, as defined under the bill proposed by Senator KENNEDY, includes homosexuality, bisexuality, and heterosexuality. It does not just apply to people in a monogamous relationship. Basically, any of the above sexual behaviors are going to be protected by the Federal Government. Such behavior must be OK, because Uncle Sam is now going to protect it.

Senator BYRD made an eloquent speech earlier today, and he read from the Bible. He quoted a couple verses in Genesis talking about what God said about marriage. Many people believe the Bible and believe in it very strongly. Maybe that is recognized by the authors of ENDA, because they exempted religious organizations, but they did not exempt religious people.

We exempt churches under the bill. Well, a lot of people consider themselves part of a church 7 days a week, and they have very serious problems with granting special status to people based on their sexual orientation because they are learning, whether they are Jewish or whether they are Christian or whether they are Muslim, that homosexuality is wrong, it is immoral and should not be condoned and certainly should not be elevated to a special protected status by the Federal Government.

Does that mean that you want to discriminate? No. But should homosexuals and bisexuals have special protected status? Most people would say no.

Mr. President, nine States have something in their statutes, in their State codes, that provide some protections for sexual orientation; 41 States do not. The State of Massachusetts does. The State of Oklahoma does not. I do not really want the State of Massachusetts putting their mandate on my State. Maybe our norms are a little different.

The sponsor of ENDA did exempt religious organizations. They did not exempt schools. There is a high school principal in West Virginia who was recently caught cross-dressing, and he was arrested for soliciting. That was against the law. That was against the State's prostitution laws. What if he was just cross-dressing? He would be protected under ENDA. Cross-dressing could be considered part of a sexual orientation.

What about a schoolteacher who is found to be in homosexual videos—Senator HATCH mentioned one example—what if somebody was particularly well known as a gay activist? What if the school board said, ''We really don't want this person to be teaching our kids physical education in the fifth grade.'' The school board might say, ''That is not the type of mentor, teacher or role model that we would like to have for our young people.'' They can be sued, under this legislation, not only for compensatory damages, but for punitive damages.

Some of us have stated the net result of this bill is going to require employers to ask questions about sexual orientation. That has been denied by the proponents. But the facts are, if you are sued, if someone sues you and says, ''Mr. Employer, you didn't hire me because of my sexual orientation, the fact I am well known as a gay, the employer might say, I didn't know that.'' But they can still sue.

How are employers to protect themselves? They are going to have to ask a lot of questions. One way of protecting yourself is to tell the court or convince the court that you have hired homosexuals in the past. How do you find that out? Well, you better ask questions.

You will have to ask questions and have to survey all your employees. We have never done that before. But the net result of this legislation is that employers would have to ask an employee to at least be able to defend himself. And they would have to ask what their sexual orientation is. That may not be well received by the employees, and it may not be well received by their employers because now you really have the intrusive arm of the Federal Government going into areas they should not.

The sponsors of ENDA have exemptions for religious organizations that are not-for-profit. What about a religious broadcaster? What about a religious book store? Bingo, we are going to tell them, we do not care what your belief is, you are going to have to hire somebody that maybe is diametrically opposed to your fundamental beliefs.

Three years ago, we passed legislation that said we rejected President Clinton's call for gays in the military—Congress did—with an overwhelming vote. Three years ago today, we adopted a policy that says, ''Don't ask, don't tell.'' We are going to tell the school boards that such a policy is not good enough, because this legislation goes way beyond ''don't ask, don't tell,'' way beyond ''don't ask, don't tell.''

So that is what Congress said was acceptable for the military. Congress said, sexual orientation is relevant concerning the military, but now, if ENDA becomes law, we are going to tell millions of employers, oh, sexual orientation is irrelevant; it does not make any difference; we do not care what your personal beliefs are, we do not care what your religious beliefs are, it is irrelevant. For some people it is relevant, and for some school boards it might be relevant, or for some religious people or some religious groups or religious broadcasters it is very, very relevant.

Mr. President, this legislation is a serious mistake and goes way too far. I urge my colleagues to vote no.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I would like to use my leader time for whatever time I may consume.

The PRESIDING OFFICER. The minority leader has a right to do so.

Mr. DASCHLE. Mr. President, there has been so much misinformation about what this does and does not do, so many claims about the effect it has on certain groups and places of employment, that I would not be surprised that people are confused and very concerned.

As we vote, I think we ought to try to clear the air as much as possible as to what this does. This bill simply rectifies a significant omission in our job discrimination laws, period. It simply prohibits anyone from using sexual orientation as the basis for hiring, firing, promotion, or pay. ENDA allows no special privileges, period. It grants no special rights to any group of people. It simply ensures that no one will be denied the opportunity to support him or herself financially because of discrimination on the job.

This is a matter of simple fairness and common sense. In terms of fairness, no one should be denied employment on the basis of a characteristic that does not relate to his or her ability to get the job done. This principle is already embodied in our civil rights laws. It protects religious institutions. Churches, synagogues, and related institutions will not be forced to change

their hiring practices by this bill, nor will it apply to the military or to small businesses with fewer than 15 employees. This is a narrowly crafted bill that simply upholds the basic American principle that employees should be judged by the work they do. It deserves our support.

I ask my colleagues, prior to the time we vote, how many times have we heard the same arguments raised against minorities in other segments of our society, against African Americans, against the disabled, against women? The same arguments that I just heard presented to our colleagues on the Senate floor moments ago were used in the 1960's, in the 1970's, and in the 1980's. We have heard them all.

I ask my colleagues, who today would come to the floor to roll back the rights now that we provided African Americans? Who would come to the floor to roll back the rights we have given women? Who would propose now we roll back the rights for the disabled? Every time we come to the floor, we pronounce our advocacy of freedom. We talk about how free this democracy is, how great it is for all of us to enjoy the magnificent freedom that we enjoy beyond that of anybody else. If this is true, then we will support the freedom guaranteed in this legislation, too. I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Massachusetts has 1 minute, 26 seconds remaining. For the Senator from Oklahoma, all time has expired.

Mr. NICKLES. Mr. President, let me just check and see if the majority leader wants to make a speech on his time. In the meantime, unless the Senator from Massachusetts wants to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LOTT. Mr. President, I will use leader time to make a closing statement.

The PRESIDING OFFICER. The majority leader has that right.

Mr. LOTT. The legislation we will be voting on in a few minutes, the Employment Nondiscrimination Act, known here as ENDA, should be rejected by the Senate, in my opinion. In its various versions it has been around for many years, I think probably as many as 20 years. But even when there was a Democratic majority in the Senate, this bill was never even called up before.

We are bringing it up today for a vote, a freestanding vote without amendments, as part of our larger effort to work together and move ahead on urgent business of the Senate. There were intense and lengthy negotiations last week to try to come to a conclusion on how to handle the appropriations bill, the Defense of Marriage Act, ENDA—this legislation—and the defense authorization bill, and I have tried to set a record of trying to be fair and make sure that we have our chance to make our cases here, within limits, and then move on, do the business of the Senate, and then move on.

So that is how this legislation was set up to be considered in a freestanding way. There are those that really do not think it should have been brought up this way or would have preferred it not even come up as an amendment. But I think it is a fair process, and it is one that we agreed to in order to be able to do our business. So, be that as it may, that is how we got to where we are.

ENDA, in my opinion, is part of a larger attempt to equate, by law, what the bill itself calls, in the language of the bill, ''homosexuality, bisexuality, or heterosexuality.'' This is part of a larger campaign to validate or to approve conduct that remains illegal in many States. That has to be of concern to a lot of Senators whose States would fall in that category.

ENDA would mean that ethical and religious objections to homosexual or bisexual conduct would have to be pushed aside or closeted. Those objections could no longer touch the workplace. The bill before us seems to be full of exceptions, exceptions for small businesses, the Armed Forces, religious organizations, though not for law enforcement, schools, day care, or for-profit entities that are part of a church's religious mission.

It seems to me there are many instances that should have been exempted or should have been excluded. It seems to me that this is just a guarantee of multiple lawsuits as to exactly what the intent is and what it means. We do not need that. I think Senator HATCH explained in his very definitive statement on September 6 those exemptions will not limit the damage that will be done by this bill. It would put the full force of the Federal Government behind the campaign to validate a lifestyle that is unacceptable in many areas. I think that is the heart of the matter.

Under ENDA, the antidiscrimination apparatus of the Federal Government—the apparatus of the Federal Government—would treat sexual orientation like race. It would scrutinize employment practices, require remedial hiring or promotion, and treat negative attitudes in this area as workplace harassment.

President Clinton's letter supporting this legislation notes that 41 States currently do not outlaw discrimination in employment on the basis of sexual orientation. Only nine States have adopted anything like ENDA. Only 18 Senators represent States which have their own versions of this type of legislation, and 82 Senators are here to represent States which do not have their own laws similar to this one. I cannot believe that the majority of the Senate will impose upon those 41 States a piece of legislation which the citizens of those States apparently do not want.

If ever there was a case of ''Washington knows best,'' ENDA is it. If ever there was a one-size-fits-all approach to social engineering, ENDA is it.

Mr. President, the American people are not bigoted or hateful or prejudiced. They just are not. When it comes to ENDA, the American people are cautious, prudent, and weary. I think they are right. They have seen the good intentions of official Washington go astray time and time again. They have heard sweet slogans to cover up legislation with major problems.

That is the case with ENDA. Senators NICKLES and ASHCROFT and others who have spoken have very forcefully explained the ramifications of what seems to be a simple bill. But it is not simple at all. It is a blank check to a court system increasingly out of touch, in many instances, with the public. It is an open invitation to a Federal bureaucracy brutally indifferent to what goes on in American life—in our businesses, in our schools, and in our communities.

In short, I think this legislation is out of sync with the majority of American people. I think the Senate should not pass it. It a very serious matter, and I urge my colleagues to vote against it.

I yield the floor, Mr. President.

Mr. NICKLES. Mr. President, we are about to vote on final passage of S. 2056, the Employment Nondiscrimination Act. I urge each Senator to vote ''no.''

Before we vote, I want to address a few issues that have come up during debate. Time does not, of course, allow me to go into these issues in detail.

I urge each Senator to consider the moral implications of this vote. In her recent, acclaimed book, ''The De-Moralization of Society,'' Gertrude Himmelfarb reminded us of a truth that needs to be repeated here:

> Individuals, families, churches, and communities cannot operate in isolation, [they] cannot long maintain values at odds with those legitimated by the state and popularized by the culture. * * * Values, even traditional values, require legitimation. At the very least, they require not to be illegitimated. And in a secular society, legitimation or illegitimation is in the hands of the dominant culture, the state, and the courts.

This bill goes to the heart of traditional values—the values of religious liberty, free association, and traditional sexual morality.

ENDA is solicitous of religious organizations, Mr. President, but what about religious individuals? This bill concedes that it is going to compel an approval of homosexual and bisexual behavior—that is why religious organizations are exempted from the bill—but what about religious individuals?

ENDA will punish those Americans who believe it is important to apply

their moral views in the workplace. To millions of Americans, human sexuality is still a matter of the deepest moral concern, but ENDA says to them that in the workplace they cannot make distinctions based on sexual orientation, no matter how compelling.

Mr. President, I have heard it said on this floor that ENDA is necessary to guarantee to homosexuals and bisexuals the equal protection of the laws. That is not true.

The Constitution of the United States guarantees to every person the equal protection of the laws.

Our colleagues know, for example, that under Federal employment laws as now written every heterosexual, homosexual, or bisexual person is treated equally. Of course, Federal law does not prohibit discrimination on the basis of sexual orientation, so Government bureaucrats cannot forbid or require a particular result if ''sexual orientation'' should become an issue in the workplace, but each person has identical rights, whatever his or her sexual orientation.

I believe that ENDA is going to mean quotas. The sponsors don't think so, and they point to Section 7 of the bill that says that an employer shall not give preferential treatment or establish a quota based on sexual orientation.

Of course, there were many people who thought that the Civil Rights Act of 1964 also prohibited quotas and preferential treatment. History has shown that view to be naive. Today, quotas and preferential treatment are a red-hot issue all across the country—but they are opposed by the vast, vast majority of the American people.

I would remind Senators that ENDA gives to the EEOC—in §11(a)(1)—the Attorney General—in §11(a)(4)—and the Federal courts—in §11(a)(5)—the same powers they have with respect to race and sex discrimination under current law—see §11(b). All of the powers of the EEOC and the courts will be brought to bear against the employer who believes that sexual orientation cannot be ignored in his workplace.

There are a hundred traps for every covered employer. For example, if ENDA is enacted 42 U.S.C. 2000e–2(m) will make it an ''an unlawful employment practice'' if sexual orientation ''was a motivating factor for any employment practice, even though other factors also motivated the practice.''

Mr. President, ENDA is a power grab, and it is exactly the kind of inside-the-Beltway power grab that Americans have come to resent.

ENDA threatens to make sexuality an issue where it has never been an issue before. Currently, most employers don't know about their employees' sexual orientation and don't care. ENDA will help put an end to that. Some employers do care, and ENDA will put an end to that, too. ENDA is about sexuality, but it is not about privacy. ENDA is about going public.

Mr. President, I have heard it said on this floor that 80 percent of the American people support this bill. This is not true.

The claim seems to be based on a poll taken by Newsweek magazine: In that poll, conducted in May of this year, 84 percent of the Newsweek respondents did say there should be ''equal rights for gays in terms of job opportunities''—but that doesn't mean 84 percent of Americans want a new Federal mandate. In fact, that very same poll shows that they don't.

When asked about the effort the country has already made ''to protect the rights of gays and lesbians,'' 26 percent said the country had made the right amount of effort, 27 percent said more effort is needed, but 40 percent said the effort had gone too far.

When asked specifically if there should be ''special legislation to guarantee equal rights for gays,'' 41 percent agreed that there should be such legislation but 52 percent said there should not be such legislation. In sum, Americans favor fairness but they oppose the heavy hand of government which is what ENDA represents.

Mr. President, ENDA equates homosexuality and bisexuality with heterosexuality, but the American people have never regarded homosexuality or bisexuality as the moral or legal equivalent of heterosexuality, whether in the workplace or not.

ENDA for bids discrimination ''on the basis of sexual orientation'' which it defines to mean ''homosexuality, bisexuality, or heterosexuality, whether such orientation is real or perceived.'' Frankly, no one knows what those words mean or how they will be applied in many real-life situations.

There is much more that ought to be said, Mr. President, but let me conclude with this.

Just 3 years ago yesterday, the Senate voted 63 to 33 for a compromise policy on homosexuals in the military. With that vote and later votes and the President's signature, the laws of the United States states that homosexuality was relevant to service in the Armed Forces of the United States, and that open homosexuality was disqualifying.

Today, we will vote on ENDA, a bill that will tell every employer in America that homosexuality and bisexuality must at all times and in all workplaces be irrelevant. Can the Senate truly believe that homosexuality can be relevant in the military services but must be irrelevant in the thousands of private workplaces that will be covered by ENDA?

The Congress and the President have told the Pentagon that homosexuality is contrary to good order and discipline—is it now going to tell every private employer in America that, regardless of his or her own moral judgment, homosexuality and bisexuality are just another orientation that Congress has decreed to be irrelevant?

Mr. President, are we prepared to levy fines on a school district that uses a policy that looks very much like the military's ''don't ask, don't tell''? Are we prepared to force the American people into a policy that holds sexual orientation irrelevant in every workplace except the church and the military? What are we going to say to the small business owner who wants to know why he, a private citizen with strong moral views, doesn't have at least as much freedom to choose employees as a Navy recruiter?

ENDA is a radical step, and it is a step in the wrong direction. It should be defeated.

Mr. President, I ask unanimous consent several letters urging opposition to this bill be printed in the RECORD.

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

U.S. CHAMBER OF COMMERCE,
Washington, DC, September 10, 1996.

MEMBERS OF THE U.S. SENATE: The Senate will soon consider the Employment Non-discrimination Act (ENDA), S. 2056. On behalf of our membership of over 215,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 76 American chambers of commerce abroad, I am writing to urge you to vote against this bill.

S. 2056 amends Title VII of the 1964 Civil Rights Act to allow lawsuits against employers, for compensatory and punitive damages, based on an individual's actual or perceived sexual orientation. Notwithstanding our concerns regarding the specifics of S. 2056, a significant addition of this nature to our basic laws against employment discrimination should be thoroughly deliberated and vented through our legislative process. Thus, the measure should be the subject of hearings and careful consideration by the appropriate committees. ENDA has not been considered by the Labor and Human Resources Committee nor any other committee in the 104th Congress. To pass this bill without thorough consideration by the appropriate committees would be, at best, manifestly unfair to American employers as well as all of the citizens who would be affected by such sweeping legislation.

The Senate should not hastily pass this legislation without first thoroughly considering all of its advantages and disadvantages. We urge you to vote against ENDA and send it to the appropriate committees for careful consideration.

Sincerely,

R. BRUCE JOSTEN.
Senior Vice President,
Membership Policy Group.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, DC, September 10, 1996.

Hon. DON NICKLES,
Senate Hart Office,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the NAM's 14,000 member companies, 10,000 of which employ 500 or fewer workers, I urge your opposition to the Employment Non-Discrimination Act (ENDA), S. 2056.

This measure is an unwarranted and unwise extension of Title VII of the Civil Rights Act. Expanding Title VII is a significant legislative initiative that should not be undertaken without the careful consideration afforded by the committee process. The ENDA has not been the subject of any hearings in the Labor and Human Resources Committee, nor has it been considered by any committee in the 104th Congress. Surely an initiative that would have such far-reaching consequences for individual privacy

rights, employment policies and employers, rights should have the benefit of full congressional consideration.

Expanding the reach of Title VII would not only increase an already daunting case load at the EEOC (which currently has significant backlogs due to enforcement authority for the Americans With Disabilities Act), but would dramatically increase record-keeping requirements for most employers. The burden of federal recordkeeping requirements falls disproportionately on smaller companies. It is these same companies that continue to generate the greatest number of new jobs and growth in our economy.

I urge you to reject the efforts of the ENDA backers to short-circuit the legislative process, and vote against S. 2056.

Sincerely,

SHARON F. CANNER,
Vice President,
Human Resources Policy.

BUSINESS LEADERSHIP COUNCIL,
Washington, DC, September 10, 1996.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the Business Leadership Council I am writing to express strong opposition to S. 2056, the so-called ''Employment Nondiscrimination Act.''

At a time when Congress and the Nation should be working toward cooperation in the workplace, this measure once again revives the failed agenda of confrontation, regulation, and litigation. This bill would expand Title VII of the Civil Rights Act to include and amorphous category based on sexual orientation. As a result the legislation threatens to embroil virtually every workplace in politically and socially motivated controversies which will cost jobs for thousands of workers.

We hail your leadership in opposing this dangerous and costly piece of legislation and will work vigorously to ensure its defeat.

Very truly yours,

DAVID L. THOMPSON.

SMALL BUSINESS
SURVIVAL COMMITTEE,
Washington, DC, September 10, 1996.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: On behalf of the 45,000 members of the Small Business Survival Committee, I urge the defeat of the Employment Nondiscrimination Act, S. 2056. Unlike other protected classes under Title VII of the Civil Rights Act of 1964, sexual orientation is a private matter of choice and lifestyle. Federal workplace policy has not and should not intrude in this highly volatile area.

This radical piece of social legislation is anti-worker and anti-small business. There can be no doubt that the bill, if enacted, would result in excessive lawsuits, regulations and costs. As is typically the case with dictates and mandates, the brunt of the federal policy would fall on small businesses across the country. Every dollar spent defending against this ill-conceived measure would be money denied to workers in the form of raises and denied to small businesses to be used to create jobs.

We strongly oppose S. 2056. Thank you for your leadership against the bill.

Sincerely,

KAREN KERRIGAN,
President.

Mr. NICKLES. If the Senator yields back his time, I ask for the yeas and nays.

Mr. KENNEDY. Mr. President, I just want to take 30 seconds.

Mr. President, our friend from Rhode Island pointed out that Barry Goldwater supports this legislation. Coretta Scott King wrote to all of us. In the Coretta Scott King letter she says:

As my husband, Martin Luther King, Jr. said, ''Injustice anywhere is a threat to justice everywhere,'' and, ''I have fought too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible.''

Those are the words of Dr. Martin Luther King, Jr. They could be said again here on the floor of the U.S. Senate on this particular issue, because what it is all about is the questions of discrimination and bigotry in the workplace. Below the clock in this Senate are the words ''E pluribus unum,'' one out of many. Why do we not eliminate the discrimination that excludes so many of our fellow citizens and make them part of the one as well?

This legislation will help. I ask unanimous consent to have printed in the RECORD the letter from Coretta Scott King.

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

THE KING CENTER,
Atlanta, GA, September 10, 1996.

DEAR SENATOR: Ernest Dillon, an African-American postal employee in Detroit, worked hard and was good at his job. But that wasn't enough. Deciding he was gay, his co-workers repeatedly taunted him, until one day, while on the job they beat him unconscious. And the harassment did not end there. It continued unabated until he was forced out, fearing for his life.

Mr. Dillon sought relief—first from his employer, then from the courts. Tragically, both turned their backs on him. Had he been harassed for being black, federal civil rights law would have protected him. But job discrimination, and even serious harassment, based on sexual orientation is still perfectly legal in the United States of America in 1996. This is unjust, un-American, and intolerable.

Today, workplace discrimination against gay men and lesbians is real, widespread, and continues to cast a dark shadow on our ideals as a free and fair nation. To remedy this situation a bipartisan coalition in Congress introduced the Employment Non-Discrimination Act. This essential legislation will provide dedicated workers with long-overdue protection from irrational fear and unjust discrimination based on sexual orientation.

I am proud to join mayors, governors, religious leaders, CEOs, and the Leadership Conference on Civil Rights in support of this essential legislation. Lesbians and gay men are a productive part of the American workforce, but the gap in current law leaves them vulnerable to bigotry in the workplace. For too long, our nation has ignored discrimination against this group of Americans. They work hard, pay their taxes, and yet continue to be denied equal protection under the law. It is time for a change.

I am encouraged that in a recent Newsweek poll, 84 percent of the respondents favored protecting gay and lesbian people from job discrimination, and I am proud to stand with the overwhelming majority of Americans who recognize the importance of such protection.

The bill in Congress will grant the same rights to victims of discrimination based on sexual orientation that are now available to victims of racial, gender, and religious discrimination and those who have been unfairly treated in the workplace because of their age, ethnic background, or disability. The bill provides no preferential treatment or special rights. It simply requires that all people be judged by their skills and the quality of their work, and not by the prejudice, fear, and stereotypes of others. It is time to root out bias, whatever form it takes.

As my husband, Martin Luther King, Jr. said, ''Injustice anywhere is a threat to justice everywhere,'' and ''I have fought too long and hard against segregated public accommodations to end up segregating my moral concern. Justice is indivisible.''

Lesbians and gays supported the African American freedom struggle. None of us who achieved that freedom should turn our back on this next phase of the movement for freedom and dignity. Like Martin, I believe you cannot stand for freedom for one group of people, and deny it to others. As history affirms, none of us is free until all of us are free.

The Employment Non-Discrimination Act is a logical extension of the Bill of Rights and the civil rights reforms of the 1950s and 1960s. Then as now, we were told that employers were not prejudiced, but their workers and customers feared diversity. In the 1960s, businesses cited ''customer preference'' to rationalize their refusal to hire African Americans. We should learn from these mistakes and not repeat them.

The great promise of our democracy is that we encourage all people to reach their full potential, and provide protection against senseless discrimination and persecution. In doing so, we strengthen ourselves as a nation and all that America stands for.

Congress should help stop job discrimination by enacting the Employment Non-Discrimination Act. Fundamental principles of fairness and human dignity are at stake. All Americans who support real equality in the workplace should watch closely on Tuesday, September 10th as Senators cast their votes on this landmark legislation.

Sincerely,

CORETTA SCOTT KING.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back.

The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—49

Akaka	Feinstein	Mikulski
Baucus	Glenn	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Hatfield	Pell
Bradley	Hollings	Reid
Breaux	Inouye	Robb
Bryan	Jeffords	Rockefeller
Bumpers	Johnston	Sarbanes
Chafee	Kennedy	Simon
Cohen	Kerrey	Simpson
Conrad	Kerry	Snowe
D'Amato	Kohl	Specter
Daschle	Lautenberg	Wellstone
Dodd	Leahy	Wyden
Dorgan	Levin	
Feingold	Lieberman	

NAYS—50

Abraham	Frahm	Mack
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Brown	Grams	Nickles
Burns	Grassley	Nunn
Byrd	Gregg	Pressler
Campbell	Hatch	Roth
Coats	Heflin	Santorum
Cochran	Helms	Shelby
Coverdell	Hutchison	Smith
Craig	Inhofe	Stevens
DeWine	Kassebaum	Thomas
Domenici	Kempthorne	Thompson
Exon	Kyl	Thurmond
Faircloth	Lott	Warner
Ford	Lugar	

NOT VOTING—1

Pryor

The bill (S. 2056) was rejected.

Mr. GRAMM. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I voted against S. 2056, the Employment Nondiscrimination Act. I would like to take a few moments of the Senate's time to explain my opposition and concerns with respect to that legislation.

At the outset, however, I would first like to acknowledge the fact that I do not condone employment discrimination based on factors immaterial to the performance of one's duties. I do not practice it in my own office, nor am I aware of any other member of the Senate that does. And, as the proponents of S. 2056 have shown, many employers throughout this nation—both large and small—have adopted nondiscrimination provisions as part of their corporate policies. I applaud that effort.

But the fact that I do not approve of, or practice, employment discrimination does not mean that I believe it is wise for the Senate to pass this bill at this time. On the contrary, I think it is inadvisable, at this late stage of the 104th Congress, for us to shift our focus from the immediate tasks at hand to a matter that is clearly deserving of extended deliberation by way of committee hearings and floor debate.

Mr. President, in my opinion, the legal ramifications that could necessarily extend from enactment of this Act are monumental. I believe this is so because passage of the Act would, for the first time in our history, place sexual conduct on an equitable legal footing with such benign, nonbehavioral factors as race, gender, and national origin—immutable characteristics which each of us possess, but which none of us can alter.

It is my hope, then, that when the 105th Congress convenes next year, hearings may be held that will bring together various legal scholars who will concentrate on this important aspect, and in so doing help us, as Senators, in making a more informed decision.

Until such considerations and debate has taken place, I cannot, in all good conscience, support this measure.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. Under the previous order, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3756) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,900,000 for official travel expenses; not to exceed $150,000 for official reception and representation expenses; not to exceed $258,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; **[**$108,447,000**]** *$111,348,000*: *Provided,* That up to $500,000 shall be made available to implement section 528 of this Act.

AUTOMATION ENHANCEMENT

INCLUDING TRANSFER OF FUNDS

For the development and acquisition of automatic data processing equipment, software, and services for the Department of the Treasury, $27,100,000, of which $15,000,000 shall be available to the United States Customs Service for the Automated Commercial Environment project, and of which $5,600,000 shall be available to the **[**United States Customs Service**]** *Departmental offices* for the International Trade Data System: *Provided,* That these funds shall remain available until September 30, 1999: *Provided further,* That these funds shall be transferred to accounts and in amounts as necessary to satisfy the requirements of the Department's offices, bureaus, and other organizations: *Provided further,* That this transfer authority shall be in addition to any other transfer authority provided in this Act: *Provided further,* That none of the funds shall be used to support or supplement Internal Revenue Service appropriations for Information Systems and Tax Systems Modernization**[**: *Provided further,* That none of the funds available for the Automated Commercial Environment or the International Trade Data System may be obligated without the advance approval of the House and Senate Committees on Appropriations**]**.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, not to exceed $2,000,000 for official travel expenses; including hire of passenger motor vehicles; and not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $29,319,000 *$30,153,000.*

[OFFICE OF PROFESSIONAL RESPONSIBILITY

[SALARIES AND EXPENSES

[INCLUDING TRANSFER OF FUNDS

[For necessary expenses of the Office of Professional Responsibility, including purchase and hire of passenger motor vehicles, up to $3,000,000, to be derived through transfer from the United States Customs Service, salaries and expenses appropriation: *Provided,* That none of the funds shall be obligated without the advance approval of the House and Senate Committees on Appropriations.**]**

TREASURY BUILDINGS AND ANNEX REPAIR AND RESTORATION

INCLUDING TRANSFER OF FUNDS

For the repair, alteration, and improvement of the Treasury Building and Annex, **[**the Bureau of Alcohol, Tobacco and Firearms National Laboratory Center and the Fire Investigation Research and Development Center, and the Rowley Secret Service Training Center, $22,892,000**]** *$43,684,000,* to remain available until expended: *Provided,* That **[**funds for the Bureau of Alcohol, Tobacco and Firearms National Laboratory Center and the Fire Investigation Research and Development Center and the Rowley Secret Service Training Center shall not be available until a prospectus authorizing such facilities is approved by the House Committee on Transportation and Infrastructure: *Provided further,* That**]** funds previously made available under this title for the Secret Service Headquarter's building shall be transferred to the Secret Service Acquisition, Construction, Improvement and Related Expenses appropriation.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; travel expenses of non-Federal law enforcement personnel to attend meetings concerned with financial intelligence activities, law enforcement, and financial regulation; not to exceed $14,000 for official reception and representation expenses; and for assistance to Federal law enforcement agencies, with or without reimbursement; $22,387,000: *Provided,* That notwithstanding any other provision of law, the

Director of the Financial Crimes Enforcement Network may procure up to $500,000 in specialized, unique, or novel automatic data processing equipment, ancillary equipment, software, services, and related resources from commercial vendors without regard to otherwise applicable procurement laws and regulations and without full and open competition, utilizing procedures best suited under the circumstances of the procurement to efficiently fulfill the agency's requirements: *Provided further,* That funds appropriated in this account may be used to procure personal services contracts.

DEPARTMENT OF THE TREASURY FORFEITURE FUND

[For necessary expenses of the Treasury Forfeiture Fund, notwithstanding any other provision of law, not to exceed $7,500,000 shall be made available for the development of a Federal wireless communication system, to be derived from deposits in the Fund] *For necessary expenses of the Treasury Forfeiture Fund, as authorized by Public Law 102–393, not to exceed $10,000,000, to be derived from deposits in the fund*: *Provided,* That the Secretary of the Treasury is authorized to receive all unavailable collections transferred from the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509) by the Director of the Office of Drug Control Policy as a deposit into the Treasury Forfeiture Fund (31 U.S.C. 9703(a)).

VIOLENT CRIME REDUCTION PROGRAMS

INCLUDING TRANSFER OF FUNDS

For activities authorized by Public Law 103–322, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as follows:

(a) As authorized by section 190001(e), [$89,800,000] *$112,000,000,* of which [$15,005,000] *$38,900,000* shall be available to the United States Customs Service; of which [$47,624,000] *$31,450,000* shall be available to the Bureau of Alcohol, Tobacco and Firearms, of which [$2,500,000] *$3,000,000* shall be available for administering the Gang Resistance Education and Training program, of which [$3,662,000] *$4,150,000* shall be available for ballistics technologies, *including the purchase, maintenance and upgrading of equipment* and of which [$41,462,000] *$29,500,000* shall be available to enhance training and purchase equipment and services; [of which $5,971,000 shall be available to the Secretary as authorized by section 732 of Public Law 104–132;] of which $1,000,000 shall be available to the Financial Crimes Enforcement Network; of which [$20,200,000] *$24,500,000* shall be available to the United States Secret Service, of which no less than $1,000,000 shall be available for a grant for activities related to the investigations of missing and exploited children*; of which $3,150,000 shall be available to the Federal Law Enforcement Training Center until expended; and of which $13,000,000 shall be available to the Federal Drug Control Programs, High Intensity Drug Trafficking Areas program only if additional areas are designated and consultation has been completed with the Committees on Appropriation*.

(b) As authorized by section 32401, [$7,200,000] *$8,000,000,* for disbursement through grants, cooperative agreements or contracts, to local governments for Gang Resistance Education and Training: *Provided,* That notwithstanding sections 32401 and 310001, such funds shall be allocated only to the affected State and local law enforcement and prevention organizations participating in such projects.

TREASURY FRANCHISE FUND

There is hereby established in the Treasury a franchise fund pilot, as authorized by section 403 of Public Law 103–356, to be available as provided in such section for expenses and equipment necessary for the maintenance and operation of such financial and administrative support services as the Secretary determines may be performed more advantageously as central services: *Provided,* That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made for the purpose of providing capital, shall be used to capitalize such fund: *Provided further,* That such fund shall be reimbursed or credited with the payments, including advanced payments, from applicable appropriations and funds available to the Department and other Federal agencies for which such administrative and financial services are performed, at rates which will recover all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automatic Data Processing (ADP) software and systems, and an amount necessary to maintain a reasonable operating reserve, as determined by the Secretary: *Provided further,* That such fund shall provide services on a competitive basis: *Provided further,* That an amount not to exceed 4 percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each fiscal year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of Treasury financial management, ADP, and other support systems: *Provided further,* That no later than 30 days after the end of each fiscal year, amounts in excess of this reserve limitation shall be deposited as miscellaneous receipts in the Treasury: *Provided further,* That such franchise fund pilot shall terminate pursuant to section 403(f) of Public Law 103–356.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including materials and support costs of Federal law enforcement basic training; purchase (not to exceed 52 for police-type use, without regard to the general purchase price limitation) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $9,500 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109; [$51,681,000] *$52,242,000,* of which [$9,423,000] *$9,884,000* for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 1999: *Provided,* That the Center is authorized to accept and use gifts of property, both real and personal, and to accept services, for authorized purposes, including funding of a gift of intrinsic value which shall be awarded annually by the Director of the Center to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, which shall be funded only by gifts received through the Center's gift authority: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy[: *Provided further,* That funds appropriated in this account shall be available for training United States Postal Service law enforcement personnel and Postal police officers, at the discretion of the Director; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training at the Center]*: Provided further, That funds appropriated in this account shall be available, at the discretion of the Director, for: training United States Postal Service law enforcement personnel and Postal police officers; State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; and travel expenses of non-Federal personnel to attend course development meetings and training at the Center*: *Provided further,* That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training at the Federal Law Enforcement Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further,* That the Federal Law Enforcement Training Center is authorized to provide short term medical services for students undergoing training at the Center.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, [$18,884,000] *$19,884,000,* to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, [$191,799,000] *$196,338,000,* of which not to exceed $14,277,000 shall remain available until expended for systems modernization initiatives. In addition, $90,000, to be derived from the Oil Spill Liability Trust Fund, to reimburse the Service for administrative and personnel expenses for financial management of the Fund, as authorized by section 1012 of Public Law 101–380: *Provided,* That none of the funds made available for systems modernization initiatives may not be obligated until the Commissioner of the Financial Management Service has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed 650 vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment

to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $12,500 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement, including training in connection with the training and acquisition of canines for explosives and fire accelerants detection; provision of laboratory assistance to State and local agencies, with or without reimbursement; [$389,982,000] *$395,597,000*, of which $12,011,000, to remain available until expended, shall be available for arson investigations, with priority assigned to any [arson involving] *arson, explosion or violence against* religious institutions; which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided*, That no funds made available by this or any other Act may be used to transfer the functions, missions, or activities of the Bureau of Alcohol, Tobacco and Firearms to other agencies or Departments in the fiscal year ending on September 30, 1997: *Provided further*, That no funds appropriated herein shall be available for salaries or administrative expenses in connection with consolidating or centralizing, within the Department of the Treasury, the records, or any portion thereof, of acquisition and disposition of firearms maintained by Federal firearms licensees: *Provided further*, That no funds appropriated herein shall be used to pay administrative expenses or the compensation of any officer or employee of the United States to implement an amendment or amendments to 27 CFR 178.118 or to change the definition of ''Curios or relics'' in 27 CFR 178.11 or remove any item from ATF Publication 5300.11 as it existed on January 1, 1994: *Provided further*, That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c) [and the inability of the Bureau of Alcohol, Tobacco and Firearms to process or act upon such applications for felons convicted of a violent crime, firearms violations, or drug-related crimes shall not be subject to judicial review]: *Provided further*, That such funds shall be available to investigate and act upon applications filed by corporations for relief from Federal firearms disabilities under 18 U.S.C. 925(c)[: *Provided further*, That no funds in this Act may be used to provide ballistics imaging equipment to State or local authorities who have obtained similar equipment through a Federal grant or subsidy]: *Provided further*, That, notwithstanding any other provision of law, all aircraft *and spare parts* owned and operated by the Bureau of Alcohol, Tobacco and Firearms shall be transferred to the United States Customs Service[: *Provided further*, That no funds under this heading shall be available to conduct a reduction in force]: *Provided further*, That no funds available for separation incentive payments as authorized by section 525 of this Act may be obligated without the advance approval of the House and Senate Committees on Appropriations: *Provided further*, That no funds under this Act may be used to electronically retrieve information gathered pursuant to 18 U.S.C. 923(g)(4) by name or any personal identification code.

LABORATORY FACILITIES

For necessary expenses for design of a new facility or facilities, to house the Bureau of Alcohol, Tobacco and Firearms National Laboratory Center and the Fire Investigation Research and Development Center, not to exceed 185,000 occupiable square feet, $6,978,000, to remain available until expended: Provided, That these funds shall not be available until a prospectus of authorization for the Laboratory Facilities is approved by the House Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

INCLUDING TRANSFER OF FUNDS

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; contracting with individuals for personal services abroad; not to exceed [$20,000] *$30,000* for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; [$1,489,224,000 (increased by $500,000) (reduced by $500,000) (reduced by $2,000,000); of which $65,000,000 shall be available until expended for Operation Hardline; of which $28,000,000 shall be available until expended for expenses associated with Operation Gateway; of which up to $3,000,000 shall be available for transfer to the Office of Professional Responsibility] *$1,421,543,000*; and of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000 shall be available until expended for research and not to exceed $1,000,000 shall be available until expended for conducting special operations pursuant to 19 U.S.C. 2081 and up to $6,000,000 shall be available until expended for the procurement of automation infrastructure items, including hardware, software, and installation: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year[: *Provided further*, That the United States Custom Service shall implement the General Aviation Telephonic Entry program within 30 days of enactment of this Act: *Provided further*, That no funds under this heading shall be available to conduct a reduction in force: *Provided further*, That no funds available for separation incentive payments as authorized by section 525 of this Act may be obligated without the advance approval of the House and Senate Committees on Appropriations]: *Provided further*, That the Spirit of St. Louis Airport in St. Louis County, Missouri, shall be designated a port of entry[: *Provided further*, That no funds under this Act may be used to provide less than 30 days public notice for any change in apparel regulations]*: Provided further, That $750,000 shall be available for additional part-time and temporary positions in the Honolulu Customs District.*

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include: the interdiction of narcotics and other goods; the provision of support to Customs and other Federal, State, and local agencies in the enforcement or administration of laws enforced by the Customs Service; and, at the discretion of the Commissioner of Customs, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts; $83,363,000, which shall remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft which is one of a kind and has been identified as excess to Customs requirements and aircraft which has been damaged beyond repair, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury, during fiscal year 1997 without the prior approval of the House and Senate Committees on Appropriations.

AIR INTERDICTION PROCUREMENT

For the purchase and restoration of aircraft, marine vessels and air surveillance equipment for the Customs air and marine interdiction programs, [$28,000,000] *$45,000,000*: *Provided*, That such resources shall not be available until September 30, 1997, and shall remain available until expended.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary pursuant to section 236 of Public Law 98–573 for each of these airports or other facilities when authorized by law and designated by the Secretary, and to remain available until expended.

HARBOR MAINTENANCE FEE COLLECTION

For administrative expenses related to the collection of the Harbor Maintenance Fee, pursuant to Public Law 103–182, $3,000,000, to be derived from the Harbor Maintenance Trust Fund and to be transferred to and merged with the Customs ''Salaries and Expenses'' account for such purposes.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $169,735,000: *Provided*, That the sum appropriated herein from the General Fund for fiscal year 1997 shall be reduced by not more than $4,400,000 as definitive security issue fees and Treasury Direct Investor Account Maintenance fees are collected, so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at $165,335,000.

INTERNAL REVENUE SERVICE

PROCESSING, ASSISTANCE, AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; providing assistance to taxpayers, management services, and inspection; including purchase (not to exceed 150 for replacement only for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$1,722,985,000] *$1,728,840,000*, of which up to $3,700,000 shall be for the Tax Counseling for the Elderly

Program, and of which not to exceed $25,000 shall be for official reception and representation expenses.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; statistics of income and compliance research; the purchase (for police-type use, not to exceed 850), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$4,052,586,000,] $4,085,355,000, *of which not to exceed $1,000,000 shall remain available until September 30, 1999 for research*.

INFORMATION SYSTEMS

INCLUDING TRANSFER OF FUNDS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including tax systems modernization (modernized developmental systems), modernized operational systems, services and compliance, and support systems; the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$1,077,450,000] *$1,240,473,000*, of which [$424,500,000] *$402,473,000* shall be available for tax systems modernization program activities: *Provided*, That *of the funds appropriated for non-Tax Systems Modernization, $200,000,000, and $66,000,000 of the funds appropriated for Tax Systems Modernization may not be obligated until the Secretary of the Treasury consults with the Committees on Appropriations and provides criteria explaining the needs and priorities of the respective programs, as well as, the deficiencies identified by the General Accounting Office: Provided further, That* [none of the funds made available for tax systems modernization shall be available until the Internal Revenue Service establishes a restructured contractual relationship with a commercial sector company] to manage, integrate, test, and implement all portions of the tax systems modernization program, except that funds up to $59,100,000 may be used to support a Government Program Management Office, [not to exceed a total staffing of 50 individuals,] and other necessary Program Management activities *to include support from the Internal Revenue Service's Integration Support Contractor and Federal Research and Development Center*: *Provided further*, That none of the funds made available for tax systems modernization may be used by the Internal Revenue Service to carry out activities associated with the development of a request for proposal and contract award, *with a commercial sector company to manage, integrate, test and implement all portions of the tax systems modernization program without the approval of the Department of the Treasury's Modernization Management Board which shall assure that an adequate planning and business case analysis has been conducted and that the General Accounting Office's ''Best Practices'' for strategic information management have been followed except that funds shall be available for activities related to submission to and review by the Department's Modernization Management Board* [except that funds shall be available for the sharing of data and information and general oversight of the process by the Associate Commissioner of the Internal Revenue Service for Modernization, and such funds as may be necessary shall be transferred to the Department of Defense which will conduct all technical activities associated with the development of a request for proposal and contract award]: *Provided further*, That none of these funds may be used to support in excess of 150 full-time equivalent positions in support of tax systems modernization*: Provided further, That funds up to $2,000,000 may be used to support the Department's Modernization Management Board*: *Provided further*, That these funds shall remain available until September 30, 1999.

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading for [Tax Systems Modernization] *Information Systems* in Public Law 104–52, [$100,000,000] *$120,000,000* are rescinded, in Public Law 103–329, [$51,685,000] *$45,000,000* are rescinded, in Public Law 102–393, $2,421,000 are rescinded, and in Public Law 102–141, [$20,341,000] *$7,026,000* are rescinded.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 101. Not to exceed 5 percent of any appropriation made available in this Act to the Internal Revenue Service may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 102. The Internal Revenue Service shall maintain a training program to insure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations.

[SEC. 103. The funds provided in this Act for the Internal Revenue Service shall be used to provide as a minimum, the fiscal year 1995 level of service, staffing, and funding for Taxpayer Services.

[SEC. 104. No funds available in this Act to the Internal Revenue Service for separation incentive payments as authorized by section 525 of this Act may be obligated without the advance approval of the House and Senate Committees on Appropriations.

[SEC. 105. The Internal Revenue Service shall contract with an independent accounting firm to determine the revenue losses (if any) which would result from implementing H.R. 2450, as introduced in the 104th Congress.]

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed 702 vehicles for police-type use, of which 665 shall be for replacement only), and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $20,000 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That 3 U.S.C. 203(a) is amended by deleting ''but not exceeding twelve hundred in number''; [$528,368,000] *$519,265,000*, of which $1,200,000 shall be available as a grant for activities related to the investigations of missing and exploited children[: *Provided further*, That resources made available as a grant for activities related to the investigations of missing and exploited children shall not be available until September 30, 1997, and shall remain available until expended].

ACQUISITION, CONSTRUCTION, IMPROVEMENT, AND RELATED EXPENSES

For necessary expenses of construction, repair, alteration, and improvement of facilities, [$31,298,000] *$29,165,000*, to remain available until expended: *Provided*, That funds previously provided under the title, ''Treasury Buildings and Annex Repair and Restoration,'' for the Secret Service's Headquarters Building, shall be transferred to this account.

GENERAL PROVISIONS—DEPARTMENT OF THE TREASURY

SECTION 111. Any obligation or expenditure by the Secretary in connection with law enforcement activities of a Federal agency or a Department of the Treasury law enforcement organization in accordance with 31 U.S.C. 9703(g)(4)(B) from unobligated balances remaining in the Fund on September 30, 1997, shall be made in compliance with the reprogramming guidelines contained in the House and Senate reports accompanying this Act.

SEC. 112. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitations for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 113. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1986 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection, including any private sector employees under contract to the Internal Revenue Service, compiles with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 114. The Internal Revenue Service shall institute policies and procedures which will safeguard the confidentiality of taxpayer information.

SEC. 115. The funds provided to the Bureau of Alcohol Tobacco and Firearms for fiscal year 1997 in this Act for the enforcement of the Federal Alcohol Administration Act shall be expended in a manner so as not to diminish enforcement efforts with respect to section 105 of the Federal Alcohol Administration Act.

[SEC. 116. Paragraph (3)(C) of section 9703(g) of title 31, United States Code, is amended—

[(1) by striking in the third sentence ''and at the end of each fiscal year thereafter'';

[(2) by inserting in lieu thereof ''1994, 1995, and 1996''; and

[(3) by adding at the end the following new sentence: ''At the end of fiscal year 1997, and at the end of each fiscal year thereafter, the Secretary shall reserve any amounts that are required to be retained in the Fund to ensure the availability of amounts in the subsequent fiscal year for purposes authorized under subsection (a).'']

SEC. 117. Of the funds available to the Internal Revenue Service, $13,000,000 shall be made available to continue the private sector debt collection program which was initiated in fiscal year 1996 and $13,000,000 shall be transferred to the Departmental Offices appropriation to initiate a new private sector debt collection program: *Provided*, That the transfer provided herein shall be in addition to any other transfer authority contained in this Act.

[PRIORITY PLACEMENT, JOB PLACEMENT, RETRAINING, AND COUNSELING PROGRAMS FOR U.S. TREASURY DEPARTMENT EMPLOYEES AFFECTED BY A REDUCTION IN FORCE

[SEC. 118. (a) DEFINITIONS.—

[(1) For the purposes of this section, the term ''agency'' means the United States Department of the Treasury.

[(2) For the purposes of this section, the term ''eligible employee'' means any employee of the agency who—

[(A) is scheduled to be separated from service due to a reduction in force under—

[(i) regulations prescribed under section 3502 of title 5, United States Code; or

[(ii) procedures established under section 3595 of title 5, United States Code; or

[(B) is separated from service due to such a reduction in force, but does not include—

[(i) an employee separated from service for cause on charges of misconduct or delinquency; or

[(ii) an employee who, at the time of separation, meets the age and service requirements for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code.

[(b) PRIORITY PLACEMENT PROGRAM.—Not later than 30 days after the date of the enactment of this Act, the U.S. Department of the Treasury shall establish a priority placement program for eligible employees.

[(c) The priority placement program established under subsection (b) shall include provisions under which a vacant position shall not be filled by the appointment or transfer of any individual from outside of the agency if—

[(1) there is then available any eligible employee who applies for the position within 30 days of the agency issuing a job announcement and is qualified (or can be trained or retrained to become qualified within 90 days of assuming the position) for the position; and

[(2) the position is within the same commuting area as the eligible employee's last-held position or residence.

[(d) JOB PLACEMENT AND COUNSELING SERVICES.—The head of the agency may establish a program to provide job placement and counseling services to eligible employees and their families.

[(1) TYPES OF SERVICES.—A program established under subsection (d) may include, is not limited to, such services as—

[(A) career and personal counseling;

[(B) training and job search skills; and

[(C) job placement assistance, including assistance provided through cooperative arrangements with State and local employment services offices.

[(e) REFERRAL OF ELIGIBLE EMPLOYEES TO PRIVATE SECTOR CONTRACTORS.—Any contract related to the Internal Revenue Services' Tax Systems Modernization program shall contain a provision requiring that the contractor, in hiring employees for the performance of the contract, shall obtain referrals of eligible employees, who consent to such referral, from the priority placement or job placement programs established under this section.]

SEC. 119. Section 923(j) of title 18, U.S.C., is amended by striking the period after the last sentence, and inserting the following: '', including the right of a licensee to conduct 'curios or relics' firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.''.

This title may be cited as the ''Treasury Department Appropriations Act, 1997''.

TITLE II—POSTAL SERVICE

PAYMENTS TO THE POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsections (c) and (d) of section 2401 of title 39, United States Code, [$85,080,000] *$90,433,000*: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That 6-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1997.

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

COMPENSATION OF THE PRESIDENT AND THE WHITE HOUSE OFFICE

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102, $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31, United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $19,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $40,193,000: *Provided*, That $420,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President, $7,827,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

SPECIAL ASSISTANCE TO THE PRESIDENT AND THE OFFICIAL RESIDENCE OF THE VICE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,280,000: *Provided*, That $150,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $324,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities: *Provided further*, That $8,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted for approval to the Committees on Appropriations of the House and Senate a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021), $3,439,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,867,000: *Provided*, That $45,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates,

and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109, $6,648,000: *Provided,* That $3,000 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration, $26,100,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles: *Provided,* That $340,700 of the funds appropriated may not be obligated until the Director of the Office of Administration has submitted, and the Committees on Appropriations of the House and Senate have approved, a report that identifies, evaluates, and prioritizes all computer systems investments planned for fiscal year 1997, a milestone schedule for the development and implementation of all projects included in the systems investment plan, and a systems architecture plan.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, $55,573,000, of which not to exceed $5,000,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the House and Senate Committees on Appropriations or the House and Senate Committees on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the House and Senate Committees on Appropriations or the House and Senate Committees on Veterans' Affairs.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; and for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $34,838,000, of which $18,000,000 shall remain available until expended, consisting of $1,000,000 for policy research and evaluation and $17,000,000 for the Counter-Drug Technology Assessment Center for counternarcotics research and development projects [of which $1,000,000 shall be obligated for State conferences on model State drug laws]: *Provided,* That the $17,000,000 for the Counter-Drug Technology Assessment Center shall be available for transfer to other Federal departments or agencies: *Provided further,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office[: *Provided further,* That $2,500,000 of the funds available for the salaries and expenses of the Office of National Drug Control Policy may not be obligated until the Director reaches agreement with the House and Senate Committees on Appropriations on a final fiscal year 1997 organizational plan]: *Provided further,* That the Secretary of the Treasury is authorized to receive all unavailable collections transferred from the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509) by the Director of the Office of Drug Control Policy as a deposit into the Treasury Forfeiture Fund (31 U.S.C. 9703(a)).

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

FEDERAL DRUG CONTROL PROGRAMS

HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy's High Intensity Drug Trafficking Areas Program, [$113,000,000] *$103,000,000* for drug control activities consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas, [of which $3,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area in Lake County, Indiana; of which $2,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area for the Gulf Coast States of Louisiana, Alabama, and Mississippi; of which $5,000,000 shall be used for a newly designated High Intensity Drug Trafficking Area dedicated to combating methamphetamine use, production and trafficking in a five State area including Iowa, Missouri, Nebraska, South Dakota, and Kansas;] of which no less than [$59,000,000] *$52,000,000* shall be transferred to State and local entities for drug control activities; and of which up to [$54,000,000] *$51,000,000* may be transferred to Federal agencies and departments at a rate to be determined by the Director: *Provided,* That the funds made available under this head shall be obligated within 90 days of the date of enactment of this Act.

This title may be cited as the ''Executive Office Appropriations Act, 1997''.

TITLE IV—INDEPENDENT AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28; $1,800,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, [$27,524,000] *$28,700,000,* [of which no less than $2,500,000 shall be available for internal automated data processing systems, and] of which not to exceed $5,000 shall be available for reception and representation expenses.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $21,588,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109: *Provided further,* That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants at labor-management relations conferences shall be credited to and merged with this account, to be available without further appropriation for the costs of carrying out these conferences.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), [$209,193,000] *$257,162,000,* to be deposited into said Fund. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; acquisition of options to purchase buildings and sites; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of [$5,364,392,000] *$5,412,361,000,* of which (1) not to exceed [$540,000,000] *$657,724,000* shall remain available until expended for construction of additional projects at locations [as follows: Fresno, California, Federal Building and U.S. Courthouse; Denver, Colorado, U.S. Courthouse; District of Columbia, U.S. Courthouse Annex; Miami, Florida, U.S. Courthouse; Orlando, Florida, U.S. Courthouse; Covington, Kentucky, U.S. Courthouse; London, Kentucky, U.S. Courthouse; Babb, Montana, Piegan Border Station; Sweetgrass, Montana, Border Station; Las Vegas, Nevada, U.S. Courthouse; Brooklyn, New York, U.S. Courthouse; Cleveland, Ohio, U.S. Courthouse; Youngstown, Ohio, U.S. Courthouse;

Portland, Oregon, Consolidated Law Enforcement Federal Office Building; Erie, Pennsylvania, U.S. Courthouse; Philadelphia, Pennsylvania, Department of Veterans Affairs—Federal Complex, phase II; Columbia, South Carolina, U.S. Courthouse; Corpus Christi, Texas, U.S. Courthouse; Salt Lake City, Utah, Moss Courthouse Annex and Alteration; Blaine, Washington, U.S. Border Station; Oroville, Washington, U.S. Border Station; Seattle, Washington, U.S. Courthouse; and, Sumas, Washington, U.S. Border Station, (Claim): *Provided,* That the total cost of the immediately foregoing United States Courthouse or United States Courthouse annex construction projects shall be reduced by no less than 10 percent from the prospectus level estimate by improving design efficiencies, curtailing planned interior finishes requiring more efficient use of courtroom and library space, and by otherwise limiting space requirements: *Provided further,* That each of the immediately foregoing construction projects may not exceed the original authorized level for site acquisition, design, or construction, unless advanced approval is obtained from the House and Senate Committees on Appropriations: *Provided further,* That from funds available in the Federal Buildings Fund, $20,000,000 shall be available until expended for environmental clean up activities at the Southeast Federal Center in the District of Columbia] *and at maximum construction improvement costs (including funds for sites and expenses and associated design and construction services) as follows:*

New Construction:

District of Columbia:

Southeast Federal Center Site Preparation, $20,000,000

Maryland:

Montgomery and Prince Georges Counties—Food and Drug Administration Consolidation, $13,000,000

Montana:

Babb, Piegan Border Station, $333,000

Sweetgrass, Border Station, $1,066,000

Nevada:

Las Vegas, U.S. Courthouse, $96,011,000

New York:

Brooklyn, U.S. Courthouse, $187,179,000

Ohio:

Cleveland, U.S. Courthouse, $142,291,000

Oregon:

Portland, Consolidated Law Federal Office Building, $86,000,000

Pennsylvania:

Philadelphia, Department of Veterans Affairs—Federal Complex, phase II, $15,156,000

Texas:

Corpus Christi, U.S. Courthouse, $26,610,000

Washington:

Blaine, U.S. Border Station, $15,419,000

Oroville, U.S. Border Station, $1,483,000

Seattle, U.S. Courthouse, $17,740,000

Sumas, U.S. Border Station, (Claim), $1,177,000

Nationwide:

Security Enhancements, various buildings, $24,259,000

Non-prospectus Projects Program, $10,000,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but not to exceed 10 per centum unless advanced approval is obtained from the House and Senate Committees on Appropriations of a greater amount: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1999, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $250,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; [(2) not to exceed $635,000,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services, as follows: District of Columbia, Ariel Rios Building; District of Columbia, Department of Justice Building (Main), phase, 1; District of Columbia, Layfayette Building; District of Columbia, State Department Building; Honolulu, Hawaii, Prince Jonah Kuhio Kalanianaole Federal Building and U.S. Courthouse; Chicago, Illinois, Everett M. Dirksen Federal Building; Chicago, Illinois, John C. Kluczynski, Jr. Federal Building (IRS); Andover, Massachusetts, IRS Regional Service Center; Concord, New Hampshire, J.C. Cleveland Federal Building; Camden, New Jersey, U.S. Post Office-Courthouse; Albany, New York, James T. Foley Post Office-Courthouse; Brookhaven, New York, IRS Service Center; New York, New York, Jacob K. Javits Federal Building; Scranton, Pennsylvania, Federal Building-U.S. Courthouse; Providence, Rhode Island, Federal Building-U.S. Courthouse; Fort Worth, Texas, Federal Center; Nationwide repairs and alterations: Security Upgrades; Chlorofluorocarbons Program; Elevator Program; and, Energy Program:] *(2) not to exceed $616,990,000 shall remain available until expended, for repairs and alterations which includes associated design and construction services: Provided further, That the amounts provided in this or any prior Act for Repairs and Alterations may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: Provided further, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:*

Repairs and alterations:

District of Columbia:

Ariel Rios Building, $62,740,000

Hawaii:

Honolulu, Prince Jonah Kuhio Kalanianaole Federal Building and U.S. Courthouse, $4,140,000

Illinois:

Chicago, Everett M. Dirksen Federal Building, $18,844,000

Chicago, John C. Kluczynski, Jr. Federal Building (IRS), $13,414,000

Louisiana:

New Orleans, Customhouse, $3,500,000

Massachusetts:

Andover, IRS Regional Service Center, $812,000

New Hampshire:

Concord, J.C. Cleveland Federal Building, $8,251,000

New Jersey:

Camden, U.S. Post Office-Courthouse $11,096,000

New York:

Albany, James T. Foley Post Office-Courthouse, $3,880,000

Brookhaven, IRS Service Center, $2,272,000

New York, Jacob K. Javits Federal Building, $13,651,000

Pennsylvania:

Scranton, Federal Building-U.S. Courthouse, $10,610,000

Rhode Island:

Providence, Federal Building-U.S. Courthouse, $8,209,000

Texas:

Fort Worth, Federal Center, $11,259,000

Nationwide:

Chlorofluorocarbons Program, $43,533,000

Elevator Program, $17,100,000

Energy Program, $20,000,000

Security Enhancements, various buildings, $2,686,000

Basic Repairs and Alterations, $360,000,000:

Provided further, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That the amounts provided in this or any prior Act for Repairs and Alterations may be used to fund costs associated with implementing security improvements to buildings necessary to meet the minimum standards for security in accordance with current law and in compliance with the reprogramming guidelines of the appropriate Committees of the House and Senate: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the originally authorized amount, except each project may be increased by an amount not to exceed 10 percent when advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount: *Provided further,* That the difference between the funds appropriated and expended on any projects in this or any prior Act, under the heading ''Repairs and Alterations'', may be transferred to Basic Repairs and Alterations or used to fund authorized increases in prospectus projects[: *Provided further,* That such sums as may be necessary shall be made available for ongoing renovation and consolidation efforts at the National Veterinary Services Laboratory and a biocontainment facility at the National Animal Disease Center, as directed in Public Law 104–52]: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1999, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That the amount provided in this or any prior Act for Basic Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading ''Repairs and Alterations'' or used to fund authorized increases in prospectus projects: *Provided further,* That $5,700,000 of the funds provided under this heading in Public Law 103–329, for the IRS Service Center, Holtsville, New York, shall be available until September 30, 1998; (3) not to exceed $173,075,000 for installment acquisition payments including payments on purchase contracts which shall remain available until expended*: Provided further, That up to $1,500,000 shall be available for a design prospectus of the Federal Building and U.S. Courthouse located at 811 Grand Avenue in Kansas City, Missouri*; [(4) not to exceed $3,903,205,000, to remain available until expended, for building operations, leasing activities, and rental of space, of which up to $205,000,000 shall be available for security enhancements;] *(4) not to exceed $2,343,795,000 for rental of space which shall remain available until expended; and (5) not to exceed $1,532,465,000 for building operations which shall remain available until expended* [and (5) not to exceed $4,800,000 for the development and acquisition of automatic data processing equipment, software, and services for the Public Buildings Service which shall remain available until September 30, 1999 for transfer to accounts and in

amounts as necessary to satisfy the requirements of the Public Buildings Service]: *Provided further,* That funds available to the General Services Administration shall not be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus*: Provided further, That funds provided in this Act under the heading ''Security Enhancements, various buildings'' may be used, by project in accordance with an approved prospectus*[*: Provided further,* That the Administrator is authorized in fiscal year 1997 and thereafter, to enter into and perform such leases, contracts, or other transactions with any agency or instrumentality of the United States, the several States, or the District of Columbia, or with any person, firm, association, or corporation, as may be necessary to implement the trade center plan at the Federal Triangle Project and is hereby granted all the rights and authorities of the former Pennsylvania Avenue Development Corporation (PADC) with regards to property transferred from PADC to the General Services Administration in fiscal year 1996: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings]: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1997, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of [$5,364,392,000] *$5,412,361,000* shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

POLICY AND OPERATIONS

For expenses authorized by law, not otherwise provided for, for Government-wide policy and oversight activities associated with asset management activities; utilization and donation of surplus personal property; transportation management activities; procurement and supply management activities; Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related technology activities; utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; agency-wide policy direction; Board of Contract Appeals; accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Federal Claims; services as authorized by 5 U.S.C. 3109; and not to exceed $5,000 for official reception and representation expenses; [$109,091,000] *$110,173,000.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, [$33,274,000] *$33,863,000*: *Provided,* That not to exceed $5,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138, $2,180,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the Presidential Transition Act of 1963, as amended (3 U.S.C. 102 note), $5,600,000.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

SECTION 401. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 402. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 403. Funds in the Federal Buildings Fund made available for fiscal year 1997 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements: *Provided,* That any proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 404. Section 10 of the General Services Administration General Provisions, Public Law 100–440, dated September 22, 1988, is hereby repealed.

SEC. 405. No funds made available by this Act shall be used to transmit a fiscal year 1998 request for United States Courthouse construction that does not meet the design guide standards for construction as established by the General Services [Administration,] *Administration and* the Judicial Conference of the United States[, and the Office of Management and Budget] and does not reflect the priorities of the Judicial Conference of the United States as set out in its approved 5-year construction plan: *Provided,* That the request must be accompanied by a standardized courtroom utilization study of each facility to be replaced or expanded.

[SEC. 406. None of the funds provided in this Act may be used to implement a plan for the Ronald Reagan Building (International Trade Center, Washington, D.C.) which would permit the Woodrow Wilson Center to pay the General Services Administration less than the rate per square foot assessment for space and services which is paid by other Federal entities.

[SEC. 407. None of the funds provided in this Act may be used to increase the amount of occupiable square feet, provide cleaning services, security enhancements, or any other service usually provided through the Federal Buildings Fund, to any agency which does not pay the requested rate per square foot assessment for space and services as determined by the General Services Administration in compliance with the Public Buildings Amendments Act of 1972 (Public Law 92–313).

[SEC. 408. The Administrator of the General Services is directed to ensure that the materials used for the facade on the United States Courthouse Annex, Savannah, Georgia project are compatible with the existing Savannah Federal Building-U.S. Courthouse fascade, in order to ensure compatibility of this new facility with the Savannah historic district and to ensure that the Annex will not endanger the National Landmark status of the Savannah historic district.]

SEC. 409. (a) Section 210 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490) is amended by adding at the end the following new subsection:

''(l)(1) The Administrator may establish, acquire space for, and equip flexiplace work telecommuting centers (in this subsection referred to as 'telecommuting centers') for use by employees of Federal agencies, State and local governments, and the private sector in accordance with this subsection.

''(2) The Administrator may make any telecommuting center available for use by individuals who are not Federal employees to the extent the center is not being fully utilized by Federal employees. The Administrator shall give Federal employees priority in using the telecommuting centers.

''(3)(A) The Administrator shall charge user fees for the use of any telecommuting center. The amount of the user fee shall approximate commercial charges for comparable space and services except that in no instance shall such fee be less than that necessary to pay the cost of establishing and operating the center, including the reasonable cost of renovation and replacement of furniture, fixtures, and equipment.

''(B) Amounts received by the Administrator after September 30, 1993, as user fees for use of any telecommuting center may be deposited into the Fund established under subsection (f) of this section and may be used by the Administrator to pay costs incurred in the establishment and operation of the center.

''(4) The Administrator may provide guidance, assistance, and oversight to any person regarding establishment and operation of alternative workplace arrangements, such as telecommuting, hoteling, virtual offices, and other distributive work arrangements.

''(5) In considering whether to acquire any space, quarters, buildings, or other facilities for use by employees of any executive agency, the head of that agency shall consider whether the need for the facilities can be met using alternative workplace arrangements referred to in paragraph (4).

(b) Section 13 of the Public Building Act of 1959, as amended, (107 Stat. 438; 40 U.S.C. 612) is amended—

(1) by striking ''(xi)'' and inserting in lieu thereof ''(xii)''; and

(2) by striking ''and (x)'' and inserting in lieu thereof ''(x) telecommuting centers and (xi)''.

SEC. 410. Section 6 of the General Services Administration General Provisions, Public Law 103–123, dated October 28, 1993, is hereby repealed.

SEC. 411. Notwithstanding any other provision of law, the Administrator of General Services is authorized and directed to acquire the land bounded by S.W. First Avenue, S.W. Second Avenue, S.W. Main Street, and S.W. Madison Street, Portland, Oregon, for the purposes of constructing the proposed Law Enforcement Center on the site.

JOHN F. KENNEDY ASSASSINATION RECORDS REVIEW BOARD

For necessary expenses to carry out the John F. Kennedy Assassination Records Collection Act of 1992, $2,150,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, [$23,297,000] *$24,549,000*, together with not to exceed $2,430,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with the administration of the National Archives (including the Information Security Oversight Office) and records and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, [$195,109,000] *$198,964,000*: *Provided*, That the Archivist of the United States is authorized to use any excess funds available from the amount borrowed for construction of the National Archives facility, for expenses necessary to move into the facility.

[NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[(RESCISSION)

[Of the funds made available under this heading in Public Law 104–52, $4,500,000 are rescinded.]

ARCHIVES FACILITIES AND PRESIDENTIAL LIBRARIES

REPAIRS AND RESTORATION

For the repair, alteration, and improvement of archives facilities and presidential libraries, [$9,500,000] *and to provide adequate storage for holdings, $18,229,000* to remain available until expended.

NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

GRANTS PROGRAM

For necessary expenses for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, [$4,000,000] *$5,000,000* to remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100–598, and the Ethics Reform Act of 1989, Public Law 101–194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $8,078,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109; medical examinations performed for veterans by private physicians on a fee basis; rental of conference rooms in the District of Columbia and elsewhere; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; and payment of per diem and/or subsistence allowances to employees where Voting Rights Act activities require an employee to remain overnight at his or her post of duty; [$86,576,000] *$87,076,000, of which not to exceed $1,000,000 shall be available for the establishment of health promotion and disease prevention programs for Federal employees*; and in addition [$93,486,000] *$94,736,000* for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of printing materials for annuitants, for the retirement and insurance programs, of which [$2,250,000] *$3,500,000* shall be transferred at such times as the Office of Personnel Management deems appropriate, and shall remain available until expended for the costs of automating the retirement recordkeeping systems, together with remaining amounts authorized in previous Acts for the recordkeeping systems: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further*, That, except as may be consistent with 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a–7–1320a–7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1997, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

GENERAL PROVISIONS—OFFICE OF PERSONNEL MANAGEMENT

SEC. 421. The first sentence of section 1304(e)(1) of title 5, United States Code, is amended by inserting after ''basis'' the following '', including personnel management services performed at the request of individual agencies (which would otherwise be the responsibility of such agencies), or at the request of nonappropriated fund instrumentalities''.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles, $960,000; and in addition, not to exceed $8,645,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided*, That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

REVOLVING FUND

For reducing any accumulated deficit in the accounts of the revolving fund established under 5 U.S.C. 1304(e), [$4,755,000] *$5,000,000*.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), the Whistleblower Protection Act of 1989 (Public Law 101–12), Public Law 103–424, and the Uniformed Services Employment and Reemployment Act of 1994 (Public Law 103–353), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; [$7,840,000] *$8,116,000*.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109, [$33,269,000] *$34,293,000*: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the ''Independent Agencies Appropriations Act, 1997''.

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those

contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

[SEC. 503. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any guard, elevator operator, messenger or custodial services if any permanent veterans preference employee of the General Services Administration at said date, would be terminated as a result of the procurement of such services, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92–28. Only if such workshops decline to contract for the provision of the covered services may the General Services Administration procure the services by competitive contract, for a period not to exceed 5 years. At such time as such competitive contract expires or is terminated for any reason, the General Services Administration shall again offer to contract for the services from a sheltered workshop prior to offering such services for competitive procurement.]

SEC. 504. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the Tariff Act of 1930.

SEC. 505. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, and Artesia, New Mexico, out of the Treasury Department.

SEC. 506. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 507. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1).

SEC. 508. The Office of Personnel Management may, during the fiscal year ending September 30, 1997, accept donations of supplies, services, land, and equipment for the Federal Executive Institute and Management Development Centers to assist in enhancing the quality of Federal management.

SEC. 509. The United States Secret Service may, during the fiscal year ending September 30, 1997, and hereafter, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 510. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within 90 days after his release from such service or from hospitalization continuing after discharge for a period of not more than 1 year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 511. None of the funds made available in this Act may be used to provide any nonpublic information such as mailing or telephone lists to any person or any organization outside of the Federal Government without the approval of the House and Senate Committees on Appropriations.

SEC. 512. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the ''Buy American Act'').

SEC. 513. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 514. If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 515. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 1997 from appropriations made available for salaries and expenses for fiscal year 1997 in this Act, shall remain available through September 30, 1998, for each such account for the purposes authorized: *Provided,* That a request shall be submitted to the House and Senate Committees on Appropriations for approval prior to the expenditure of such funds.

SEC. 516. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth in the budget estimates submitted for appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards in the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools separately set forth in the budget schedules*: Provided further, That this provision does not apply to accounts that do not contain an object identification for travel.*

SEC. 517. Notwithstanding any other provision of law or regulation during the fiscal year ending September 30, 1997, and thereafter:

(1) The authority of the special police officers of the Bureau of Engraving and Printing, in the Washington, DC Metropolitan area, extends to buildings and land under the custody and control of the Bureau; to buildings and land acquired by or for the Bureau through lease, unless otherwise provided by the acquisition agency; to the streets, sidewalks and open areas immediately adjacent to the Bureau along Wallenberg Place (15th Street) and 14th Street between Independence and Maine Avenues and C and D Streets between 12th and 14th Streets; to areas which include surrounding parking facilities used by Bureau employees, including the lots at 12th and C Streets, SW, Maine Avenue and Water Streets, SW, Maiden Lane, the Tidal Basin and East Potomac Park; to the protection in transit of United States securities, plates and dies used in the production of United States securities, or other products or implements of the Bureau of Engraving and Printing which the Director of that agency so designates.

(2) The authority of the special police officers of the United States Mint extends to the buildings and land under the custody and control of the Mint; to the streets, sidewalks and open areas in the vicinity to such facilities; to surrounding parking facilities used by Mint employees; and to the protection in transit of bullion, coins, dies, and other property and assets of, or in the custody of, the Mint.

(3) The exercise of police authority by Bureau or Mint officers, with the exception of the exercise of authority upon property under the custody and control of the Bureau or the Mint, respectively, shall be deemed supplementary to the Federal police force with primary jurisdictional responsibility. This authority shall be in addition to any other law enforcement authority which has been provided to these officers under other provisions of law or regulations.

[SEC. 518. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

[SEC. 519. The provision of section 518 shall not apply where the life of the mother would be endangered if the fetus were carried to term, or the pregnancy is the result of an act of rape or incest.]

SEC. 520. No part of any appropriation made available in this Act shall be used to implement Bureau of Alcohol, Tobacco and Firearms Ruling TD ATF–360; Re: Notice Nos. 782, 780, 91F009P.

[SEC. 521. Notwithstanding title 5, United States Code, Personal Service Contractors (PSC) employed by the Department of the Treasury for assignment in a country other

than the United States, shall be considered as Federal Government employees for purposes of making available Federal employee health and life insurance.

[SEC. 522. Section 5131 of title 31, United States Code, is amended by striking subsection (c); and by redesignating subsection (d) as subsection (c).]

SEC. 523. Section 5112(i)(4) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

''(C) The Secretary may continue to mint and issue coins in accordance with the specifications contained in paragraphs (7), (8), (9), and (10) of subsection (a) and paragraph (1)(A) of this subsection at the same time the Secretary in minting and issuing other bullion and proof gold coins under this subsection in accordance with such program procedures and coin specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time.'': *Provided*, That profits generated from the sale of gold to the United States Mint for this program shall be considered as a receipt to be deposited into the General Fund of the Treasury.

SEC. 524. Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(k) The Secretary may mint and issue bullion and proof platinum coins in accordance with such specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time.'': *Provided*, That the Secretary is authorized to use Government platinum reserves stockpiled at the United States Mint as working inventory and shall ensure that reserves utilized are replaced by the Mint.

SEC. 525. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF CERTAIN FEDERAL AGENCIES.—(a) DEFINITIONS.—For the purposes of this section—

(1) the term ''agency'' means the Internal Revenue Service, the Bureau of Alcohol, Tobacco and Firearms, and the United States Customs Service;

(2) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by an agency, is serving under an appointment without time limitation, and has been currently employed for a continuous period of at least [12 months] *3 years*, but does not include—

[(A) any employee who, upon separation and application, would then be eligible for an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;]

[(B)] *(A)* a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

[(C)] *(B)* an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under [the applicable retirement system referred to in subparagraph (A)] *subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency*;

[(D)] *(C)* an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

[(E)] *(D)* an employee who, upon completing an additional period of service is *as* referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

[(F)] *(E)* an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

[(G)] *(F)* an employee covered by statutory reemployment rights who is on transfer to another organization; or

[(H)] *(G)* any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention [allowable] *allowance* under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of each agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by the agency head not to exceed $25,000;

(D) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before March 31, 1997;

(E) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(F) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in the agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor the agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

[SEC. 525A. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—

[(a) AUTHORITY.—The United States Agency for International Development is authorized to offer voluntary separation incentive payments to no more than 100 of its employees in accordance with section 525 of this Act.

[(b) EXCEPTION.—Section 525(a)(2)(A) of this Act shall not apply to an employee of the United States Agency for International Development who, upon separation and application, would be eligible for an immediate annuity under sections 8336(d)(2) and 8414(b)(1)(B) of title 5, United States Code.

[(c) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

[SEC. 526. That provisions of law governing procurement or public contracts shall not be applicable to the procurement of goods or services necessary for carrying out Bureau of Engraving and Printing program and operation: *Provided*, That the authority contained in this provision shall expire on September 30, 1999.

[SEC. 527. The United States Mint is hereby authorized to establish a demonstration project under the authorities of title V, U.S.C., chapter 47: *Provided*, That the Director of the United States Mint shall be appointed by the President, by and with the advice and consent of the Senate; the Director shall serve on the basis of a six-year contract, which may be renewed, so long as the Director's performance, as set forth in an annual performance agreement with the Secretary of the Treasury, is satisfactory; and the Director shall receive as basic compensation for a calendar year an amount equal to the annual rate of basic pay for level I of the Executive Schedule under section 5312 of title 5 and, in addition, may receive an annual bonus awarded by the Secretary, based

upon the Secretary's evaluation of the Director's performance in accordance with the performance agreement.]

SEC. 528. (a) REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay from amounts appropriated in title I of this Act under the heading, ''Departmental Offices, Salaries and Expenses'', up to $500,000 to reimburse former employees of the White House Travel Office whose employment in that Office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

(2) VERIFICATION REQUIRED.—The Secretary shall pay an individual in full under paragraph (1) upon submission by the individual of documentation verifying the attorney fees and costs.

(3) NO INFERENCE OF LIABILITY.—Liability of the United States shall not be inferred from enactment of or payment under this subsection.

(b) LIMITATION ON FILING OF CLAIMS.—The Secretary of the Treasury shall not pay any claim filed under this section that is filed later than 120 days after the date of the enactment of this Act.

(c) LIMITATION.—Payments under subsection (a) shall not include attorney fees or costs incurred with respect to any Congressional hearing or investigation into the termination of employment of the former employees of the White House Travel Office.

(c) *(d)* REDUCTION.—The amount paid pursuant to this section to an individual for attorney fees and costs described in subsection (a) shall be reduced by any amount received before the date of the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the ''Office of the General Counsel'' under the heading ''Office of the Secretary'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

(d) *(e)* PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Payment under this section, when accepted by an individual described in subsection (a), shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

SEC. 529. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 530. MINT FACILITY FOR GOLD AND PLATINUM COINS.—Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(1) MINT FACILITY FOR GOLD AND PLATINUM COINS.—Notwithstanding any other provision of law, the United States Mint Facility at West Point, New York, shall be used to strike and distribute all gold coins and all platinum coins minted by the Secretary under this title or any other provision of law, including all proof and uncirculated gold bullion coins and commemorative coins.''.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1997 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding 31 U.S.C. 1345, any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 604. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses, ambulances, law enforcement, and undercover surveillance vehicles), is hereby fixed at $8,100 except station wagons for which the maximum shall be $9,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may not be exceeded by more than 5 percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further,* That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 605. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

SEC. 606. Unless otherwise specified during the current fiscal year, no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, the countries of the former Soviet Union, or the Baltic countries lawfully admitted to the United States for permanent residence, (5) is a South Vietnamese, Cambodian, or Laotian refugee paroled in the United States after January 1, 1975, or (6) is a national of the People's Republic of China who qualifys for adjustment of status pursuant to the Chinese Student Protection Act of 1992: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than 1 year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for, any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, or the Republic of the Philippines, or to nationals of those countries allied with the United States in the current defense effort, or to international broadcasters employed by the United States Information Agency, or to temporary employment of translators, or to temporary employment in the field service (not to exceed 60 days) as a result of emergencies.

SEC. 607. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 608. In addition to funds provided in this or any other Act, all Federal agencies are authorized to receive and use funds resulting from the sale of materials, *including Federal records disposed of pursuant to a records schedule* recovered through recycling or waste prevention programs. Such funds shall be available until expended for the following purposes:

(1) Acquisition, waste reduction and prevention, and recycling programs as described in Executive Order 12873 (October 20, 1993), including any such programs adopted prior to the effective date of the Executive Order.

(2) Other Federal agency environmental management programs, including, but not limited to, the development and implementation of hazardous waste management and pollution prevention programs.

(3) Other employee programs as authorized by law or as deemed appropriate by the head of the Federal agency.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the

limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. For the fiscal year ending September 30, 1997, and thereafter, any department or agency to which the Administrator of General Services has delegated the authority to operate, maintain or repair any building or facility pursuant to section 205(d) of the Federal Property and Administrative Services Act of 1949, as amended, shall retain that portion of the GSA rental payment available for operation, maintenance or repair of the building or facility, as determined by the Administrator, and expend such funds directly for the operation, maintenance or repair of the building or facility. Any funds retained under this section shall remain available until expended for such purposes.

SEC. 612. (a) IN GENERAL.—Section 1306 of title 31, United States Code, is amended to read as follows:

"§ 1306. Use of foreign credits

''(a) IN GENERAL.—Foreign credits (including currencies) owed to or owned by the United States may be used by any agency for any purpose for which appropriations are made for the agency for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), but only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency.

''(b) EXCEPTION TO REIMBURSEMENT REQUIREMENT.—Credits described in subsection (a) that are received as exchanged allowances, or as the proceeds of the sale of personal property, may be used in whole or partial payment for the acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.''.

(b) APPLICABILITY.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply thereafter.

SEC. 613. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 614. Funds made available by this or any other Act to the ''Postal Service Fund'' (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 615. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 616. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal year ending on September 30, 1997, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code—

(1) during the period from the date of expiration of the limitation imposed by section 616 of the Treasury, Postal Service and General Government Appropriations Act, 1996, until the normal effective date of the applicable wage survey adjustment that is to take effect in fiscal year 1997, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 616; and

(2) during the period consisting of the remainder of fiscal year 1997, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) by more than the sum of—

(A) the percentage adjustment taking effect in fiscal year 1997 under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule; and

(B) the difference between the overall average percentage of the locality-based comparability payments taking effect in fiscal year 1997 under section 5304 of such title (whether by adjustment or otherwise), and the overall average percentage of such payments which was effective in fiscal year 1996 under such section.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, and no employee covered by section 5348 of such title, may be paid during the periods for which subsection (a) is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purposes of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule not in existence on September 30, 1996, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1996, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) This section shall apply with respect to pay for service performed after September 30, 1996.

(f) For the purpose of administering any provision of law (including section 8431 of title 5, United States Code, and any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit) that requires any deduction or contribution, or that imposes any requirement or limitation on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section shall be considered to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 617. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate. For the purposes of this section, the word ''office'' shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 618. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 619. Notwithstanding section 1346 of title 31, United States Code, or section 613 of this Act, funds made available for fiscal year 1997 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 620. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of Transportation, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

SEC. 621. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1997 shall obligate or expend any such funds, unless such department, agency or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from discrimination and sexual harassment and that all of its workplaces are not in violation of title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

SEC. 622. No part of any appropriation contained in this Act may be used to pay for the expenses of travel of employees, including employees of the Executive Office of the President, not directly responsible for the discharge of official governmental tasks and duties: *Provided,* That this restriction shall not apply to the family of the President, Members of Congress or their spouses, Heads of State of a foreign country or their designees, persons providing assistance to the President for official purposes, or other individuals so designated by the President.

SEC. 623. Notwithstanding any provision of law, the President, or his designee, must certify to Congress, annually, that no person or persons with direct or indirect responsibility for administering the Executive Office of the President's Drug-Free Workplace Plan are themselves subject to a program of individual random drug testing.

SEC. 624. (a) None of the funds made available in this Act or any other Act may be obligated or expended for any employee training when it is made known to the Federal official having authority to obligate or expend such funds that such employee training—

(1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties;

(2) contains elements likely to induce high levels of emotional response or psychological stress in some participants;

(3) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluation;

(4) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated September 2, 1988;

(5) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or

(6) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

(b) Nothing in this section shall prohibit, restrict, or otherwise preclude an agency from conducting training bearing directly upon the performance of official duties.

SEC. 625. No funds appropriated in this or any other Act for fiscal year 1997 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: ''These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.'': *Provided,* That notwithstanding the preceding paragraph, a nondisclosure policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure forms shall also make it clear that they do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

SEC. 626. (a) None of the funds appropriated by this or any other Act may be expended by any Federal Agency to procure any product or service subject to section 5124 of Public Law 104–106 and that will be available under the procurement by the Administrator of General Services known as ''FTS2000'' unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as ''FTS2000''; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) that agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as ''FTS2000''; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

(b) After [July 31, 1997] *December 31, 1998,* subsection (a) shall apply only if the Administrator of General Services has reported that the FTS2000 procurement is producing prices that allow the Government to satisfy its requirements for such procurement in the most cost-effective manner.

SEC. 627. Subsection (f) of section 403 of Public Law 103–356 is amended by deleting ''October 1, 1999'' and inserting ''October 1, 2001''.

SEC. 628. (a) IN GENERAL.—Notwithstanding any other provision of law, none of the funds made available by this Act for the Department of the Treasury shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would permit the Secretary of the Treasury to make any loan or extension of credit under section 5302 of title 31, United States Code, with respect to a single foreign entity or government of a foreign country (including agencies or other entities of that government)—

(1) with respect to a loan or extension of credit for more than 60 days, unless the President certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives that—

(A) there is no projected cost (as that term is defined in section 502 of the Federal Credit Reform Act of 1990) to the United States from the proposed loan or extension of credit; and

(B) any proposed obligation or expenditure of United States funds to or on behalf of the foreign government is adequately backed by an assured source of repayment to ensure that all United States funds will be repaid; and

(2) other than as provided by an Act of Congress, if that loan or extension of credit would result in expenditures and obligations, including contingent obligations, aggregating more than $1,000,000,000 with respect to that foreign country for more than 180 days during the 12-month period beginning on the date on which the first such action is taken.

(b) WAIVER OF LIMITATIONS.—The President may exceed the dollar and time limitations in subsection (a)(2) if he certifies in writing to the Congress that a financial crisis in that foreign country poses a threat to vital United States economic interests or to the stability of the international financial system.

(c) EXPEDITED PROCEDURES FOR A RESOLUTION OF DISAPPROVAL.—A presidential certification pursuant to subsection (b) shall not take effect, if the Congress, within 30 calendar days after receiving such certification, enacts a joint resolution of disapproval, as described in paragraph (5) of this subsection.

(1) REFERENCE TO COMMITTEES.—All joint resolutions introduced in the Senate to disapprove the certification shall be referred to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives, to the appropriate committees.

(2) DISCHARGE OF COMMITTEES.—(A) If the committee of either House to which a resolution has been referred has not reported it at the end of 15 days after its introduction, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same matter.

(B) A motion to discharge may be made only by an individual favoring the resolution, and is privileged in the Senate; and debate thereon shall be limited to not more than 1 hour, the time to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees.

(3) FLOOR CONSIDERATION IN THE SENATE.—(A) A motion in the Senate to proceed to the consideration of a resolution shall be privileged.

(B) Debate in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 4 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

(4) In the case of a resolution, if prior to the passage by one House of a resolution of

that House, that House receives a resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(B) the vote on final passage shall be on the resolution of the other House.

(5) For purposes of this subsection, the term ''joint resolution'' means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: ''That the Congress disapproves the action of the President under section 628(c) of the Treasury, Postal Service, and General Government Appropriations Act, 1997, notice of which was submitted to the Congress on _____.'', with the blank space being filled with the appropriate date.

(d) APPLICABILITY.—This section—

(1) shall not apply to any action taken as part of the program of assistance to Mexico announced by the President on January 31, 1995; and

(2) shall remain in effect through fiscal year 1997.

SEC. 629. (a) TECHNICAL AMENDMENT.—Section 640 of Public Law 104–52 (109 Stat. 513) is amended by striking ''Service performed'' and inserting ''Hereafter, service performed''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in Public Law 104–52 on the date of its enactment.

SEC. 630. Notwithstanding any other provision of law, no part of any appropriation contained in this Act for any fiscal year shall be available for paying Sunday premium or differential pay to any employee unless such employee actually performed work during the time corresponding to such premium or differential pay.

SEC. 631. No part of any funds appropriated in this or any other Act shall be used by an agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

SEC. 632. (a) FEDERAL EMPLOYEE REPRESENTATION IMPROVEMENT.—Subsection (d) of section 205 of title 18, United States Code, is amended to read as follows:

''(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

''(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

''(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

''(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

''(A) is a claim under subsection (a)(1) or (b)(1);

''(B) is a judicial or administrative proceeding where the organization or group is a party; or

''(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.''.

(b) APPLICATION TO LABOR-MANAGEMENT RELATIONS.—Section 205 of title 18, United States Code, is amended by adding at the end the following:

''(i) Nothing in this section prevents an employee from acting pursuant to—

''(1) chapter 71 of title 5;

''(2) section 1004 or chapter 12 of title 39;

''(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

''(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

''(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.''.

(c) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply thereafter.

SEC. 633. SURVIVOR ANNUITY RESUMPTION UPON TERMINATION OF MARRIAGE.—(a) AMENDMENTS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8341(e) of title 5, United States Code, is amended by adding at the end the following:

''(4) If the annuity of a child under this subchapter terminates under paragraph (3)(E) because of marriage, then, if such marriage ends, such annuity shall resume on the first day of the month in which it ends, but only if—

''(A) any lump sum paid is returned to the Fund; and

''(B) that individual is not otherwise ineligible for such annuity.''.

(2) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8443(b) of such title is amended by adding at the end the following: ''If the annuity of a child under this subchapter terminates under subparagraph (E) because of marriage, then, if such marriage ends, such annuity shall resume on the first day of the month in which it ends, but only if any lump sum paid is returned to the Fund, and that individual is not otherwise ineligible for such annuity.''.

(3) FEDERAL EMPLOYEES HEALTH BENEFITS.—Section 8908 of title 5, United States Code, is amended by adding at the end of the following new subsection:

''(d) A surviving child whose survivor annuity under section 8341(e) or 8443(b) was terminated and is later restored under paragraph (4) of section 8341(e) or the last sentence of section 8443(b) may, under regulations prescribed by the Office, enroll in a health benefits plan described by section 8903 or 8903a if such surviving child was covered by any such plan immediately before such annuity was terminated.''.

[(b) APPLICABILITY.—The amendments made by section 1 shall apply with respect to any termination of marriage taking effect on or after November 1, 1993, except that any recomputation of benefits shall be payable only with respect to amounts accruing for periods beginning on or after the date of the enactment of this Act.]

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any termination of marriage taking effect before, on, or after the date of enactment of this Act, except that benefits shall be payable only with respect to amounts accruing for periods beginning on the first day of the month beginning after the later of such termination of marriage or such date of enactment.

[SEC. 634. AVAILABILITY OF ANNUAL LEAVE TO MEET MINIMUM AGE AND SERVICE REQUIREMENTS FOR TITLE TO AN IMMEDIATE ANNUITY.—(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336 of title 5, United States Code, is amended by adding at the end the following:

[''(o)(1) An employee involuntarily separated from service due to a reduction in force shall, upon written election, be given credit for days of unused annual leave standing to such employee's credit under a formal leave system as of the date of separation, if and to the extent necessary in order to meet the minimum age and service requirements for title to an annuity under this section.

[''(2) The Office shall prescribe any regulations which may be necessary to carry out this subsection, including regulations under which contributions to the Fund shall, with respect to the days of leave for which credit is given under this subsection, be made—

[''(A) by the employee, equal to the employee contributions which would have been required for those days if separation had not occurred; and

[''(B) by the agency from which separated, equal to the Government contributions which would have been required if separation had not occurred.

Contributions under the preceding sentence shall be determined based on the rate of basic pay last in effect before separation.

[''(3) Nothing in this subsection shall be considered—

[''(A) to allow credit to be given for any leave standing to the credit of the employee (other than by restoration) pursuant to subchapter III or IV of chapter 63 or other similar authority;

[''(B) to permit or require the making of any contributions to the Thrift Savings Fund with respect to any period after the date of separation; or

[''(C) to make any days of annual leave creditable for purposes of section 8333, any determination of average pay, or any computation of annuity.

[''(4)(A) The taking of a lump-sum payment under section 5551 or other similar authority shall not make any of the leave to which such payment relates unavailable for purposes of this subsection.

[''(B) The use of any leave for purposes of this subsection shall not reduce the amount of leave for which a lump-sum payment is payable under section 5551 or other similar authority.

[''(5) This subsection shall apply with respect to separations occurring on or after the date of the enactment of this subsection and before July 1, 2002.''.

[(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Section 8412 of title 5, United States Code, is amended by adding at the end the following:

[''(i)(1) An employee involuntarily separated from service due to a reduction in force shall, upon written election, be given credit for days of unused annual leave standing to such employee's credit under a formal leave system as of the date of separation, if and to the extent necessary in order to meet the minimum age and service requirements for title to an annuity under this section or section 8414.

[''(2) The Office shall prescribe any regulations which may be necessary to carry out this subsection, including regulations under which contributions to the Fund shall, with respect to the days of leave for which credit is given under this subsection, be made—

[''(A) by the employee, equal to the employee contributions which would have been required for those days if separation had not occurred; and

[''(B) by the agency from which separated, equal to the Government contributions which would have been required if separation had not occurred.

Contributions under the preceding sentence shall be determined based on the rate of basic pay last in effect before separation.

[''(3) Nothing in this subsection shall be considered—

[''(A) to allow credit to be given for any leave standing to the credit of the employee (other than by restoration) pursuant to subchapter III or IV of chapter 63 or other similar authority;

[''(B) to permit or require the making of any contributions to the Thrift Savings Fund with respect to any period after the date of separation; or

[''(C) to make any days of annual leave creditable for purposes of section 8410, any determination of average pay, or any computation of annuity.

[''(4)(A) The taking of a lump-sum payment under section 5551 or other similar authority shall not make any of the leave to which such payment relates unavailable for purposes of this subsection.

[''(B) The use of any leave for purposes of this subsection shall not reduce the amount of leave for which a lump-sum payment is payable under section 5551 or other similar authority.

[''(5) This subsection shall apply with respect to separations occurring on or after the date of the enactment of this subsection and before July 1, 2002.''.]

SEC. 634. AVAILABILITY OF ANNUAL LEAVE FOR EMPLOYEES AFFECTED BY REDUCTION IN FORCE.—Section 6302 of title 5, United States Code, is amended by adding at the end of the following new subsection:

''(g) An employee who is being involuntarily separated from an agency due to a reduction in force or transfer of function under subchapter I of chapter 35 may elect to use annual leave to the employee's credit to remain on the agency's rolls after the date the employee would otherwise have been separated if, and only to the extent that, such additional time in a pay status will enable the employee to qualify for an immediate annuity under section 8336, 8412, 8414, or to qualify to carry health benefits coverage into retirement under section 8905(b).''.

SEC. 635. Section 207(e)(6)(B) of title 18, United States Code, is amended by striking ''level V of the Executive Schedule'' and inserting ''level 5 of the Senior Executive Service''.

SEC. 636. REIMBURSEMENTS RELATING TO PROFESSIONAL LIABILITY INSURANCE.—(a) AUTHORITY.—Notwithstanding any other provision of law, amounts appropriated by this Act (or any other Act for fiscal year 1997 or any fiscal year thereafter) for salaries and expenses may be used to reimburse any qualified employee for not to exceed one-half the costs incurred by such employee for professional liability insurance. A payment under this section shall be contingent upon the submission of such information or documentation as the employing agency may require.

(b) QUALIFIED EMPLOYEE.—For purposes of this section, the term ''qualified employee'' means an agency employee whose position is that of—

(1) a law enforcement officer; or

(2) a supervisor or management official.

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''agency'' means an Executive agency, as defined by section 105 of title 5, United States Code, *and any agency of the Legislative Branch of Government including any office or committee of the Senate or the House of Representatives;*

(2) the term ''law enforcement officer'' means an employee, the duties of whose position are primarily the investigation, apprehension, prosecution, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including any law enforcement officer under section 8331(20) or 8401(17) of such title 5;

(3) the terms ''supervisor'' and ''management official'' have the respective meanings given them by section 7103(a) of such title 5, and

(4) the term ''professional liability insurance'' means insurance which provides coverage for—

(A) legal liability for damages due to injuries to other persons, damage to their property, or other damage or loss to such other persons (including the expenses of litigation and settlement) resulting from or arising out of any tortious act, error, or omission of the covered individual (whether common law, statutory, or constitutional) while in the performance of such individual's official duties as a qualified employee; and

(B) the cost of legal representation for the covered individual in connection with any administrative or judicial proceeding (including any investigation or disciplinary proceeding) relating to any act, error, or omission of the covered individual while in the performance of such individual's official duties as a qualified employee, and other legal costs and fees relating to any such administrative or judicial proceeding.

(d) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply thereafter.

[SEC. 637. For purposes of each provision of law amended by section 704(a)(2) of the Ethics Reform Act of 1989 (5 U.S.C. 5318 note), no adjustment under section 5303 of title 5, United States Code, shall be considered to have taken effect in fiscal year 1997 in the rates of basic pay for the statutory pay systems.

[SEC. 638. (a) For purposes of this section, the term ''political appointee'' means any individual who—

[(1) is employed in a position listed in sections 5312 through 5316 of title 5, United States Code (relating to the Executive Schedule);

[(2) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under section 3132(a) (5), (6), and (7) of title 5, United States Code, respectively; or

[(3) is employed in a position in the executive branch of the Government under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

[(b) The President, acting through the Office of Management and Budget and the Office of Personnel Management, shall take such actions as necessary (including reduction-in-force actions under procedures consistent with those established under section 3595 of title 5, United States Code) to ensure that the number of political appointees shall not, during any fiscal year beginning after September 30, 1997, exceed a total of 2,300 (determined on a full-time equivalent basis).]

SEC. 639. Section 608 of Public Law 104–52 is amended in the first sentence by inserting before the period, '', including Federal records disposed of pursuant to a records schedule''.

SEC. 640. In reviewing and analyzing the contracting out, outsourcing or privatization of business and administrative functions, and in implementing 40 U.S.C. sections 1413 and 1423, and other provisions, in title LI of the National Defense Authorization Act for fiscal year 1996 (the Information Technology Management Reform Act)—

(1) the Director of the Office of Management and Budget and the heads of the executive agencies may have studies, analyses, reviews and other management assistance performed by the private sector;

(2) the reviews, analyses, and studies called for by 40 U.S.C. section 1413(b)(2) (B) and (C) shall be completed and reported to the Agency Head within 180 days, or less measured from when a study analysis or review is initiated unless the Agency Head determines additional time is needed; and

(3) in accordance with principles and rules governing organizational conflicts of interest, persons involved in a particular study may not compete for any work that is to be or is outsourced as a result of that study.

(4) this section will apply with respect to studies occurring on or after the date of enactment of this subsection and completed before September 1, 1999 and the Comptroller General of the United States shall review and provide an assessment of this program by January 1, 1999.

SEC. 641. (a) SECTION 1.—AUTHORIZATION OF APPROPRIATIONS.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note, Public Law 101–12, April 10, 1989, 103 Stat. 34, as amended Public Law 103–424, Section 1, October 29, 1994, 108 Stat. 4361), is amended by striking the words: ''1993, 1994, 1995, 1996, and 1997,'' and inserting in lieu thereof ''1998, 1999, 2000, 2001, and 2002''.

(b) SECTION 2.—EFFECTIVE DATE. This Act shall take effect on October 1, 1998.

SEC. 642. (a) SECTION 1.—AUTHORIZATION OF APPROPRIATIONS.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 103–424; 103 Stat. 34) is amended by striking out: ''1993, 1994, 1995, 1996, and 1997,'' and inserting in lieu thereof ''1998, 1999, 2000, 2001, and 2002''.

(b) SECTION 2.—EFFECTIVE DATE.—This Act shall take effect on October 1, 1998.

SEC. 643. MODIFICATIONS OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.—(a) QUORUM.—Paragraph (4) of section 637(b) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52, 109 Stat. 510) is amended by striking ''Seven'' and inserting ''Nine''.

(b) CO-CHAIRS.—

(1) IN GENERAL.—Paragraph (3) of section 637(b) of such Act is amended—

(A) by striking ''a Chairman'' and inserting ''Co-Chairs'', and

(B) by striking ''Chairman'' in the heading and inserting ''Co-Chairs''.

(2) CONFORMING AMENDMENTS.—(A) Paragraph (5)(B) of section 637(b) of such Act is amended by striking ''a Chairman'' and inserting ''Co-Chairs''.

(B) Subsections (b)(4), (d)(1)(B), (d)(3), and (e)(1) of section 637 of such Act are each amended by striking ''Chairman'' each place it appears and inserting ''Co-Chairs''.

(c) GIFTS.—Section 637(d) of such Act is amended by adding at the end the following new paragraph:

''(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this section.''

(d) TRAVEL EXPENSES.—Section 637(f)(2) of such Act is amended by striking ''shall'' and inserting ''may''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1996.

SEC. 644. (a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking ''$10,000 a year'' and inserting ''$30,000 a year''.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect at the beginning of the next applicable pay period beginning after the date of the enactment of this Act.

SEC. 645. REGULATORY ACCOUNTING.—(a) IN GENERAL.—No later than September 30, 1997, the Director of the Office of Management and Budget shall submit to the Congress an accounting statement that estimates the cumulative costs and benefits of Federal regulatory programs.

(b) NOTICE.—The Director shall provide public notice and an opportunity to comment on the accounting statement and report under subsection (c).

(c) ASSOCIATED REPORT.—The Director shall submit with the accounting statement an associated report that shall contain, at a minimum—

(1) analysis of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government;

(2) estimates of the costs and benefits of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs; and

(3) recommendations from the Director and public comments to reform or eliminate any Federal regulatory program or program element that is inefficient or is not a sound use of national resources.

TITLE VII—SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'' to be used in connection with investigations of arson at religious institutions, $12,011,000, available upon enactment of this Act and to remain available until expended.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading [for Tax Systems Modernization] in Public Law 104–52, [$12,011,000] *$16,500,000* are rescinded.

[TITLE VIII—ADDITIONAL GENERAL PROVISIONS

SEC. 801. None of the funds appropriated by this Act shall be available to pay any amount to, or to pay the administrative expenses in connection with, any health plan under the Federal employees health benefit program, when it is made known to the Federal official having authority to obligate or expend such funds that such health plan operates a health care provider incentive plan that does not meet the requirements of section 1876(i)(8)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(8)(A)) for physician incentive plans in contracts with eligible organizations under section 1876 of such Act.]

This Act may be cited as the ''Treasury, Postal Service, and General Government Appropriations Act, 1997''.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have conferred with the manager of the bill that is pending and have sought 15 minutes as if in morning business. I do not think I will use that but I want to speak to a juvenile justice bill which I am going to introduce. I ask consent that I be permitted to speak up to 15 minutes.

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

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2062 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. DOMENICI. I yield the floor and thank the Chair for recognizing me. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HELMS. I thank the Chair.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, in February 1992, it occurred to me one day after reading some mail from people in North Carolina that the Senate wasn't paying very much attention to the steadily rising Federal debt, and I decided on that February afternoon in 1992 that I would begin a daily report to the Senate specifying the exact Federal debt as of close of business the day before down to the penny. Of course, on Monday it would have to be close of business the previous Friday.

We have not missed a day in making that report. There have been a few times when I was absent when fellow Senators made the report for me.

In any case, Mr. President, at the close of business yesterday, Monday, September 9, the Federal debt of the United States stood at $5,214,144,675,542.25.

Five years ago, on September 9, 1991, the record shows that the Federal debt stood at $3,618,482,000,000 rounded off.

And 10 years ago, September 9, 1986, the Federal debt stood at $2,106,631,000,000.

Just for the interest in it, we checked the Federal debt of 15 years ago—that was September 9, 1981—at which time the Federal debt stood at $977,439,000,000.

So those figures alone will show you the escalation of the spending practices of the Congress of the United States, and all the irresponsibility of that lies like a dead cat on the doorstep of the Congress of the United States, where I work and where Members of the House of Representatives work.

Twenty-five years ago, if you want to go back that far, on September 9, 1971, the Federal debt stood at $415,807,000,000. This report reflects an increase of more than $4 trillion in Federal debt during the 25 years from 1971 to 1996. If you want the precise figure, the Federal debt has increased during the past 25 years by $4,798,337,675,542.25.

Mr. President, this is a perfect outrage imposed upon the next generation and the next generation after that and the next generation after that, because they are the ones who are going to have to pay this debt. They are going to have to pay the interest on it, which is enormous. We have all of these promising politicians running around the countryside these days promising everything under the Sun for the taxpayers to pay for, which means that it will be bought on credit and not a thing will be done about this Federal debt. That is precisely why in February 1992 I began to make these reports.

I might add as a matter of interest, Mr. President, that one day when I came to make this report, I stopped in the cloakroom and Senators were waiting for a rollcall vote that had been scheduled by unanimous consent about 10 minutes hence. Just to see what the answers would be, I asked Senators how many million there were in a trillion. They scratched their heads, and I got two or three different answers. Only one of them was correct. Of course, as every schoolboy knows, or is supposed to know, there are a million million in a trillion, and the coming generations are going to have to deal with $5 million million-plus in debt run up by the Congress of the United States.

I thank the Chair. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. SHELBY. Mr. President, I ask unanimous consent that Paul Irving, a legislative fellow with the subcommittee, and Bruce Townsend, a fellow with the office of Senator MIKULSKI, be granted floor privileges during deliberations on H.R. 3756, the Treasury, Postal Service, and general Government appropriations bill.

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

Mr. SHELBY. Mr. President, today with my distinguished ranking member, Senator KERREY, I bring before the Senate the Appropriations Committee recommendations on fiscal year 1997 appropriations for the Department of the Treasury, the U.S. Postal Service, the Executive Office of the President and certain independent agencies.

The bill we are presenting today contains total funding of $23,487,761,000. This bill is $324,007,000 above the appropriations provided in fiscal year 1996. The mandatory accounts make up $320,850,000 of this increase. In other words, this bill is $3,157,000 in discretionary spending above the fiscal year 1996 level.

Of the totals in this bill we are recommending $11,291,000,000 for new discretionary spending.

The $11,291,000,000 the committee proposes for domestic discretionary programs is $1.354 billion below the President's request. Let me repeat that, Mr. President. This bill is $1.354 billion below the President's fiscal year 1997 request. The fiscal year 1996 bill was $1.8 billion below the President's request. That is a reduction of $3.15 billion below what the President requested in 2 years.

Reaching this level has not been an easy task. We have had to make some very difficult decisions, while trying to ensure that funds are made available to

carry out essential Government services.

Mr. President, this bill includes $10,185,009,000 for the Department of the Treasury. The Treasury Department has varied responsibilities, the bulk of which are directed to the revenues and expenditures of this Government and law enforcement functions.

This bill includes $90,433,000 for payment to the Postal Service Fund for free mail for the blind, overseas voting, and a payment to offset previous shortfalls in revenue forgone funding.

The President receives $183,339,000 to exercise the duties and responsibilities of the Executive Office of the President.

This bill includes $657,724,000 for construction of new courthouses and Federal facilities. This funding provides the General Services Administration with the ability to let construction contracts for courthouses for which the construction schedule is slated in fiscal year 1997.

The courthouses funded in this bill are those listed as the top priority of the administrative office of the courts for fiscal year 1997.

There is $12.08 billion in mandatory payments through the Office of Personnel Management for annuitant and employee health, disability and retirement, and life insurance benefits. There is $850 million for other independent agencies.

Mr. President, this subcommittee continues to be a strong supporter of law enforcement. We have done what we can to ensure that the law enforcement agencies funded in this bill have the resources to do the job we ask them to do.

We have utilized the salaries and expenses account, as well as, funds from the Violent Crime Trust Fund to enhance law enforcement efforts.

In addition, the committee has provided funding over the President's request for the Nation's drug policy office. While I have been highly critical of this administration's previous commitment to combating the growing drug problem in this country, I fully support the efforts and leadership of the new drug czar, General Barry McCaffrey.

Under his leadership, it is my hope that the alarming rise in teen drug use can be turned back, before this country feels its tragic consequences—such as, more crime, more death, more young futures lost. Drugs are a plague that claim the hopes and dreams, the aspirations and goals, of our young people. We need to do more. This bill does more.

The fiscal year 1997 Treasury bill funds the Office of National Drug Control Policy at the President's request of $34,838,000 and provides $103 million for high-intensity drug trafficking areas.

While the committee has attempted to give the drug czar sufficient flexibility to address the high-intensity drug trafficking areas, the bill does encourage the drug czar to give high priority to certain areas of the country where the methamphetamine problem is overtaking many communities.

The committee has further provided an additional $13 million in funding within the Violent Crime Trust Fund to designate new HIDTAs.

In addition, the committee has provided $65 million for southwest border antidrug efforts, $83 million for air and marine interdiction and $45 million for procurement of an additional P–3AEW aircraft for detection and interdiction purposes.

There has been considerable discussion since this bill was reported from the subcommittee about the level of funding for the Internal Revenue Service.

Some have questioned overall funding in this bill for the IRS, but the major focus has been directed toward the committee's action regarding the IRS tax systems modernization or TSM program. I would like to take a few moments to describe how we arrived at the funding level for the IRS.

This bill includes $6,880,221,000 for the IRS; this total is $1.14 billion below the President's request and $468 million below the fiscal year 1996 appropriation. There are those, including the President, who have said—you have to fund the IRS at the requested level to ensure that tax systems modernization continues and that funds ''owed'' the Government are collected.

Mr. President, the IRS budget makes up approximately 65 percent of the committee's discretionary spending. Think about it—65 percent.

As the largest consumer of revenues under the committee's discretionary budget and competitor with equally important funding priorities in the budget, like law enforcement, the IRS is subject to reductions, which would otherwise have to come from these other important programs.

A dollar more for law enforcement, means a dollar less somewhere else—and this budget, which I believe to be consistent with the priorities of the President, reflects an emphasis on law enforcement, particularly drug enforcement.

While the Committee's funding for the IRS is significantly below the President's request—$1.14 billion and $468 million below last year's appropriated level—the Committee feels strongly that these funding levels are adequate, and more than justified given the dismal record of the Internal Revenue Service.

Mr. President, the IRS, until very recently, has refused to respond to bipartisan concerns that have been raised by the Congress and the General Accounting Office.

Its overall lack of financial accountability and failure to produce quantifiable results in tax systems modernization has done little to encourage the committee of the IRS's commitment to ensuring that funds appropriated are being spent wisely or effectively. The taxpayer deserves accountability, particularly from the IRS. But more than that, Mr. President, no taxpayer should be held to a level of accountability that even the IRS cannot meet.

The committee has gone to great lengths to ensure that the IRS is adequately funded, and that sufficient resources are provided for taxpayer assistance and tax return processing.

There is nothing in this bill which will inhibit the IRS from doing their job. Any forecasts of doom and gloom are not accurate.

We have spent a long time looking at IRS operations, especially tax systems modernization over the past 1½ years during my tenure as chairman. I worked with Senator KERREY, the ranking Democrat on this. Frankly, I am not pleased with what I have seen after the expenditure of millions of dollars.

TSM programs that the committee and the GAO have reviewed, have almost always come in late and over budget and have almost universally—universally, Mr. President—not lived up to expectations, despite hundreds of millions of dollars being spent. The Department of the Treasury has indicated the current program is off course.

They are not the only ones, though, who have reached that conclusion. The General Accounting Office and National Research Council have been highly critical of the direction TSM is headed.

I have stated many times that we must modernize the IRS. I will support that effort. To follow the current course, or lack of course, the IRS has chartered for TSM at this time would be irresponsible.

TSM is clearly not providing us with what we have been seeking and what taxpayers deserve.

Mr. President, I feel very strongly that the subcommittee would be abdicating its responsibilities if it did not take action.

Funds are provided in this bill to continue current information systems, but no money is available for further TSM development. I expect the Department's review board to take an active roll in ensuring corrections are made, and made soon.

When the Department of the Treasury and the Internal Revenue Service have shown that things are back on track, we can proceed with providing funds for programs that work. Let me repeat that—we will support programs that work and provide the IRS with the necessary tools to achieve efficiency and effectiveness.

Mr. President, this bill does not spend as much as the President would like. If it did, the subcommittee would be over a billion dollars above its allocation, and that is not the way to balance the budget.

Tough choices were made as said—in a way that attempted to reflect the priorities of the President and the Congress—law enforcement is plussed up across the board. It is, however, the result of long, hard hours of work on the

part of the members and the staff of this subcommittee.

I want to thank all of them for that effort. I believe it is workable and should be enacted.

I yield to Senator KERREY, the subcommittee's ranking member.

Mr. KERREY. Mr. President, as the distinguished Senator from Alabama, Chairman SHELBY, just indicated, we are bringing to the floor of the Senate recommendations on the fiscal year 1997 appropriations for the Department of Treasury, Postal Service, and independent agencies.

First of all, I thank Senator SHELBY for his dedicated work on this bill. He worked very long and hard on the difficult issues he has just outlined for Members, and throughout the process, as well, he has forged a very cooperative relationship not just with myself but with all the subcommittee members on both sides of aisle.

The subcommittee has achieved a balanced approach of dealing with the many programs and activities under the jurisdiction of the subcommittee while staying within the 602(b) allocation. This allocation is $11.081 billion, $1.6 billion below the administration's request. While required to make substantial reductions from the request level, I believe the program funding levels included in the bill are both fiscally responsible and very reasonable.

Senator SHELBY has discussed the major funding highlights, and rather than repeating those highlights, I will limit my comments to a few areas I would like to emphasize. As Senator SHELBY said, the IRS received $6.8 billion, 60 percent of the discretionary allocation, which is $1 billion lower than the administration's request, but it is $200 million above the House mark.

The reduction from the request reflects our decision to limit IRS spending to cost-effective and operational efforts. As you know, there have been continuing questions, as the chairman just indicated, concerning the TSM, the tax system modernization efforts, questions I am attempting to answer, as well, through my work on the subcommittee, as well as through the efforts of the newly formed IRS Restructuring Commission.

A June 1996 GAO report stated the IRS has not made adequate progress in correcting its management and technical weaknesses, nor have they fully implemented any of the GAO recommendations. In addition, the IRS does not have a process for selecting, controlling, and evaluating its technology investments. It does not have a clear basis for making investment decisions, and it does not have a complete procedure for requirements management, quality assurance, configuration management, project planning and tracking.

Finally, it does not have an integrated structural architecture or security and data architecture. The recommended funding in this bill is adequate to support ongoing operations and maintenance and to support those systems that have provided taxpayer assistance, such as Telefile and the Electronic File Transfer System.

Of the funds provided IRS, $200 million of non-TSM and $66 million of TSM funds may not be obligated until the Secretary of the Treasury consults with the Committee on Appropriations and provides criteria to explain the needs and priorities of the proposed programs. It is our hope that by fencing these funds, the IRS will develop an integrated systems architecture and that we can proceed toward completing a modernized tax system.

As I mentioned, I will continue to work with the IRS both through the subcommittee and the IRS restructuring commission to ensure they are moving in the right direction and that a modernized tax system will be provided to our citizens.

I believe, second, the administration is moving in the right direction. As the chairman indicated, I, too, strongly support the appointment of General McCaffrey as the head of the Office of National Drug Control Policy. This bill fully funds the administration's efforts. However, I continue to have a number of questions on the direction we are pursuing in the war against drugs.

I believe ONDCP must develop long-term measurable strategies for decreasing drug use and drug-related crimes. I want ONDCP to set standards for measuring success. I want these measures to show that the dollars being spent are keeping children from starting to use drugs, reducing the number of hard-core drug users, and limiting the amount of drugs coming into the country.

To ensure the law enforcement agencies can work in conjunction with the ONDCP to achieve these results, the subcommittee has increased the law enforcement funding levels to provide additional training and equipment, infrastructure investments in technologies on the Southwest border and, as the chairman stated, a P–3AEW aircraft for interdiction of illegal narcotics.

Through the violent crime reduction trust fund, we have continued funding for important crime reduction programs, such as gang resistance education and training, and FinCen enforcement programs.

In addition, we have provided funding above the request level to increase participation in the High Intensity Drug Trafficking Area, or the HIDTA Program.

A third area I want to mention, Mr. President, is the General Services Administration. We have provided, through the GSA, for Federal buildings funds, for the site, design, or construction of five courthouses. Funding for these court facilities is consistent with the courthouse construction criteria we established last year. The application of these criterion allowed us to choose specific court projects, as opposed to applying the House approach of applying across-the-board cuts to the entire construction program.

As Senator SHELBY indicated, we have also included funding for the five northern border stations, the construction of a Federal office building in Portland, OR, the site preparation for the Food and Drug Administration consolidation, the completion of a Veterans' Affairs office complex, and the environmental cleanup of the southeast Federal Center.

I also point out that this bill fully funds the administration's request for the Executive Offices of the President, the Federal Labor Relations Authority, the Merit Systems Protection Board, and the Office of Personnel Management.

Finally, funding increases are specified for the National Archives repairs and restoration account. These increases will provide much-needed repairs of two Presidential libraries: The Truman and Roosevelt Libraries and the National Archives headquarters facility. The funding level also indicates that we continue to support the Archives electronic access project. The Archives has recently provided us with a work plan for completing this important project to bring their files online and to provide a full catalog system. We are looking forward to the Archives making significant strides toward accomplishing this project in the near future.

However, Mr. President, I must raise an objection to the provision which provides funding of $500,000 to cover the attorneys' fees for those fired from the White House Travel Office. It is a genuine disagreement between the chairman and I—I believe the only one in the entire bill. This action, in my reasoned opinion, would set a bad precedent for Congress paying the attorney fees of an indicted individual. This is not a precedent I believe we should set.

Mr. President, that summarizes, as I see it, the bill's funding levels. We have tried to accommodate the numerous Member requests, and while it is difficult to always accommodate these requests, we have tried to include all those that were possible given funding restrictions. I also acknowledge the fine work done by the staff on this bill. They are Chuck Parkinson, Diane Hill, Hallie Hastert, Paul Irving, and others. I thank them for their helping in permitting us to bring this bill before the Senate.

I yield the floor.

Mr. SHELBY. Mr. President, we are trying to clear, with both sides, a number of matters. We have worked out a number of committee amendments, and we have several that we are trying to clear with the other side of the aisle at the moment. I want to take a minute to thank Senator KERREY for his leadership on the committee. We have had a number of hearings throughout the year. Some of them have been tough hearings. He has made a real contribution to the tax system changes that we envision in the future.

We have set up a task force that he is involved in. As a matter of fact, he suggested this to me a year or so ago, as he was not satisfied—and he worked on this committee before I had —with the modernization program of the Internal Revenue Service and thought that, of all the agencies in Government, Internal Revenue Service should be on the cutting edge of technology and should not be behind in any way. Some of us are concerned that maybe the IRS is getting behind. Getting behind what? The marketplace.

There has been a tremendous revolution in the software industry, and Senator KERREY and I both have talked and met with various people that are dealing in financial electronic software of various kinds. The market, it seems to me, is farther ahead in various areas than the IRS. This is not a good sign for the future of the IRS or the future of Government, because most people in America always thought—and I came to believe it—that the IRS had the best of everything and was on the cutting edge. But I will submit to you that they are not. I believe the Senator from Nebraska believes that. He is also interested in—and so am I—the task force to study the IRS and our tax laws and everything that goes with it. I believe we are going to get some good results out of that, some great recommendations. He may want to take a minute to talk about that.

Mr. KERREY. Mr. President, the chairman is quite right. Last year, during the conference deliberations—we had seen, throughout the last couple of years, a considerable accumulation of reports, specifically, the General Accounting Office evaluation of tax system modernization. While it has not all been a loss, there is no question that there has been significant disappointment and the evaluation of GAO is quite negative. I must point out that some of that difficulty is caused by us.

Earlier today, we actually had the first meeting of the restructuring of the commission. Commissioner Richardson appeared before that commission, observing that the mission statement itself very often does not connect to many of the things that are identified as great successes. Very specifically, the mission statement of the IRS is to collect taxes in the most cost-effective way possible. One of the things that we often don't look at is what does it cost us to collect the taxes, and how can we do it in a more cost-effective way, not just measuring the money we spend but the money the taxpayers spend to comply with the laws. One of the examples is we have this alternative minimum tax. There are about 4 million taxpayers that are identified as possibly candidates for paying this AMT. What has happened is, of 4 million taxpayers, 90 percent—3.6 million of that 4 million—after they have gone through all the work and hired the accountants to do the calculation of taxes, they discover they owe no taxes at all. The question is, what are the man and women hours and time on task?

That is substantial to collect a relatively small amount of money. What we have to do, in my judgment, is not just look at the cost-effectiveness of the IRS versus what they collect, but what kind of friction or cost is imposed out there for that taxpayer, either the households or the business, because they have substantial costs that are imposed. When I say ''sometimes we cause the problems,'' we passed a tax bill with 900 new changes that are required, and the President signed it and it goes into law. I asked the Commissioner this morning if she ever, in the 3½, or whatever years she has been in office, had a time when she has gone to the President and said, Mr. President, I urge you to veto the tax bill because this is going to make it difficult to accomplish the mix of keeping the IRS a cost-effective, low-cost operation, both in terms of the costs to the taxpayers and the costs to the people that are out there in the community. The answer to the question was, ''no,'' she never has. The day that starts to happen—the day the IRS Commissioner says to the President, you may want to do this for whatever the reason, but here is what it will cost the American taxpayers to fill out the forms and go through that, it seems to me that will be the day you are going to start to see the customer out there, the taxpayer, say they are finally understanding it.

We, very often, say here that we have to collect money to accomplish some social or economic good. We don't really think about what that taxpayer out there is going to have to go through in order to comply with the forms, the regulations, and the rules, and all the other sort of things to put in place.

But there is no question that we have a very, very serious problem in that we have to go from where we are now, which is we have expended $8 billion or $9 billion, thus far, on TSM, perhaps a great deal more than that, over a bit longer period of time. It depends on when you track it. We are really not much closer to where we needed to go when we started the whole process.

All of us understand that one of the most costly things that happen in tax collection is when a mistake is made—not by the taxpayer but by the IRS. When the IRS makes a mistake, that is an expensive thing to try to correct, whether it is giving somebody advice over the phone, or any mistake made in the entire system. Those mistakes are the most costly things of all to fix. So the more they can reduce the mistakes, the better off they are. The least costly environment of all, the least number of mistakes are the mistakes made in a paperless environment. Those transactions that are currently done, a limited number of transactions to be done without paper, have a very, very substantial difference in terms of mistakes versus the ones that continue to be done by paper, through all the processing centers.

So I hope, I say to my friend from Alabama, that we are able, in restructuring the commission, to come to the Congress, and all the stakeholders involved, and we are able to make some recommendations so that 10, 15 years from now, at some point in the future, people will say that it was worth spending a million dollars on. You did actually make some recommendations. I point out, Mr. President, that one of the things that I think makes that more likely rather than less, is Congressman PORTMAN and I are cochairs. He is from the House and he is also a Republican. My experience is that more often, some things you can't make bipartisan but we have a difficult subject. If you can make it bipartisan, you tend to make it more likely you are going to be successful. So I appreciate the Senator's support in the hearings.

Mr. President, I can tell you that there is no better cross-examiner than Chairman SHELBY when it comes to watching out for the taxpayer's money. There is no better cross-examiner than the Senator from Alabama when it comes to trying to make sure that the taxpayers are getting a good dollar's return on their investment, and I appreciate the Senator's support for this effort.

Mr. SHELBY. Mr. President, I again acknowledge the hard work and the leadership that the Senator from Nebraska, Mr. KERREY, has brought here. He is absolutely right. When we are dealing with something as complicated as the Internal Revenue Service modernization and taxes in general, it is going to take, I believe, as he does, a bipartisan effort to do this. If we can bring something out of this commission that we will listen to and do something about here that will modernize the IRS, that will help the taxpayers understand the system, will help the taxpayers keep more of their money without a lot of cumbersome involvement, we will be doing part of our job here today.

Mr. President, I ask unanimous consent that the committee amendments to H.R. 3756 be considered and agreed to en bloc, provided that no points of order be waived thereon and that the measure, as amended, be considered as original text for the purpose of further amendment, with the exception of the following amendments: Page 2, line 18; page 16, line 16 through page 17, line 2; page 80, line 20 through page 81, line 4; that portion of the amendment on page 129, line 20 through page 130, line 18.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. No objection.

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

The committee amendments were considered and agreed to en bloc with the above noted exceptions.

The PRESIDING OFFICER. The Senator from North Carolina.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINE 18

Mr. HELMS. Mr. President, let me inquire of the Parliamentarian and the Chair, all committee amendments have been approved except one, is that my understanding? Except four.

The PRESIDING OFFICER. There are four committee amendments that have not been adopted.

Mr. HELMS. Very well. Will the clerk just reference them.

The PRESIDING OFFICER. The clerk will report the first excepted committee amendment.

The legislative clerk read as follows:

On page 2, line 18, strike the numeral and insert $111,348,000.

Mr. HELMS. That is subject to amendment, is that correct?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 5208 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 2, LINE 18

Mr. HELMS. On behalf of the distinguished occupant of the chair, Mr. THOMPSON, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for Mr. THOMPSON, for himself, Mr. HELMS, Mr. THURMOND, and Mrs. HUTCHISON, proposes an amendment numbered 5208 to the committee amendment on page 2, line 18.

The amendment is as follows:

At the end of the committee amendment insert the following:

No adjustment under section 5303 of title 5, U.S. Code, for Members of Congress and members of the President's Cabinet shall be considered to have taken effect in FY '97.

Mr. HELMS. Mr. President, the pending amendment that the distinguished Senator from Tennessee [Mr. THOMPSON] and I have offered forbids any Member of Congress, House or Senate, from receiving a pay raise or cost of living adjustment in the fiscal year 1997 that begins in a few days on October 1. Here we are, both Houses of Congress, asking the American people to make the sacrifices necessary to get the Nation's fiscal house in order, and it seems to me that all of us should be willing to forego even the thought of a pay increase.

Each day I make a formal report to the Senate specifying the staggering federal debt as of the close of business the previous day. Most of this enormous burden was run up by Congress in prior years. But, the point is that Congress alone is charged with the constitutional duty of authorizing and appropriating funds for Federal spending, and it's our responsibility to pay the debt down and live within our means. The activities of Congress, the timidity of Congress, the inclination to play politics with the public purse—all of this has brought us to a Federal debt that, as of close of business yesterday, stood at $5,214,144,675,542.25, or $19,625.30 for every man, woman and child in America on a per capita basis.

Mr. President, while we are systematically piling on to the arrearage which our children and grandchildren must bear, the notion that Congress deserves a pay raise is absurd.

Since I came to the Senate, interest on the money borrowed and spent by the Congress of the United States cost the American taxpayers over $3.5 trillion. Three trillion and 500 billion dollars, just to pay interest on excessive spending authorized and approved by the Congress. Just last year Congress spent over $235 billion on interest alone.

It is true, Mr. President, that the 104th Congress has garnered an impressive list of accomplishments. For the first time since Neil Armstrong walked on the moon, this Congress has enacted a balanced budget—which was vetoed to the glee of the national media. It has reformed the dilapidated welfare system; the President signed the bill, but immediately gutted part of it by issuing a host of waivers. Congress reined in the out-of-control trial lawyers and passed the Partial Birth Abortion ban, but both pieces of legislation were vetoed.) And Congress eliminated 270 wasteful Federal programs and agencies and succeeded in cutting year-to-year discretionary spending by $53 billion.

This Congress has done a lot, Mr. President, but we can't rest on our laurels. We're asking the American people to tighten their belts. And we should demonstrate our solidarity with them by rejecting the built-in congressional pay raises which, as Senator THOMPSON said last year, ''stick in the craw of the American people.'' It's the least we can do.

It is crucial that while the American people are making sacrifices and taking steps toward independence from the Federal Government, the Congress of the United States share in these sacrifices.

Americans need lower taxes, higher wages and better jobs. Only a growing economy can provide the society we want. Only a balanced budget—and proper tax policies—can provide an atmosphere in which the economy can approach the rate of growth of which it's capable. Until this is realized, Mr. President, Congress deserves no pay raise.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HELMS. Mr. President, I ask the managers of the bill, in order to save a little time: Senator INHOFE has an amendment that will take no time at all. It will not require a vote or anything like that. I wonder if it would be in order, in the judgment of the managers of the bill, for me to set aside the pending amendment for the purpose only of Senator INHOFE's being recognized for his brief amendment. Would that be satisfactory?

Mr. SHELBY. I have no problem with that.

Mr. HELMS. I make that as a unanimous consent request.

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

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, it is not my intention to offer an amendment at this time, as I told the Senator from Oregon, but just to make a brief statement about the concern that I have with the bill in hopes that, when you come up with the management amendments, you will include the proposed amendment as a part of those. It should be noncontroversial. I cannot imagine anyone would be opposed to it.

Back in the 100th Congress, which is the year I was first elected to the other body, they passed Public Law 100–440, in that they made the requirement that the General Services Administration be required to hire up to, and maintain an average of, 1,000 full-time Federal positions for the full-time Federal Protective Officers. These are the people who serve as security in Federal buildings. Both the House and Senate versions have language that would take that section out.

When the Murrah Federal Office Building in Oklahoma was bombed, they, the GSA, had only provided security of one individual. It was from a company called Rent-A-Cop. That Rent-A-Cop individual, one individual, had to cover that building and several other buildings.

While it can never be known if the tragedy could have been averted, it is the opinion of the police officers from whom the American Federation of Government Employees solicited comments that any trained FPO would have noted the parked rental vehicle which carried the bomb and immediately raised questions about its presence.

It is also the opinion of the law enforcement community that the physical presence of FPO's at the Murrah Building would have served as a major deterrent to those who might have been contemplating committing that crime.

The current ratio is something in the neighborhood of one officer for every 21 buildings. If they complied with this, the GSA, they should have reached a ratio of 1 per 8 by 1992. They did not do this. I think, if we repeal this section, it is sending the wrong message out, saying we want to be more lenient in terms of protection in Federal buildings.

So I have an amendment that would merely delete that particular section that would repeal Public Law 100–440, section 10, and would allow the GSA to continue and encourage them to go ahead and comply with the law they should be complying with right now. That would be the intent. I only ask the two managers of the bill, when the

managers' amendments come up, that they give serious consideration to this.

Mr. SHELBY. Will the Senator from Oklahoma yield?

Mr. INHOFE. I will be happy to yield.

Mr. SHELBY. I, as the manager of the bill, along with Senator KERREY—we are going to try to work with you to make that part of the managers' amendment. We believe it will be. But if it is not, we will tell you and give you a chance to offer it on the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. It seems to me what the Senator is asking for is quite reasonable. We will work with him to try to get it done.

Mr. INHOFE. I thank the Senator and thank the Senator from North Carolina for yielding to me. I yield the floor.

Mr. HELMS. Mr. President, regular order. What is the pending business?

The PRESIDING OFFICER. The pending business is the amendment by the Senator from North Carolina.

Mr. THOMPSON. Mr. President, this amendment would deny the automatic cost-of-living adjustment [COLA] to Members of Congress.

Last year, I sponsored this very same amendment with the Senator from New Mexico, Senator DOMENICI. I believe now, as I did then, that this amendment is an important part of the efforts we have made in this Congress to balance the budget by the year 2002.

Mr. President, some might ask how passing an amendment requiring Members of Congress to forego a cost-of-living adjustment will achieve savings that will move us towards a balanced budget. The simple answer is that a pay freeze for Members of Congress will not produce significant budget savings. But, Mr. President, the savings that this amendment achieves is not the point. This amendment is important because of what it communicates to the American people. Let me take a minute to explain what I mean.

During this 104th Congress, we have debated many fundamental issues facing this country. While Republicans and Democrats still disagree on many of these issues, there are certain principles around which a consensus is developing.

Probably the most important of these principles is that we need to get our fiscal house in order to avoid national bankruptcy and to preserve the country that we have known for our children and grandchildren.

It is true that our national debt and interest on that debt are strangling us. We cannot sustain deficits endlessly in the future at the rate we have. It will cause interest rates to soar and national savings, investment and growth to plummet. If we continue on the path we have followed in the past, we will be leaving a legacy of significantly lower living standards to future generations.

Mr. President, I think we are in the beginning stages, finally, of facing up to these problems. Last year, this Congress sent the President the Balanced Budget Act, which will lead us to a balanced budget in the year 2002—for the first time in decades in this country. I regret that the President chose to veto this legislation. However, I do think that the Republicans in Congress have succeeded in convincing the President—however belatedly—that a balanced budget is both necessary and important.

As a consequence, I believe that we have a great opportunity to work together to solve this problem. Although we may differ on the means by which we solve it, I think we can certainly agree on the end that we must all work toward.

During this debate, I think that we in Congress have done a better job of communicating to the American people the level of sacrifice that is necessary to reach a balanced budget. People are beginning to realize that, if we are to solve this problem, we cannot have everything exactly as we have had it in years past. Sooner or later we are going to all have to make some sacrifices for the sake of our country. We will have to look at things like the rate of growth in non-discretionary spending, the cost of some of the major military engagements abroad, and the whole issue of cost-of-living increases, among other things.

Mr. President, the point of all of this is that everybody is going to have to pitch in, and the American people now know it. Nobody is going to get all of what they want. I feel there are very few Americans who are not willing to help, as long as they believe that they are being treated fairly, and that everyone is being asked to sacrifice.

The amendment we offer today is based upon the simple proposition that while we are asking the American people to make these adjustments, we must ask the same of ourselves. We certainly should not be having automatic cost-of-living increases for this body during this particular period of time. Automatic pay increases, where we do not even have to vote on them, stick in the craw of the American people, and further diminish the already low regard they have for Members of Congress.

Some people will say that freezing the pay of Members of Congress is a largely symbolic act. I agree. I have already stated that the turning back a COLA does not achieve much in budget savings. But, Mr. President, I believe that symbolism is important. We need to lead by example by showing the American people that we in Congress are willing to make a personal contribution to the effort of balancing the budget.

Mr. President, I think we have already begun to demonstrate to the American people that this body is willing to do its part. We have addressed the problems of gifts and free trips for Members of Congress. We have applied the laws to ourselves that have, for so many years, been applied to the American people. We have tried to face up to the pension issues which will bring us more into line with other employees and other people in the private sector. So, turning down an automatic cost-of-living increase this year—as we did last year—is a part of that overall picture.

In conclusion, Mr. President, I want to note that I did not decide to offer this amendment without giving thought to the impact that it would have on my colleagues in the Congress who have families with children and are faced with expenses for education and maintaining two separate residences. These individuals cannot continue to withstand indefinitely the erosion of purchasing power that this pay freeze represents. However, at this crucial time in our history, I believe that a pay increase is not appropriate. Since we have made significant progress on budget issues in these past 2 years, it is my hope that we can make even more progress and avoid the need for pay freezes in the future.

I urge my colleagues to support the Thompson-Helms amendment to continue the work we have started in this historic Congress.

Mr. HELMS. I do not know if there is further debate, Mr. President. That is up to the managers.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, we have no objection to the amendment, the Thompson amendment.

Mr. KERREY. Mr. President, if the Senator from Alabama will just withhold and give me a couple of minutes here?

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KERREY. Mr. President, I ask unanimous consent Senator WELLSTONE, from Minnesota, be added as a cosponsor to this amendment.

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

Mr. KERREY. I am ready to proceed.

Mr. SHELBY. We have no objection to the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 5208) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WYDEN. Mr. President, I have an amendment involving managed care; 5206 is the number of the amendment.

The PRESIDING OFFICER. Does the Senator wish to amend the first committee amendment?

Mr. KERREY. If the Senator from Oregon would allow me to dispose of this, I have to dispose, I believe, of the underlying committee amendment that we just attached an amendment to.

Mr. President, I urge adoption of the underlying committee amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the underlying committee amendment, as amended.

The excepted committee amendment on page 2, line 18, as amended, was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5206 TO EXCEPTED COMMITTEE AMENDMENT BEGINNING ON PAGE 16, LINE 16, THROUGH PAGE 17, LINE 2

(Purpose: To prohibit the restriction of certain types of medical communications between a health care provider and a patient)

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I have an amendment No. 5206, involving managed health care.

The PRESIDING OFFICER. Is the Senator attempting to amend the next committee amendment?

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

Excepted committee amendment beginning on page 16, line 16, through page 17, line 2.

Mr. WYDEN. Mr. President, I rise to offer an amendment which will add much-needed new protections for the sacred, confidential relationship between physicians and their patients. In doing so, I want to single out, on a bipartisan basis, the excellent work done by a number of Members of Congress on this issue.

In particular, I would like to single out Dr. GREG GANSKE, a Member of the House, a physician, a Republican. He has done excellent work with Congressman MARKEY in the House, and also to thank Senator KENNEDY, who joins me in this effort.

This matter of protecting the rights of patients in health maintenance organizations has been thoroughly bipartisan through this Congress, and I want to make sure that this body understands that there is a very strong track record of bipartisan support for this issue.

The PRESIDING OFFICER. If the Senator will suspend so we might have the amendment read. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. WYDEN], for himself and Mr. KENNEDY, proposes an amendment numbered 5206 to the committee amendment on page 16, line 16, through page 17, line 2.

Mr. WYDEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the Committee amendment, insert the following new title:

TITLE —PROTECTION OF PATIENT COMMUNICATIONS

SEC. 01. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the ''Patient Communications Protection Act of 1996''.

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions, with their physicians, about their health care.

(2) Restrictions on the ability of physicians to provide full disclosure of all relevant information to patients making health care decisions violate the principles of informed consent and practitioner ethical standards.

(3) The offering and operation of health plans affect commerce among the States. Health care providers located in one State serve patients who reside in other States as well as that State. In order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in one State as well as those operating among the several States.

SEC. 02. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) IN GENERAL.—

(1) PROHIBITION OF CERTAIN PROVISIONS.—Subject to paragraph (2), an entity offering a health plan (as defined in subsection (d)(2) may not include any provision that prohibits or restricts any medical communication (as defined in subsection (b)) as part of—

(A) a written contract or agreement with a health care provider.

(B) a written statement to such a provider or

(C) an oral communication to such a provider.

''(2) CONSTRUCTION.—Nothing in this section shall be construed as preventing an entity from exercising mutually agreed upon terms and conditions not inconsistent with paragraph (1), including terms or conditions requiring a physician to participate in, and cooperate with, all programs, policies, and procedures developed or operated by the person, corporation, partnership association, or other organization to ensure, review, or improve the quality of health care.

(3) NULLIFICATION.—Any provision described in paragraph (1) is null and void.

(b) MEDICAL COMMUNICATION DEFINED.—In this section, the term ''medical communication'' means a communication made by a health care provider with a patient of the provider (or the guardian or legal representative of such patient) with respect to the patient's physical or mental condition or treatment options.

(c) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY.—

(1) IN GENERAL.—Any entity that violates paragraph (1) of subsection (a) shall be subject to a civil money penalty of up to $25,000 for each violation. No such penalty shall be imposed solely on the basis of an oral communication unless the communication is part of a pattern or practice of such communications and the violation is demonstrated by a preponderance of the evidence.

(2) PROCEDURES.—The provisions of subsection (c) through (l) of section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) shall apply to civil money penalties under paragraph (1) in the same manner as they apply to a penalty or proceeding under section 1128A(a) of such Act.

(d) DEFINITIONS.—For purposes of this section:

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services.

(2) HEALTH PLAN.—The term ''health plan'' means any public or private health plan or arrangement (including an employee welfare benefit plan) which provides, or pays the cost of, health benefits, and includes an organization of health care providers that furnishes health services under a contract or agreement with such a plan.

(3) COVERAGE OF THIRD PARTY ADMINISTRATORS.—In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of this section, to be an entity offering such health plan.

(e) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements with respect to the subject matter of this section, but only if such requirements are consistent with this title and are more protective of medical communications than the requirements established under this section.

(g) EFFECTIVE DATE.—Subsection (a) shall take effect 180 days after the date of the enactment of this Act and shall apply to medical communications made on or after such date.

The PRESIDING OFFICER. The Senator can continue.

Mr. WYDEN. Mr. President, again, this amendment involves some very important rights with respect to consumer protection as it relates to health care practitioners, health care plans and the fact that it appears that some physicians are actually gagged in terms of what they can tell their patients about their illnesses and their treatment.

These gag provisions often are included in contracts for purely financial reasons. They limit the kinds of therapies that physicians or other licensed health care practitioners may recommend. It can restrict a practitioner from recommending a patient consult a physician outside a plan or go to a facility outside the plan's network.

In addition, these kinds of approaches may even prohibit a practitioner from discussing financial incentives or penalties physicians may be subject to based on treatments that are recommended or ignored, in the case of an individual physician.

Mr. President, the preamble of the Hippocratic oath tells physicians, ''First, do no harm.'' The message of these gag restrictions, unfortunately, is, ''First, support the bottom line.'' That is not good health care, and it is certainly not good managed care.

Several months ago, the Washington Post cited a startling example involving Mid-Atlantic Medical Services health plans, a large Washington metro area provider. This plan wrote a letter to network practitioners informing them that:

Effective immediately, all referrals from (the plan) to specialists may be for only one visit.

And in bold type the letter stated:

We are terminating the contracts of physicians and affiliates who fail to meet the performance patterns for their specialty.

Obviously, this is a bad deal for patients on two counts. First, the patients may not be getting the kind of health care that is needed.

Second, the plan may restrict the physician from informing the patient about referral restrictions so the patient doesn't even know whether they are being medically shortchanged via the plan's policy.

In my home State of Oregon, where we do have a great number of managed health care services and plans, our State law specifically prohibits these kinds of provisions. Many managed care plans in our State are offering good quality services. They are able to do it in a way that allows them to be both patient-oriented and consumer-friendly and still be sensitive to their financial needs.

Unfortunately, even in our State, a State where there are good managed care plans, problems can develop. For example, an orthopedic surgeon in Portland recently was in a situation where their managed care plan demanded that this particular physician diagnose problems in patients apart from the ones for which they were referred. He was, in effect, in a situation where he was told to keep his mouth shut and instead re-refer those particular patients back to their primary care physician.

This physician wrote to us:

> This is extremely disappointing to patients, as you might imagine. This requires more visits on their part to their primary care physician and then back to me, which is extremely inefficient.

Another physician, a family practice physician in rural Enterprise, OR, wrote that this antigag legislation is needed because ''when a physician recommends medical treatment for a patient and a plan denies coverage for that treatment, patients and physicians need an effective mechanism to challenge the plan.''

I think it is understood that the free flow of information between doctors and patients is the very foundation of good health care. State legal protections on this matter vary. Some States have taken steps to limit these gag rules, but one of the reasons that I come to the floor today and why this legislation has received strong bipartisan support is that I think it is time for a national standard to deal with a national problem.

This amendment is rifle-shot legislation prohibiting only oral gag provisions in contracts or in a pattern of oral communications between plans and practitioners that limit discussion of a patient's physical or mental condition or treatment options. Health plans would still be able to protect and enforce provisions involving all other aspects of their relationship with their practitioners, including the confidentiality of proprietary business information.

In developing this amendment, Mr. President, I and others have talked with many who offer managed care health services, as well as practitioners and consumer advocates. Our enforcement provision specifies penalties for violations by plans of up to $25,000 per event. The amendment also specifies that State laws which meet or exceed the Federal standard set herein will not be preempted by Federal law.

I would like to point out to my colleagues that this amendment has been endorsed by the Association of American Physicians and Surgeons, the American Association of Retired Persons, the Center for Patient Advocacy, Citizen Action, Consumers Union, the American College of Emergency Physicians and a number of other organizations. I ask unanimous consent to have printed in the RECORD letters from these groups.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 1, 1996.

Hon. RON WYDEN,
259 Russell Senate Office Building,
Washington, DC.

DEAR SENATOR WYDEN: We are writing to express our strong support for ''The Patient Communications Protection Act.''

As you know, it has become common for insurers to incorporate clauses or policies into providers' contracts that restrict their ability to communicate with their patients. Such ''gag clauses'' seriously threaten the quality of care for American patients. Not only do gag clauses deny patients the fundamental right to make a fully informed decision about the care they receive, but also they prevent health care providers from delivering the highest quality of care.

Your legislation would prohibit the use of gag clauses. By opening the lines of communication between patients and their physicians, the bill helps to ensure that the practice of medicine occurs in the doctors office not in the corporate boardroom.

We, at the Center for Patient Advocacy, applaud your efforts in behalf of American patients. We look forward to working with you to secure passage of the Patient Communications Protection Act.

Sincerely,

NEIL KAHANOVITZ, M.D.,
President and Founder.
TERRE MCFILLEN HALL,
Executive Director.

OREGON MEDICAL ASSOCIATION,
Portland, OR, July 22, 1996.

Hon. RON WYDEN,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR WYDEN: Thank you for asking for input from the Oregon Medical Association prior to your introduction of the Patient Communication Act of 1996. The ''gag rules'' decreed by some of the managed care organizations would, indeed, make a reasonable person gag. We appreciate your interest in halting such activities and your intent to prohibit by federal law such draconian practices. I know how much you value and how well you understand the necessity of open communication between patients and their physicians. Such rules, and the knowledge that such rules exist, undermine the trust that patients absolutely must have for their physicians if the relationship is to be of value.

As you know, we here in the O.M.A. introduced and orchestrated the 1995 state legislature's passage of the Oregon Patient Protection Act which prohibited ''gag clauses'' in managed care contracts here in Oregon, as you are now intending to do at the federal level. As usual, your state is out in front showing the way in health care.

We appreciate your sharing and exchanging ideas and apprising us of pending legislation and we value such dialogue. Please keep us informed of the progress of this bill, on which we certainly are in agreement.

Sincerely yours,

FRANK J. BAUMEISTER, Jr., M.D.,
President.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, August 30, 1996.

Hon. RON WYDEN,
Russell Senate Office Building, U.S. House of Representatives, Washington, DC.

DEAR SENATOR WYDEN: The National Committee to Preserve Social Security and Medicare, on behalf of its 5.5 million members and supporters, endorses S. 2005, the ''Patient Communications Protection Act of 1996.'' By addressing a concern health care providers and patients may have with managed care, this bill may encourage Medicare beneficiaries to enroll in managed care plans.

This bill will encourage full and open communication between physicians and their patients, which are vital to the prevention of and recovery from illness. Frank discussions cannot occur if providers are prohibited by health plans from disclosing all available treatment options. In addition, the use by some managed care companies of financial incentives to limit costly care also limits communication between the provider and the patient.

Managed care enrollees have a right to expect that they will receive appropriate care for their medical condition, without regard to the cost to the managed care company. The best way to ensure that appropriate care is given to foster full communication between provider and patient.

We applaud your effort to advance the ''Patient Communications Protection Act'' and look forward to working with you toward final enactment of this important bill.

Sincerely,

MARTHA A. MCSTEEN,
President.

ASSOCIATION OF AMERICAN PHYSICIANS AND SURGEONS, INC.,
Tucson, AZ, July 29, 1996.

Hon. RON WYDEN,
Russell Senate Building,
Washington, DC.

DEAR SENATOR WYDEN: The Association of American Physicians and Surgeons supports your efforts to protect the sanctity of the patient-physician relationship with the ''Patients Right to Know Act of 1996.''

Our association strongly supports the liberty of contract and freedom of association. However, such liberty has bounds. Contracts of adhesion are immoral, unjust and should be unlawful. Patients are being exploited by powerful organizations.

Patients should be able to rely upon their physicians' ethics. However, today certain organizations are gaining the economic power to exclude and financially destroy conscientious physicians who place their obligations to the patient ahead of the interests of the ''plan.'' Restrictions on communication with our patients not only undermine quality of care, but are a blatant violation of the Hippocratic Oath. Prohibition of ''gag rules'' is a crucial step toward protecting patients.

Contracts which restrict physicians' freedom to communicate their best judgment are only one of the most egregious violations of patients' rights.

AAPS believes Congress should consider legislation which would protect patients'

right to choice, confidentiality, the ability to privately contract, and to receive full advance disclosure of the terms of their insurance/health care plan in plain language. The AAPS ''Patient's Bill of Rights'' which will be introduced as a Congressional resolution by Rep. Linda Smith, addresses those issues. We hope it will serve as a model and catalyst for future legislation.

Information is the best prescription. Prohibition of ''gag clauses'' is the first step in that direction, and we hope it sets the stage for additional patient protections to come from the 104th Congress.

Sincerely,

JANE M. ORIENT, M.D.,
Executive Director.

AMERICAN COUNSELING ASSOCIATION,
Alexandria, VA, August 20, 1996.

Hon. RON WYDEN,
U.S. Senate, Russell Senate Building, Washington, DC.

DEAR SENATOR WYDEN: I am writing on behalf of the American Counseling Association (ACA), the nation's largest nonprofit organization representing licensed and certified professional counselors, to express our support for your legislation S. 2005, the Patient Communications Protection Act of 1996. As behavioral healthcare providers, professional counselors would be greatly helped by your legislation. However, we could appreciate your consideration of a minor change in the bill's definition of a ''health care provider'' from ''anyone licensed under State law to provide health care services . . .'' to ''anyone licensed or certified under State law to provide health care services . . .''

Currently, 33 states—including the State of Oregon—and the District of Columbia license professional counselors to provide behavioral healthcare services to their residents. In eight other states—including Arizona, Kentucky, Maryland, New Hampshire, New Mexico, Rhode Island, Washington, and Wisconsin—professional counselors are certified, and thus would not be considered ''health care providers'' under S. 2005. Attached for your information is a survey comparing state policies regarding licensure and certification.

We have discussed this issue with Steve Jenning of your staff, who states he saw no reason this change couldn't be included in the legislation as it moves forward. Should you be agreeable to this proposed change, we would be happy to provide you with any assistance or further information you may need. Please use Scott Barstow of our Office of Government Relations as our contact on this issue, at (703) 823–9800 x234.

Thank you for your time and consideration. We look forward to working with you on behavioral healthcare issues and other areas of mutual concern.

Sincerely,

GAIL ROBINSON,
President.

AMERICAN CHIROPRACTIC ASSOCIATION,
Arlington, VA, July 30, 1996.

Hon. RON WYDEN,
Russell Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR WYDEN: Yesterday your office contacted the ACA seeking endorsement for a bill you are drafting to prohibit health insurance plans from restricting or limiting communication between health providers and patients about treatment options and procedures. This practice is most often employed by managed care plans through what are called ''gag rules.'' The ACA has endorsed legislation in the House, H.R. 2976, that would prohibit these gag rules, and we commend you for your efforts to eliminate this unfair practice.

However, in the materials your staff provided us (attached), it appeared that your proposal would limit the effect of the bill to only those communications between medical doctors and health plan participants. Thus, health plans technically would be permitted to continue to employ ''gag rules'' on communications between non-M.D. health providers and their patients enrolled in managed care plans.

Such language concerns the ACA, since as you are aware, doctors of chiropractic are not M.D.s, but rather are fully licensed health care providers so recognized in every state. It is our belief that any legislative proposal to prohibit the establishment of ''gag rules'' in managed care plans should apply to all providers licensed or otherwise recognized by a state authority. Since hundreds of millions of consumers utilize non-M.D. health professionals every year, we believe your proposal needs to be broadened.

Therefore, before endorsing your bill, ACA would strongly urge you to expand its definition of health provider to mean any health professional licensed, certified or registered in a state to provide health care services. This would extend the sensible protections your legislation offers to those patients who utilize the services of health professionals who are not M.D.s.

ACA appreciates and acknowledges your past efforts on behalf of the chiropractic profession and the tens of millions of patients who visit doctors of chiropractic every year. We hope that you will see fit to make the modifications that we have respectfully submitted in this letter.

Sincerely,

GARRETT F. CUNEO,
Executive Vice President.

Mr. WYDEN. Mr. President, let me also, in closing, quote briefly from a few of these endorsements.

The Association of American Physicians writes:

> Restrictions on communication with our patients not only undermine quality of care, but [constitutes] a blatant violation of the Hippocratic oath. Prohibition of ''gag rules'' is a crucial step toward protecting patients.

The Center for Patient Advocacy writes:

> It has become common for insurers to incorporate clauses or policies into providers' contracts that restrict their ability to communicate with their patients. Such gag clauses seriously threaten the quality of care for American patients.

Mr. President, let me conclude by saying that my part of the country was involved in the pioneering work in the managed care area. I have seen in my community—we have perhaps the highest concentration of managed Medicare in the country, with almost 50 percent of the older people in managed care—that it is possible to offer good quality managed care services.

What has concerned me is that there has been a pattern documented of managed care plans cutting corners and, unfortunately, imposing these gag clauses which get in the way of the doctor-patient relationship and the patient having the kind of information that a patient needs in order to make their own decisions about their health care.

I don't think that is what the health care future of our country is all about. As I talk to patients, and I have sought to work in this area since my days with the elderly before being elected to Congress, I find that patients today hunger for information. I suspect in the years ahead, you are going to have medical patients in our country at their computer looking at the Internet to get information about medical services, and it seems to contradict the future of American health care to have these gag rules which would cut off essential information in managed care plans between providers and plans and their patients.

Mr. President, I hope that my colleagues will support this legislation. It has received bipartisan support on both sides of the Hill. I hope this will receive a unanimous vote here in the Senate today.

Mr. KENNEDY. Mr. President, one of the most dramatic changes in the American health care system in recent years has been the growth of managed care plans such as health maintenance organizations, preferred provider organizations, point of service plans, and other types of network plans. Today, more than half of all Americans with private insurance are enrolled in such plans, and 70 percent of covered employees in businesses with more than 10 employees are enrolled in managed care. Between 1990 and 1995 alone, the proportion of Blue Cross and Blue Shield enrollees participating in managed care plans skyrocketed from just one in five to almost half. Even conventional fee-for-service plans have increasingly adopted features of managed care, such as ongoing medical review and case management.

In many ways, this is a positive development. Managed care offers the opportunity to extend the best medical practice to all medical practice. It emphasizes helping people to stay healthy, rather than simply caring for them when they become sick. It helps provide more coordinated and more effective care for people with multiple medical needs. It offers a needed antidote to the incentives in fee-for-service medicine to provide unnecessary care—incentives that have contributed a great deal to the high cost of care in recent years.

In fact, in 1973, Congress enacted the first Federal legislation to encourage HMO's, in recognition of these potential benefits for improving the quality of care.

At its best, managed care fulfills these goals. Numerous studies have found that managed care compares favorably to fee-for-service medicine on a variety of quality measures, including use of preventive care, early diagnosis of some conditions, and patient satisfaction. Many HMO's—including a number based in Massachusetts—have made vigorous efforts to improve the quality of care, gather and use systematic data to improve clinical decision-making, and assure an appropriate mix of primary and specialty care.

But the same financial incentives that can lead HMO's and other managed care providers to practice more

cost-effective medicine also can lead to under-treatment or inappropriate restrictions on specialty care, expensive treatments, and new treatments. As Dr. Raymond Scalettar, speaking on behalf of the Joint Commission on Accreditation of Health Care Organizations, recently testified,

The relative comfort with which the fee-for-service sector has ordered and provided health care services has been replaced with strict priorities for limiting the volume of services, especially expensive specialty services, whenever possible . . . [T]hese realities are legitimate causes for concern, because no one can predict the precise point at which overall cost-cutting and quality care intersect. The American public wants to be assured that managed care is a good value, and that they will receive the quality of care they expect regardless of age, type of disorder, existence of a chronic condition or other potential basis for discrimination.

In recent months a spate of critical articles in the press has suggested that too many managed care plans place their bottom line ahead of their patients' well-being—and are pressuring physicians in their networks to do the same. These abuses include failure to inform patients of particular treatment options; excessive barriers to reduce referrals to specialists for evaluation and treatment; unwillingness to order appropriate diagnostic tests; and reluctance to pay for potentially life-saving treatment. In some cases, these failures have had tragic consequences.

For example, David and Joyce Ching spent 12 weeks trying unsuccessfully to obtain a referral to a specialist from their primary care physician or gatekeeper in the MetLife HMO Plan. Not until David refused to leave the office of the gatekeeper physician was his wife referred to a specialist. Within 24 hours of her visit to a specialist, Joyce was diagnosed with cancer. She died 15 months later.

Alan and Christy DeMeurers had a similarly frustrating experience with their HMO. An HMO-provided oncologist recommended—in violation of the HMO rules—that Christy obtain a bone marrow transplant and made the necessary referral. The DeMeurers spent months trying to get this treatment. Not only did the HMO seek to deny the treatment, it attempted to deny the DeMeurers information about the treatment itself. By going outside the HMO plan, the DeMeurers were finally able to get answers to their questions about the treatment, and Christy was finally able to get the treatment recommended by her original oncologist.

In the long run, the most effective means of assuring quality in managed care is for the industry itself to make sure that quality is always a top priority. I am encouraged by the industry's recent development of a ''philosophy of care'' that sets out ethical principles for its members, by the growing trend toward accreditation, and by the increasingly widespread use of standardized quality assessment measures. But I also believe that basic Federal regulations to assure that every plan meets at least minimum standards is necessary.

With this amendment, the Senate has a chance to go firmly on record against a truly flagrant practice—the use of ''gag rules'' to keep physicians from informing patients of all their treatment options and making their best professional recommendations. Gag rules take a number of forms. They include:

Forbidding a physician to discuss treatment options not covered by the insurance plan or prior to consultation with officers of the plan;

Forbidding the referral of patients to specialists or facilities not participating in the plan.

So-called ''non-disparagement clauses'' in contracts, which are designed to keep network physicians from urging patients to switch to another plan, but which are also used to threaten physicians who recommend therapies the plan refuses to cover; rules forbidding physicians to inform patients of financial incentives or utilization management rules that could lead to denial of appropriate treatment; denying information to patients that a physician has been de-selected from a plan.

The amendment we are offering today targets the most abusive type of gag rule: those that forbid physicians to discuss all treatment options with the patient and make the best possible professional recommendation, even if that recommendation is for a noncovered service or could be construed to disparage the plan for not covering it. Our amendment forbids plans from ''prohibiting or restricting any medical communication'' with a patient ''with respect to the patient's physical or mental condition or treatment options.''

This is a basic rule which everyone endorses in theory, but which has been violated in practice. The standards of the Joint Commission on Accreditation of Health Care Organizations require that ''Physicians cannot be restricted from sharing treatment options with their patients, whether or not the options are covered by the plan.''

As Dr. John Ludden of the Harvard Community Health Plan, testifying for the American Association of Health Plans has said, The AAHP firmly believes that there should be open communications between health professionals and their patients about health status, medical conditions, and treatment options.''

Legislation similar to this amendment recently passed the House Commerce Committee on a unanimous bipartisan vote. President Clinton has strongly endorsed the proposal. The congressional session is drawing to close. Today, the Senate has the opportunity to act to protect patients across the country from these abusive gag rules. I urge the Senate to approve this amendment.

Mr. KERREY. Mr. President, I looked at this amendment, as has the chairman. It is similar to an amendment offered by the Senator from North Carolina. We are having some review done on it. It is likely that we might be willing to accept the amendment. If the Senator would be willing to wait for a bit until we can get that language reviewed to make sure there are no problems with it, it is likely we will be able to accept it, as we did the Senator from North Carolina's amendment.

Mr. SHELBY. Mr. President, we have not had a chance to really study the Wyden amendment yet. We have just had a quick opportunity to review the Senator's amendment. We need to look at it more closely, and we have some other people doing it. There are some other committees this could have tremendous impact on. We do not know what CBO will say about this, if anything. It might need to be scored, what the cost is, if any. We just started into the bill. We have a little time, I believe. I was wondering if the Senator from Oregon would set it aside and let us look at it.

Mr. WYDEN. Let me first say to my friend, this is not an issue involving the Congressional Budget Office.

Mr. SHELBY. Sure. That is good.

Mr. WYDEN. This is simply a matter of patients and managed care organizations not being subjected to these gag rules which keep them from having information. But I think that the request that the Senator from Alabama and the Senator from Nebraska makes is a reasonable one. I saw the thrashing we were going through at the beginning in the effort to work out a number of these amendments on a bipartisan basis. So I am happy to hold off a bit in terms of a vote to work further with the Senator from Nebraska and the Senator from Alabama.

Let me say, also, that I have noted that what the Senator from North Carolina has indicated he was interested in as well is quite similar to what I have sought to do. If anything, it just corroborates the proposition that we are discussing here today that there is bipartisan interest on both sides of Capitol Hill in this matter with the growth of managed care in our country.

This is an issue that millions of consumers care about that I think, for those of us who believe in managed care, has great potential. It is absolutely critical at this time to lock in these consumer protections and restrict these gag rules. From my previous experience in working with the Senator from Alabama, I know that he will pursue this in good faith. I ask that we have the vote a bit later and have an opportunity to consult further with the Senators from Nebraska and Alabama. I will be happy to yield.

Mr. SHELBY. If the Senator from Oregon will just yield briefly, this would give us a chance for both my staff and the staff of the Senator from Nebraska to look at this amendment and see what the significance of it is. We will be glad to get back with the Senator. Is that OK?

Mr. WYDEN. Yes.

Mr. KERREY. If I could comment on the substance as well. I think both the Senator from Oregon and the Senator from North Carolina identified a very important problem in the current health care system. He is quite right. It is one thing to say to a patient, I am not going to pay for a procedure; it is quite another to say you cannot talk amongst one another, or I am going to be prohibited from telling you about a procedure that you may say you want.

We are moving into an environment, not just on the private-sector side, but, also, in many of the Government programs in Medicare. Many of the States are using managed care with Medicaid as well. I think the Senator from Oregon has identified a very, very important consumer problem.

It is far better for us to give the consumer more information than they need, far better for us to make certain that the consumer, the patient, is well-informed of what the choices are, as opposed to on the basis of being concerned they might ask for something that I am going to say no to if I am running the managed care program. It is far better to give them the information, it seems to me, than to deny it to them.

So my hope is we will be able to clear both this and the amendment of the Senator from North Carolina, subject to no serious problems being raised.

Mr. WYDEN. If the Senator from Nebraska will allow me to reclaim my time, let me just say I think that both of you have indicated your desire to work on this. I very much appreciate your comments.

I say to Senator KERREY, I know of your interest in this health care issue and the fact that it has been longstanding. Let us say that for purposes of working on this in a bipartisan way, I will not request that the vote be taken right now and look forward to voting a little bit later today on this when the staffs have had a chance to work with it further.

Mr. KERREY. Right.

Mr. SHELBY. Mr. President, I ask unanimous consent that the pending committee amendments be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I have a number of amendments I will offer that are either technical in nature or necessary to change the bill because of events which have occurred since the bill was reported or are of a noncontroversial nature. All of these amendments, I understand, have been cleared with Senator KERREY's staff.

Mr. KERREY. They have been cleared. We have no problem with the amendments.

AMENDMENT NO. 5209

(Purpose: Technical correction to H.R. 3756)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5209.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 131, line 13, strike ''and''.

On page 131, line 18, strike ''.'', and insert ''; and''.

Mr. SHELBY. Mr. President, this is a technical amendment which corrects an initial printing error. It has been cleared on both sides. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5209) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5210

(Purpose: To strike language to conform to other bill language)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5210.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 42, strike all from line 9 through line 15.

Mr. SHELBY. Mr. President, this, again, is a technical and conforming amendment which is necessary to conform with the committee action, striking section 116. It has been cleared on both sides of the aisle.

Mr. KERREY. Mr. President, I have no objection to this amendment.

Mr. SHELBY. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5210) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5211

(Purpose: Technical correction to H.R. 3756)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5211.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 4, line 4, line type ''$29,319,000''.

Mr. SHELBY. Mr. President, this, again, is a technical amendment. In printing the bill, the GPO failed to line type the figure in the House-passed bill. This amendment does this. It has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection.

Mr. SHELBY. Mr. President, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5211) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. KERREY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5212

(Purpose: To strike section 632)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5212.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 118, line 16 strike all through page 120, line 15.

Mr. SHELBY. Mr. President, this amendment strikes section 632 of the bill. The President signed a freestanding bill, H.R. 782, which includes the provisions of section 632, on August 1 of this year. This amendment has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection to this amendment.

Mr. SHELBY. I urge adoption of the amendment.

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

The amendment (No. 5212) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5213

(Purpose: To strike Title VII)

Mr. SHELBY. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5213.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 135, strike line 5 through line 20.

Mr. SHELBY. Mr. President, this amendment strikes title VII of the bill. Because of the urgency of investigations of the church fires, this language was included in the agriculture appropriations bill. The President signed that bill on August 6. I understand that this amendment has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

Mr. SHELBY. I urge its adoption.

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

The amendment (No. 5213) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5214

(Purpose: To provide funding to the Postal Service for payment of nonfunded liabilities)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5214.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 34, after line 23 insert the following:

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department of the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $35,536,000.

Mr. SHELBY. Mr. President, this amendment before the Senate provides funding to the Postal Service for liabilities incurred by the former Post Office Department. The funds are paid to the Department of Labor for workmen's compensation claims.

Mr. President, this provision was inadvertently left out of the bill. It is a mandatory payment and does not have an impact on the discretionary funding in the bill.

This amendment, I understand, has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5214) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5215

(Purpose: To define and conform language for expenditure of funds for information systems of the Internal Revenue Service)

Mr. SHELBY. Mr. President, I have another amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5215.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 22, line 21 strike all from ''(modernized'' through ''systems'' on line 23, and insert: ''(development and deployment) and operational information systems''.

On page 23, line 14 strike all from ''to manage,'' through ''Management Office'' on line 17.

On page 23, line 18 strike ''and other necessary Program Management activities'' and insert: ''the Internal Revenue Service shall seek contractual support in managing, integrating, testing and implementing''.

On page 23, line 22 strike all from ''none of'' through ''program without'' on page 24, line 3.

On page 24, line 5 strike ''which''.

On page 24, line 8 strike all from ''except that'' through ''Board'' on line 11.

On page 24, line 18 strike all from '' *Provided further,*'' through ''modernization'' on line 20.

Mr. SHELBY. Mr. President, this amendment makes a number of corrections to further define the actions that the Internal Revenue Service is to take with regard to the information systems account we have been talking about.

It has been cleared on both sides of the aisle.

Mr. KERREY. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5215) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5216

(Purpose: To provide for assistance to Special Agents of the Department of State's Diplomatic Security Service)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5216.

Mr. SHELBY. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 128, line 9 before the semicolon insert the following: '', or under section 4823 of title 22, United States Code''.

Mr. SHELBY. Mr. President, this amendment amends section 636 of the bill which provides authority for agencies to provide assistance to agents who secure liability insurance. This amendment will provide this authority to the State Department if it chooses to provide the same assistance to special agents of the Department of State's Diplomatic Security Service.

It is my understanding that it has been cleared on both sides of aisle.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5216) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5217

(Purpose: To provide Federal Executive Boards ability to expand funds)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5217.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 101, on line 3, insert after ''boards'' the following: ''(except Federal Executive Boards)''.

Mr. SHELBY. Mr. President, section 613 prohibits the executive department from pooling or passing the hat for funds. This amendment allows for agencies to contribute funds to Federal executive boards when they are created. It is very tightly written, and it is intended to meet specific problems faced by these boards.

It is my understanding it has been cleared on both sides.

Mr. KERREY. It has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5217) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5218

(Purpose: To expand flexibility to OPM in providing services to CSRS and FERS annuitants)

Mr. SHELBY. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5218.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 69, after line 20, add the following new section:

SEC. 422. Subparagraph (B) of section 8348(a)(1) of title 5, United States Code, is amended by striking ''title;'' and inserting ''title and providing other post-adjudicative services to annuitants;''.

Mr. SHELBY. Mr. President, this amendment would expand the flexibility available to OPM in providing services to CSRS and FERS annuitants in such functions as processing health benefits enrollment changes, changes of address and responding to annuitant inquiries. All of these postadjudication matters would be funded in the same way, and therefore fully integrated with the postretirement COLA adjustments, Federal and State tax withholding and allotments from annuity payments.

It is my understanding it has been cleared on both sides of the aisle.

Mr. KERREY. It has been cleared.

The PRESIDING OFFICER. The question on agreeing to the amendment.

The amendment (No. 5218) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5219

(Purpose: To provide that the Administrator of General Service have funds available to make payments for the Federal Communications Commission)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5219.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 57, line 21 before the colon insert the following new provision: ''*: Provided further,* That to the extent that the Federal Communications Commission does not receive sufficient appropriations for necessary expenses associated with its relocation to the Portals in Washington, DC, funds available to the Administrator of General Services shall hereafter be available for payments to the lessor of the amortized amount, to be financed at the lowest cost to the Government, of such expenses. Such payments shall be in addition to amounts authorized pursuant to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606) and shall be made for a term not to exceed the useful life of the improvements, furniture, equipment, and services provided, up to a maximum of ten years.''

Mr. SHELBY. Mr. President, this amendment before the Senate provides authority to the General Services Administration to negotiate payment for housing the Federal Communications Commission in Washington, DC.

It is my understanding this amendment, too, has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5219) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5220

(Purpose: Technical amendment to H.R. 3756)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5220.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 51, line 10 strike all from ''*Provided further,*'' through ''House and Senate:'' on line 16.

Mr. SHELBY. Mr. President, this is a technical amendment that strikes a provision which is identical to a provision which appears at another place in the bill.

It has been cleared, I understand, on both sides of the aisle.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5220) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5221

(Purpose: To strike provision requiring a study of courtroom utilization)

Mr. SHELBY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5221.

Mr. SHELBY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 61, line 5 strike all from ''*: Provided,*'' through ''or expanded'' on line 8.

Mr. SHELBY. Mr. President, the committee included language in the bill when it was reported to require the Administrative Office of the Courts to do a space utilization study of courtroom space and utilization. Since the bill was reported from the committee, the AOC has been working with the appropriate authorizing committees to review courtroom space and utilization. These issues should appropriately be reviewed in this manner. It is for that reason I am moving to strike this provision.

It has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5221) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5222

(Purpose: To allow agencies to advance employee FEHB premiums for employees on leave without pay)

Mr. SHELBY. Mr. President, I have another amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes an amendment numbered 5222.

Mr. SHELBY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 69, after line 20 add the following new section

SEC. . Paragraph (1) of section 8906(e) of title 5, United States Code, is amended—

(1) by striking the last sentence of that paragraph and redesignating the remainder of that paragraph as (1)(A);

(2) by adding at the end of paragraph (1)(A) (as so designated) the following:

''(B) During each pay period in which an enrollment continues under subparagraph (A)—

''(i) employee and Government contributions required by this section shall be paid on a current basis; and

''(ii) if necessary, the head of the employing Agency shall approve advance payment, recoverable in the same manner as under section 5524a(c), of a portion of basic pay sufficient to pay current employee contributions.

''(C) Each agency shall establish procedures for accepting direct payments of employee contributions for the purposes of this paragraph.''.

Mr. SHELBY. Mr. President, this amendment will solve problems that agencies, the Office of Personal Management, and the Federal employee health benefit carriers have experienced with regard to payment of health care premiums by allowing agencies to advance the employee premium for employees on leave without pay, rather than waiting for the employees to return to work.

I understand this has been cleared on both sides.

Mr. KERREY. It has been cleared. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (No. 5222) was agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. What is the pending business, Mr. President?

The PRESIDING OFFICER. The amendment of the Senator from Oregon, the second-degree amendment.

Mr. DORGAN. I ask unanimous consent we set that aside. As I understand, the managers talked about setting aside the amendment by the Senator from Oregon.

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

AMENDMENT NO. 5223 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 16, LINE 16 THROUGH LINE 2 ON PAGE 17

(Purpose: To amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States)

Mr. DORGAN. Mr. President, I offer a second-degree amendment to the second committee amendment.

I believe the second committee amendment is now the pending business.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. On behalf of myself, Senator HOLLINGS, Senator BUMPERS, Senator KERRY of Massachusetts, Senator SIMON, Senator KOHL, and Senators REID, WELLSTONE, LEAHY, HARKIN, FEINGOLD, and KENNEDY, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HOLLINGS, Mr. BUMPERS, Mr. KERRY, Mr. SIMON, Mr. KOHL, Mr. REID, Mr. WELLSTONE, Mr. LEAHY, Mr. HARKIN, Mr. FEINGOLD, and Mr. KENNEDY, proposes an amendment numbered 5223 to excepted committee amendment on page 16 line 16 through line 2 on page 17.

Mr. DORGAN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert the following:

SEC. . TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).''

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of such Code is amended by adding at the end the following new subsection:

''(h) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property,

''(B) the sale, exchange, or other disposition of imported property, or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States, or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

''(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of such Code (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)).''

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) of such Code is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of such Code (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

''(III) imported property income,''.

(2) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1996.

Mr. DORGAN. Mr. President, this amendment is not a germane amendment to this appropriations bill. I assume notice will be made of that, so I

immediately agree this is not germane to this legislation.

However, this is, perhaps, the only remaining opportunity to offer such an amendment. I offered it about a year ago, and the Senate had a vote on it. It was a 52 to 47 vote. It deals with a provision in our tax law which encourages and provides incentives to U.S. companies that move jobs overseas from this country to their foreign factories operating in tax havens.

I have believed for some long while that we have an obligation in Congress to decide that we will change our Tax Code sufficiently so we will not be providing incentives to ship U.S. manufacturing jobs overseas.

I offered this amendment last year, almost a year ago now, and, as I indicated, the vote on it was on a vote to table, and it was 52 to 47. I recognize this is controversial, but I also maintain it is critically important. I also do not prefer to offer a nongermane amendment to this particular appropriations bill. I have great respect for the Senator from Alabama and the Senator from Nebraska. They want to get this bill done, and I understand that. I don't intend to hold them up forever on this, but I would like to have a discussion about this and have a vote on it. I know there are a couple of others who want to speak about this amendment as well.

Let me try to briefly describe what this amendment would do. Before I do that, let me say again to those who will point out that this is nongermane, I admit that, and I assert that we have faced nongermane amendments from both sides of the aisle in the past year or two here in Congress. We have recently seen an amendment dealing with a gas tax repeal on a White House travel bill. So we have seen a whole range of nongermane amendments. While I agree with others that that is not the preferable way to do business, this is the last opportunity to offer such an amendment.

Let me talk for a moment about the specifics. On July 8, this year, the Boston Globe had an article that was entitled ''Tax Code Gives Companies a Lift,'' and I would like to read a few paragraphs of it because it was a fascinating, lengthy article written by Aaron Zitner of the Boston Globe. The first paragraph describes what has long concerned me and persuaded me previously, and now again, to offer an amendment of the type I am offering today. It reads in the Globe:

When Robert M. Silva's job moved to Singapore two years ago, his company flew him overseas so he could train his replacement. Then the company closed its North Reading factory [in Massachusetts], laid off Silva and 119 co-workers and began importing from its Asian plant the medical products once made in Massachusetts.

Moving jobs to Singapore had obvious advantages for Baxter International Inc. Taxes are low, and Silva's $26,000 salary was far higher than what the company pays his replacement.

But Baxter reaped another reward for moving overseas: a tax break, courtesy of the United States Government. In the name of boosting U.S. business, the Tax Code offers a special benefit to companies that move jobs offshore. . . .

It is one of many tax breaks that ripple perversely through the economy—favoring multinationals over small firms, favoring investors over average taxpayers and favoring foreign workers over those at home.

Those are the first paragraphs of a lengthy and very interesting article in the Boston Globe. This paragraph talks about a man named Robert Silva. I have never met him, and I don't ever expect to meet him. He is one of many Americans who discovered that his job no longer exists in this country; it exists in Singapore. He discovered he was sent to Singapore to train his replacement. He is a taxpayer, like others, who pays taxes to our Government for a lot of things that he no doubt supports. But I will bet you that Mr. Silva, like many others, does not support a provision in our Tax Code that actually rewards those who would move U.S. jobs overseas.

Now, what is this reward, and what is the amendment I am proposing? The amendment I am proposing is not to repeal all of something called deferral. That is not my proposal. The Senate actually voted once to repeal deferral many years ago. It just did not go beyond the Senate. But the Senate has already acted to repeal something called deferral. What is deferral? That means that if you are an American manufacturing company producing overseas, you make an income there, and you generally don't have to report it and pay taxes on it in this country. You may defer that tax obligation until and unless you repatriate the income to our country. That is a special tax break called deferral. You can defer any taxes you would have owed to this country on income you made in a plant outside of this country.

As I indicated, the Senate in 1975 voted to repeal all of the deferral tax break. Of course, it was a different day, a different debate. It was very controversial then. In 1987, the House of Representatives voted to repeal a small part of deferral. In fact, it is exactly the part that I am proposing that we now repeal. The House of Representatives passed this provision, which I now offer the Senate, in 1987. The provision says that those U.S. companies who establish a manufacturing plant overseas, move their U.S. jobs overseas to tax havens, and then ship their products back into this country will lose the deferral on their tax break—the tax break called deferral—that amount of income attributable to the goods they move back into our country. It is a very small slice of this issue called deferral, but it would close that, because that which now exists is to say to a U.S. company, close your manufacturing plant in Boston or Bismarck or Los Angeles and then move it overseas to a tax haven and the American taxpayer will make a deal with you. If you do that, we will give you a tax break. What is that tax break worth? It is worth $2.2 billion in 7 years. That is how much is paid to companies who locate their manufacturing jobs in other countries as opposed to this country.

Now, I don't know of anyone who really can stand up and say, boy, this makes a lot of sense. It is an affirmative policy on our part to reward the export of American jobs. I don't know of anyone who is proposing that. If there are people who propose that, I would very much like them to come to the floor of the Senate and see if we can begin debating it, because I hope we will have some discussion. A year ago, when I offered this amendment, we were told that some hearings might be held and that this is not the time, the place, nor the way, and I understood all that. I did not agree with it. But as is usually the case, a year passes and not much happens. I wanted to offer this a month or two ago and wasn't able to do that, given the parliamentary circumstances. So now I am required, if I am to offer it at all in this session of Congress, to offer it today on this piece of legislation.

I would like to go over a couple of charts. Lest anyone thinks this is something that is irrelevant and not important, I would like to go over a few charts to describe why I think this is important. First of all, I would like to talk about manufacturing jobs in this country. The trend line on manufacturing jobs is dismal. The trend line is that we are a country with fewer and fewer manufacturing jobs, and manufacturing jobs, traditionally, have been the good jobs that pay good income with good benefits. But you see what is happening.

Since 1979, we have lost about 3 million good-paying manufacturing jobs in this country. We continue to see manufacturing jobs move elsewhere, and I know people say, ''Well, yes, but we have more service jobs,'' and this and that and the other. The fact is that getting a job at minimum wage, working for some discount store on the edge of a city, is not a replacement for good manufacturing jobs that traditionally have paid good income in this country. This is what is happening to manufacturing jobs in our country. That is a ominous trend. Part of that is because those manufacturing jobs are being exported. Exported how? Well, for a lot of reasons, one of which is that we actually encourage it in our Tax Code.

Next is ''Employment by Foreign Manufacturing Affiliates of United States Companies''—U.S. firms and their employment. Here is what is happening to manufacturing employment in the United States. That is the red line. You see what is happening to that. That is going down.

U.S. companies manufacturing abroad, what is happening to their employment? That is going up. Those lines show clearly what is happening on manufacturing employment by U.S. corporations in Asia and Latin America, the location of most low wage and tax haven countries.

''Employment in Foreign Manufacturing Affiliates.'' You can see what is happening over the years. That employment continues to increase. Again, this is manufacturing and manufacturing jobs are traditionally the best source of jobs or the best income and the most secure.

''Employment by U.S. Firms in Foreign Tax Havens.'' You will see Ireland, the Netherlands, Hong Kong, Singapore. Singapore, 74,700 firms. I am not suggesting that a United States company should not be able to have a foreign affiliate and manufacture in Singapore. A United States company might well want to establish an affiliate in Singapore in order to manufacture there to compete in Korea. I am not suggesting that is inappropriate. I am not suggesting we change that. I am saying that if a United States company decides it wants to manufacture in Singapore for the purpose of serving the United States market, the company that manufactures in the United States to serve the United States market is put at a substantial disadvantage. Why? Because at least in part we have provided in our Tax Code a reward for those who left which translates into a penalty for those who stayed.

''Growth of Manufacturing Employment.'' You can see what is happening again, in the number of countries where manufacturing jobs have been moving with robust growth and what is happening in the United States. That is not, it seems to me, what we should aspire to have happen in our country.

''Growth of Imports of Manufactured Products.'' Once again, the line shows that we have a steady upward trend of growth of imports from manufactured products. The moment I say this some will say, ''Well, he wants to stop the imports.'' This is not the case. This is not, on the one hand, a debate between those who want free and open and unrestricted trade and those, on the other hand, who are protectionist, xenophobic stooges who do not understand what is happening in the world. That is the way it is characterized. That is a lot of baloney. What this is is a narrow question of whether or not we ought to have in our Tax Code that provision which provides a significant incentive to say to a U.S. manufacturer, ''We will make you a deal: Move your jobs overseas and we will give you tax relief. Compete after you move overseas against a domestic company that stayed in the United States and will be at a disadvantage because we gave you a tax advantage and did not give the company that stayed here a tax advantage.''

That, it seems to me, is exactly the wrong message we want to be sending to American manufacturers.

Well, I do not know that I need to provide more evidence that manufacturing jobs are leaving this country. It is, I suppose, difficult to discuss this with a great deal of success at a time when those who receive these benefits are the largest enterprises in our country, literally in many cases the largest enterprises in the world, spending an enormous amount of time lobbying to keep what they now have, preventing someone from taking away the benefits they now have. There are not people walking around the streets carrying placards telling us that we have to shut this tax loophole because almost no one knows it exists.

Mr. Silva, who has lost his job in Massachusetts, may not know it exists, but it contributed to his losing his job. A woman named Carolyn Richard probably does not know it exists. She is a woman married with one child, a 10th grade education, one of 500 people who worked in a Fruit of the Loom factory, 8-hour days, stitching shoulder joints and hemming T-shirts. She, with a lot of others, worked hard. They liked their jobs, did well. But they cannot compete against others who will work for a dollar a day, a dollar an hour, and so companies that would employ Carolyn Richard decide they will close their American plant because they can make that product elsewhere less expensively.

I admit there are several things that persuade companies to do this, one of which is a tax break. Several others include being able to pole vault over an entire range of knotty little problems in this country that we served 75 years debating—should there be child labor protection laws? Should there be safety in the workplace? If so, what should those standards be? Should we prevent the dumping of chemicals and effluents into the air and water by manufacturing plants? We spent 75 years debating that and came to some conclusions about it, and we have child labor laws; we have worker safety protection issues; we have minimum wages; we have provisions that you cannot dump chemicals into our water; you cannot dump effluents into the airshed that pollute this country.

So that is what costs money, and some are able to pole vault over all of those issues by saying: I do not have to pay the minimum wage; I can hire a 14-year old and pay them 14 cents an hour and work them 14 hours a day; I can dump chemicals into the stream; I can dump pollution into the airshed; I do not have to care about OSHA inspectors, safe work place; I do not have to care about any of those things and save money because I can move this plant overseas. Besides, when I am done doing that, I can claim a tax break because the American taxpayers will pay me and others who do it $2.2 billion in 7 years if I will just consider moving my American jobs elsewhere.

There is at the moment a wonderful series that I would commend to my colleagues being done in the Philadelphia Inquirer by fellows named Donald Barlett and James Steele. They have done a substantial amount of economic work. They have won the Pulitzer Prize, a couple Pulitzer Prizes for their reporting, and they have now published 3 of an expected 10 pieces dealing with these issues—trade, tax preferences. What is happening to an endangered label, they say. ''Made in the U.S.A.'' ''An Endangered Label: 'Made in the U.S.A.' ''

Product after product once made or grown in the United States now comes from abroad and one of the biggest losers in this influx is small business.

From one of their articles I wanted to read a couple of paragraphs that I think summarize part of this issue for me.

> Unlike multinational corporations that have closed factories in the United States and shifted the production abroad to take advantage of cheap labor, small companies seldom have that option. It is these businesses, employing a few to a dozen workers, that are being squeezed out. Individually, they barely register a blip on the economic indicators. Taken together, they provide a livelihood for millions.
>
> Small businesses have scant access to people in Congress who write the laws and little influence in the White House. They rarely receive favorable hearings from regulatory authorities. With few exceptions, their appeals for help go unheard when imports of competing products from low wage countries begin flooding in.

Mr. President, Mr. Glover, chief counsel from the Small Business Administration's Office of Advocacy, said it pretty well. He was speaking of part of this amendment. He talked about the legislative offering that I have proposed, ''encouraging small and mid-sized domestic businesses by reducing the competitive advantage a business might receive by moving its operations overseas.''

''We recognize,'' he said, ''the fact of life that some businesses may move their production operations to a foreign nation for reasons of market access, materials availability or a variety of other concerns.''

And I recognize that as well.

He also said, ''We also know that domestic small businesses, having neither the resources nor the expertise for such a move, should be assured that their globe-trotting, multinational competitors will not be provided tax advantages as well. Eliminating the deferrals for a U.S. business which has closed its domestic production and moved abroad and which now seeks to sell those same products domestically will help small businesses to be competitive and at least give them a sense of fair treatment.''

Mr. President, I could go on at some length because this is a very controversial issue. Not long ago, a couple of people who worked for an organization that has been put together and funded by the largest companies in this country, which benefit from this tax break, put together a piece in one of the tax publications here in town. It was just a scathing attack of this proposal of mine. It described all that is wrong with it and why the current system is wonderful and why what I am proposing is so awful.

A response to that was recently done by the Congressional Research Service, prepared by its senior specialist in economic policy, Jane Gravelle. It was

published recently, and it debunks all of the hollow issues that were raised about this legislation.

This is not rocket science, no matter what those who come to the floor may say. This is not complicated. It is not even highly technical in its application. The question that we ought to address as Members of the Senate, at the time when this country is losing more and more manufacturing jobs, is this: Do we want to continue in our Tax Code to subsidize the exodus of American jobs overseas, by saying to U.S. companies, ''If you put U.S. jobs overseas rather than here at home we will give you a tax break''? ''If you have a plant here at home, shut the door, get rid of the workers, move it overseas, and the American taxpayer will say thank you by giving you a check.''

If you believe that makes sense and if you believe there is any room in this country where you can stand up and describe that as a sensible public policy, then you ought to vote against what I am proposing. But if you, like most people, think that our Tax Code at least ought to be neutral on the question of where you locate jobs—and it probably ought to be more than neutral—we ought to tip it on the side of saying, if you create jobs here, we will provide incentives for you. We ought to turn it around. Instead of providing incentives for those who ship jobs out of our country, we ought to create incentives for those who create jobs in this country.

We are told this is a global economy and some Members of the Senate and the House simply lack the capability of understanding the new realities of the global economy. I do not know whether they refer to me when they say that, or the Senator from South Carolina. I do not know who it is who does not understand all this global economy. I confess to growing up in a town of 300 people, attending a high school with a class of 9. I graduated in a senior class of 9. They did not teach us, necessarily, higher math in our high school, but we got reasonably good training. They taught us to think a little bit, use a little judgment, have a little common sense.

I could go back to Regent, ND, tonight, perhaps hold a meeting in the Regent town hall, and most of the folks in Regent would come, because it is a small town. There is probably not a lot going on there this evening. Regent was a town where there probably was not much going on when I was a student there. It is a wonderful community, small but wonderful. If we could get all the folks there in the Regent Center tonight, we could talk to them about what do they think we ought to do on tax policy. Do you think we ought to encourage some jobs that exist in North Dakota or in Colorado, New Hampshire, Rhode Island—do you think we ought to encourage those jobs to move elsewhere, just leave our country? Take a manufacturing job and send it elsewhere? Make shoes, shirts, belts and television sets and cars elsewhere? Or would it be better if you could find a way to try to keep most of those jobs here?

If we could get all the folks there in Regent and talk to them, they might raise the question of the global economy. They might say, ''Isn't the global economy kind of an inevitable circumstance nowadays, where we are competing against those workers who live in Sri Lanka, in Bangladesh, in Malaysia, in Singapore?'' Yes, it is, absolutely. That is the reality. We are competing against those people and that is precisely why we are losing manufacturing jobs. We should have to compete with virtually everyone in the world, providing the competition is fair.

I would ask this. Is it fair to ask a worker in Alabama, Colorado, South Carolina, or North Dakota to compete against someone who makes 14 cents an hour? Can we compete against someone who makes 14 cents an hour? Should we compete? Is it necessary to be required to compete against someone who makes 14 cents an hour? I can tell you about some people who do make 14 cents an hour working 11 hours a day, 6 days a week. I can tell you about them. How about making 14 cents an hour at age 14? Working 14 hours a day? I can tell you about some of them.

So, if the answer to the question is no, we should not have to compete against that, then the question is, what do we do? We not only create a circumstance in our country where we say you are going to compete against it, but we say if you will simply take the opportunity to access low wages elsewhere, we will give you a tax break.

Folks in my hometown would, I think, find that fairly dumb. I do not know how else you describe that. I think they would say that is a pretty dumb policy. What kind of minds conspired together to figure out that we ought to have a tax break if we boot jobs out of our country? What kind of high-minded people? Tell me where they got their education. What kind of high-minded people is it who believe it makes sense for us to create tax policy that has the consequence of weakening our country and weakening the job base that has been the very foundation for economic growth in America?

Economic growth in this country is not economic growth based on target discount stores on the edge of our cities, paying minimum wage. In fact, I went through one recently with my little daughter, trying to find a bathing suit. Do you know, I could not find an employee. I walked around forever trying to find somebody who worked there. They have a store and, at least to my knowledge, no discernible employees.

I finally found somebody to take my money. But is that a substitute? Are those jobs the substitute for good manufacturing jobs? Of course not. So the question is, should we decide to focus a bit on this question? We will have people come and say, ''No, no, you should not focus on it. This is irrelevant, it is extraneous, and besides you have it all wrong. This tax break is not really a tax break; those who you say get it do not get it, and if they do get it, it really doesn't matter.'' There are always three or four stages of denial here in this Chamber.

But some of us think this is important. The global economy is a reality. I am not suggesting we put up walls and keep products out. I am not suggesting that we tie the hands of American corporations. I am suggesting that we decide, on behalf of our country, that rather than provide incentives to those who would move jobs outside of our country, we consider providing incentives to those who would create jobs inside of our country, and that is the central question before us.

So, I have a couple of other things I want to say, but I know the Senator from South Carolina wishes to speak on this. I, at this point, yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I will be as brief as I possibly can. I will not take long. This is a subject that really deserves several days of debate.

But, in a capsule, we are going to bring it right to a head, I think, in the next couple of hours, in that Pat Choate, the author of ''Agents Of Influence,'' has been selected as the Vice Presidential candidate by Ross Perot, in this so-called Reform Party.

Mr. Choate was the vice president in charge of policy at TRW. When he published this book, which factually has never been challenged, he, of course, was relieved of his post as vice president of TRW and has been out as a consultant to industry.

There is no question that finally, finally, in this election, trade and jobs will really come into focus, as the distinguished Senator from North Dakota is bringing right here.

Let me hasten to add, I support, of course, our Democratic ticket of Clinton-Gore and will continue to support them. I have tried to work—with respect, unsuccessfully, of course—on NAFTA and GATT to change our trade policy and save us from these two flawed agreements. But we are going to have to try to do our dead level best to bring them into the real world of trade and jobs, and I am confident that the selection of Mr. Choate will really bring it front and center.

There is no question, don't put this gentleman in a debate with any of the persons mentioned here, and he is far, far more informed. They do not have to bring up the case of Smoot-Hawley and think you are going to show a picture and rattle this gentleman.

Let me first commend my distinguished colleague from North Dakota. He has been very erudite in this particular matter, because he feels keenly about the two really great issues facing our Nation.

One, of course, is trying to get this Congress to pay the bills. And you heard earlier today the distinguished Senator from North Carolina holler, ''Up, up and away, the debt.'' The national debt has gone to some $5.2 trillion. I remember well when President Reagan came to office, it wasn't even $1 trillion.

We had 38 Presidents of the United States, Republican and Democrat, 200 years of history, and never a trillion-dollar debt, with the cost of all the wars—Revolutionary, 1812—right on up—Civil War, Spanish American, World War I, II, Korea, Vietnam, with the cost of all the wars, we had not gotten to a trillion-dollar debt.

Now, without the cost of a war, in 15 years we have gone to $5.2 trillion. And, as a result, we are raising taxes a billion dollars a day. I use that expression, ''raising taxes a billion dollars a day,'' advisedly for the simple reason is, Mr. President, you have to pay the interest costs. They say there are two things in life unavoidable: death and taxes. Make it a third: interest costs on the national debt. We have to pay that. Republicans and Democrats vote every time to pay the interest costs on the national debt.

So that is a billion a day for nothing. That is not for schools. That is not for defense. That is not for education or housing or the environment. You don't get anything for that. You are just paying for the past profligacies of these Congresses. That is problem No. 1.

Problem No. 2 is barely mentioned, and I speak advisedly about jobs, because I have been in the game. I didn't come here as a neophyte. We can start off 37 years ago. When I took office, we had an agriculture State. When I left, we had an industrial State.

Anybody connected with the history of our great State of South Carolina will tell you the technical training program that we instituted is a big attraction for industrial investment and expansion, period, for South Carolina, New Hampshire, or anywhere else. I offered Governor Sununu in the Presidential race in the early eighties to come up there and institute my technical training, but New Hampshire wanted to leave it to the industries.

I talked to my friends at Wang, in, Nashua. I said, I don't see how you expect any expansion except to run away from the taxes in Boston, coming up Highway 128, or whatever it is, to get out of the taxes in that beautiful State of New Hampshire, which everyone will agree is one of the most beautiful in the entire Nation.

But be that as it may, we are not just talking philosophically as an economist or anything else, we are talking business sense. I have worked firsthand with the chairmen of the boards, the vice chairmen, come on down to No. 6 man who really has to get the operation in the black. That is the gentleman or lady that counts. And when you give them a spread sheet and you tell them the hourly wages and how it is going to come out, when they break ground, when the plant will be complete, you can get in operation in 7 months or a year or less, whatever it is, you are beginning to talk sense, and that is the way we work at it.

Right to the point, our poor friends in Alabama went totally overboard. In Alabama, they paid over $300 million to get Mercedes Benz. I was in that competition. I will never forget meeting with the Mercedes executives. I carried them down to South Carolina to Bosch, and at Bosch, I showed them where they not only were making the fuel injectors, but they were making the antilock brakes for the Mercedes Benz. They were making the antilock brakes for the Toyota, for all Ford cars and all General Motors cars.

I showed them a good little country boy from Dorchester County who had been trained in our technical training system, sent to Stuttgart and learned the German apprenticeship system and was instructing in Charleston, SC, the German apprentice system.

The man from Mercedes said, ''This is what we want. We are looking for a port. We are looking for the skills.'' But the great executives back in Germany were looking for money, so we lost out on that one.

I only introduce that because these rat-a-tat talks about ''I'm for jobs, I'm for jobs,'' they don't know anything about the retaining, anything about the work in trying to get the job there, keep the job there and get the expansion, which we are doing in South Carolina.

Having said that, Mr. President, I notice my distinguished friend had to talk almost defensively. He said, ''Wait a minute, I'm not trying to put up a wall or anything else.'' It is very unfortunate I have to do the same thing. I am speaking defensively trying to qualify as you might a witness in a case, because this is the real case of the United States of America and nobody wants to try it, Republican or Democrat. Oh, no, they want to ignore it.

Let me go right to the heart of the matter. Yes, in the cold war, we had to sacrifice our industrial backbone in order to spread capitalism and bring about freedom in the Pacific rim and we used the Marshall plan to rebuild Europe, and it worked. Nobody is complaining about that sacrifice.

I used to testify back in the fifties before the old International Trade Commission—International Tariff it was called at that particular time. They said, ''Governor, what do you expect these emerging countries to make, the airplanes and the computers?'' Let them make the clothing and the shoes. That is why 86 percent of the shoes on this floor are imported; 66 percent, two-thirds of the clothing you are looking at is imported.

So I said, ''Yes, you have to give the lesser skilled jobs to the emerging countries,'' but we have done that. As my friend, Senator Dole, says, ''Been there, done that.'' So all right, it worked.

Now we are into a global competition, and who is making the computers and who is making the airplanes? Our competitors. So don't come now with this argument about we are rebuilding the world. We have to rebuild the United States. Our standard of living has gone out of the window.

You cannot be a world power—let's talk security and national defense—you cannot be a world power unless you are a manufacturing power. Ten years ago, we had 26 percent of our work force in manufacturing. We almost had half at the end of the war. That is what won the war.

I spent 3 years overseas in World War II. Yes, we had brave soldiers. These people are talking about the veterans' record. But Rosie the Riveter won World War II. We inundated them. I can see me now saying, ''Send those planes. Keep sending them.'' They kept shooting them down, but we had more. Building No. 1 down in Marietta, GA, was spitting out five B–29's a day.

Rosie the Riveter, our industrial backbone, won World War II, and we are losing world war III, the economic war, because instead of now going from half to 26 percent 10 years ago, today we are down to 13 percent.

That up east Harvard group would give that lecture, ''small is beautiful, service economy,'' all these here nonsensical arguments. And we are going to the poorhouse. That is why real wages have dropped 20 percent in the last 20 years, for the simple reason that the big multinationals have increased their profits by moving offshore.

Mr. President, we are competing with ourselves. Mark it down. I am not worried about Japan. I am not here to bash Japan. I am here to bash me, us, you, the Congress, the silly policy. What we have in manufacturing is the cost of labor is 30 percent of volume. And we know it is a given. We had many witnesses testify to that in our particular hearings, that you can save as much as 20 percent of volume of sales by moving offshore to a low-wage country.

Take a company, a manufacturer with $500 million in sales, they can keep the head office, the sales force here in America; but they can move their manufacturing offshore and make $100 million at 20 percent or they can continue to work their own people and go bankrupt, because that is the competition. Do not talk about the global competition. I am talking about the fellow next door that has already moved.

When you come up here, they dance around hollering, ''retrain, retrain, retrain.'' I want to say a word about that to get it on the record, because we know about training. We do not have to wait on Washington to get us industrial expansion in South Carolina.

But Oneita Mills closed recently in South Carolina. We had 487 jobs making these T-shirts. We got that 35 years ago, a beautiful little plant, wonderful

workers. The average age there was 47 years of age, Mr. President. Retrain them. Do it Secretary Reich's way, the Secretary of Labor. Go ahead and retrain them; and tomorrow morning give me 487 expert computer operators. Are you going to hire the 47-year-old computer operator or the 20- or 21-year-old computer operator? To ask the question is to answer it. You are not going to take on the health costs, the retirement costs of the 47-year-old.

You can keep on retraining them. They are out in this little rural town, scavenging, trying to make enough money, where their husbands probably were in the tobacco allotment. They want to cut that out. Together they work and save enough money to send the boy to Clemson. I am seeing it happening, and I am coming around here hearing ''skills, skills.'' We have skills. Do not give me that. I have skills coming out of my ear.

And do not give me any of these other arguments they are talking about, product liability, and all of these other silly—why do you think we have Hoffmann La Roche and BMW. And go right on down. And we have now 50 Japanese plants. I have almost 100 German plants, a bunch of British plants. Michelin—the French—they just announced another expansion. I remember calling on them in Paris in 1961. Now they are going up to 11,600 employees, Senator, with their North American headquarters in Greenville, SC. I got Bowater; I have got their North American plant in Greenville, S.C. So let us get on with what the Senator from North Dakota wants to talk about, and that is, these freebies that are being given out to continue a policy that was well-conceived in order to spread capitalism and defeat communism in the cold war. We have won that war.

Now we look around, and we have sacrificed the working people of America, and our standard of living. And the job is for you and I to be realistic and start building it back up. And do not come—I can hear it now, because I can tell you, Senator, once they chose Pat Choate, you are going to find the multinationals, they are going to come down here on your necks and heads around here, ''free trade, free trade, protectionism, protectionism, protectionism.''

Let me plead guilty. I am a protectionist. We have the Army to protect us against the enemies from without. We have the FBI to protect us from the enemies within. We have Social Security to protect us from the ravages of old age, Medicare to protect us in ill health. The fundamentals of government, that is what we are up here for.

I remember when Ronald Reagan was sworn in in the rotunda. He raised his hand to preserve, protect, and defend. And when we came back down here on the Senate floor and started talking about it, he said, ''Oh, no, we don't want to be protectionist.'' You darn right I want to protect our industrial backbone, our standard of living, and the jobs of America. And I want a competitive trade policy. We are not competing. We have been taken over by a fifth column within the ranks in this land of ours.

Remember, we heard this same argument about comparative advantage and free trade from David Ricardo in the earliest, earliest of days. Or the Brits, once we got our freedom, they said, ''Now, just you little fledgling nation, the United States of America, you trade back with the mother country with what you produce best, and we will trade back with what we produce best,'' the doctrine of comparative advantage, free trade, free trade, free trade. And you know what Alexander Hamilton said? He wrote it in a little booklet, ''Reports on Manufacturers.'' Get a copy of it. There is one left. It is on guard over there at the Library of Congress where I hope to be tonight because they have a wonderful reading going on over there. But this is even again more important.

And in the ''Reports on Manufacturers,'' Alexander Hamilton told the Brits in one line, ''Bug off. We are not going to remain your colony. We are not going to continue to ship our agricultural products, our timber, our iron, our coal, and bring in your manufactured products. You have to be a nation State. You have to have a preeminence in manufacturing.''

The second bill, Mr. President, on July 4, 1789, that actually passed this Congress was a protectionist bill, setting a 50-percent tariff on 60 some articles going on down the list. And we built this United States of America, this economic giant with protectionism.

Abraham Lincoln, when he was going to get the transcontinental railroad—that same type of crowd is buzzing around us here tonight; and they will be around tomorrow; and they will say, go ahead and let us have free trade, free trade—they told President Lincoln that we should get the steel from England. He said no. He would build our own steel mills. When they got through, they had not only the transcontinental railroad, but they had their own steal capacity.

And so it was in the Depression, in the darkest days. Franklin Roosevelt came in with his competitive free trade under Cordell Hull. And Dwight David Eisenhower, in 1955, put quotas on imported oil because we had to sort of build up our capacity. And we have done that from time to time. And now is a time again when we survey the horizon, and start talking as realists. And quit giving us these symbolic baloneys, malarkeys such as Smoot-Hawley.

Mr. President, right to the point, I ask unanimous consent—I am trying to save time here—I ask unanimous consent to have printed in the RECORD the record made by our distinguished former colleague, Senator John Heinz of Pennsylvania entitled ''The Myth of Smoot-Hawley'' back in 1983.

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

THE MYTH OF SMOOT-HAWLEY

Mr. HEINZ. Mr. President, every time someone in the administration or the Congress gives a speech about a more aggressive trade policy or the need to confront our trading partners with their subsidies, barriers to import and other unfair practices, others, often in the academic community or in the Congress immediately react with speeches on the return of Smoot-Hawley and the dark days of blatant protectionism. ''Smoot-Hawley,'' for those uninitiated in this arcane field, is the Tariff Act of 1930 (Public Law 71–361) which among other things imposed significant increases on a large number of items in the Tariff Schedules. The act has also been, for a number of years, the basis of our countervailling duty law and a number of other provisions relating to unfair trade practices, a fact that tends to be ignored when people talk about the evils of Smoot-Hawley.

A return to Smoot-Hawley, of course, is intended to mean a return to depression, unemployment, poverty, misery, and even war, all of which apparently were directly caused by this awful piece of legislation. Smoot-Hawley has thus become a code word for protectionism, and in turn a code word for depression and major economic disaster. Those who sometimes wonder at the ability of Congress to change the country's direction through legislation must marvel at the sea change in our economy apparently wrought by this single bill in 1930.

Historians and economists, who usually view these things objectively, realize that the truth is a good deal more complicated, that the causes of the Depression were far deeper, and that the link between high tariffs and economic disaster is much more tenuous than is implied by this simplistic linkage. Now, however, someone has dared to explode this myth publicly through an economic analysis of the actual tariff increases in the act and their effects in the early years of the Depression. The study points out that the increases in question affected only 231 million dollars' worth of products in the second half of 1930, significantly less than 1 percent of world trade; that in 1930–32 duty-free imports into the United States dropped at virtually the same percentage rate as dutiable imports; and that a 13.5 percent drop in GNP in 1930 can hardly be blamed on a single piece of legislation that was not even enacted until midyear.

This, of course, in not to suggest that high tariffs are good or that Smoot-Hawley was a wise piece of legislation. It was not. But it was also clearly not responsible for all the ills of the 1930's that are habitually blamed on it by those who fancy themselves defenders of free trade. While I believe this study does have some policy implications, which I may want to discuss at some future time, one of the most useful things it may do is help us all clean up our rhetoric and reflect a more sophisticated—and accurate—view of economic history.

Mr. President, I ask that the study, by Don Bedell of Bedell Associates, be printed in the RECORD.

The study follows:

BEDELL ASSOCIATES,
Palm Desert, Calif., April 1983

TARIFFS MISCAST AS VILLAIN IN BEARING BLAME FOR GREAT DEPRESSION—SMOOT/HAWLEY EXONERATED

(By Donald W. Bedell)

SMOOT/HAWLEY, DEPRESSION AND WORLD REVOLUTION

It has recently become fashionable for media reporters, editorial writers here and

abroad, economists, Members of Congress, members of foreign governments, UN organizations and a wide variety of scholars to express the conviction that the United States, by the single act of causing the Tariff Act of 1930 to become law (Public Law 361 of the 71st Congress) plunged the world into an economic depression, may well have prolonged it, led to Hitler and World War II.

Smoot/Hawley lifted import tariffs into the U.S. for a cross section of products beginning mid-year 1930, or *more than 8 months following the 1929 financial collapse.* Many observers are tempted simply repeat ''free trade'' economic doctrine by claiming that this relatively insignificant statute contained an inherent trigger mechanism which upset a neatly functioning world trading system based squarely on the theory of comparative economics, and which propelled the world into a cataclysm of unmeasurable proportions.

We believe that sound policy development in international trade must be based solidly on facts as opposed to suspicious, political or national bias, or ''off-the-cuff'' impressions 50 to 60 years later of how certain events may have occurred.

When pertinent economic, statistical and trade data are carefully examined will they show, on the basis of preponderance of fact, that passage of the Act did in fact trigger or prolong the Great Depression of the Thirties, that it had nothing to do with the Great Depression, or that it represented a minor response of a desperate nation to a giant world-wide economic collapse already underway?

It should be recalled that by the time Smoot/Hawley was passed 6 months had elapsed of 1930 and 8 months had gone by since the economic collapse in October, 1929. Manufacturing plants were already absorbing losses, agriculture surpluses began to accumulate, the spectre of homes being foreclosed appeared, and unemployment showed ominous signs of a precipitous rise.

The country was stunned, as was the rest of the world. All nations sought very elusive solutions. Even by 1932, and the Roosevelt election, improvisation and experiment described government response and the technique of the New Deal, in the words of Arthur Schlesinger, Jr. in a New York Times article on April 10, 1983. President Roosevelt himself is quoted in the article as saying in the 1932 campaign, ''It is common sense to take a method and try it. If it fails, admit it frankly and try another. But above all, try something.''

The facts are that, rightly or wrongly, there were no major Roosevelt Administration initiatives regarding foreign trade until well into his Administration; thus clearly suggesting that initiatives in that sector were not thought to be any more important than the Hoover Administration thought them. However, when all the numbers are examined we believe neither. President Hoover nor President Roosevelt can be faulted for placing international trade's role in world economy near the end of a long list of sectors of the economy that had caused chaos and suffering and therefore needed major corrective legislation.

How important was international trade to the U.S.? How important was U.S. trade to its partners in the Twenties and Thirties?

In 1919, 66% of U.S. imports were duty free, or $2.9 Billion of a total of $4.3 Billion. Exports amounted to $5.2 Billion in that year making a total trade number of $9.6 Billion or about 14% of the world's total. See Chart I below.

CHART I.—U.S. GROSS NATIONAL PRODUCT, 1929–33

[Dollar amounts in billions]

	1929	1930	1931	1932	1933
GNP	$103.4	$89.5	$76.3	$56.8	$55.4
U.S. international trade	$9.6	$6.8	$4.5	$2.9	$3.2
U.S. international trade percent of GNP	$.3	7.6	5.9	5.1	$5.6 [1]

[1] Series U, Department of Commerce of the United States, Bureau of Economic Analysis.

Using the numbers in that same Chart I it can be seen that U.S. imports amounted to $4.3 Billion or just slightly above 12% of total world trade. When account is taken of the fact that only 33%, or $1.5 Billion, of U.S. imports was in the Dutiable category, the entire impact of Smoot/Hawley has to be focused on the $1.5 Billion number which is barely 1.5% of U.S. GNP and 4% of world imports.

What was the impact? In dollars Dutiable imports fell by $462 Million, or from $1.5 Billion to $1.0 Billion, during 1930. It's difficult to determine how much of that small number occurred in the second half of 1930 but the probability is that it was less than 50%. In any case, the total impact of Smoot/Hawley in 1930 was limited to a ''damage'' number of $231 Million; spread over several hundred products and several hundred countries.

A further analysis of imports into the U.S. discloses that all European countries accounted for 30% or $1.3 Billion in 1929 divided as follows: U.K. at $330 Million or 7½%, France at $171 Million or 3.9%, Germany at $255 Million or 5.9%, and some 15 other nations accounting for $578 Million or 13.1% for an average of 1%.

These numbers suggest that U.S. imports were spread broadly over a great array of products and countries, so that any tariff action would by definition have only a quite modest impact in any given year or could be projected to have any important cumulative effect.

This same phenomenon is apparent for Asian countries which accounted for 29% of U.S. imports divided as follows: China at 3.8%, Japan at $432 Million and 9.8% and with some 20 other countries sharing in 15% or less than 1% on average.

Australia's share was 1.3% and all African countries sold 2.5% of U.S. imports.

Western Hemisphere countries provided some 37% of U.S. imports with Canada at 11.4%, Cuba at 4.7%, Mexico at 2.7%, Brazil at 4.7% and all others accounting for 13.3% or about 1% each.

The conclusion appears inescapable on the basis of these numbers; a potential adverse impact of $231 Million spread over the great array of imported products which were available in 1929 could not realistically have had any measurable impact on America's trading partners.

Meanwhile, the Gross National Product (GNP) in the United States had dropped an unprecedented 13.5% in 1930 alone, from $103.4 Billion in 1929 to $89 Billion by the end of 1930. It is unrealistic to expect that a shift in U.S. international imports of just 1.6% of U.S. GNP in 1930, for example ($231 Million or $14.4 Billion) could be viewed as establishing a ''precedent'' for America's trading partners to follow, or represented a ''model'' to follow.

Even more to the point an impact of just 1.6% could not reasonably be expected to have any measurable effect on the economic health of America's trading partners.

Note should be taken of the claim by those who repeat the Smoot/Hawley ''villain'' theory that it set off a ''chain'' reaction around the world. While there is some evidence that certain of America's trading partners retaliated against the U.S. there can be no reliance placed on the assertion that those same trading partners retaliated against each other by way of showing anger and frustration with the U.S. Self-interest alone would dictate otherwise, common sense would intercede on the side of avoidance of ''shooting oneself in the foot,'' and the facts disclose that world trade declined by 18% by the end of 1930 while U.S. trade declined by some 10% more or 28%. U.S. foreign trade continued to decline by 10% more through 1931, or 53% versus 43% for worldwide trade, but U.S. share of world trade declined by only 18% from 14% to 11.3% by the end of 1931.

Reference was made earlier to the Duty Free category of U.S. imports. What is especially significant about those import numbers is the fact that they dropped in dollars by an almost identical percentage as did Dutiable goods through 1931 and beyond: Duty Free imports declined by 29% in 1930 versus 27% for Dutiable goods, and by the end of 1931 the numbers were 52% versus 51% respectively.

The only rational explanation for this phenomenon is that Americans were buying less and prices were falling. No basis exists for any claim that Smoot/Hawley had a distinctively devastating effect on imports beyond and separate from the economic impact of the economic collapse in 1929.

Based on the numbers examined so far, Smoot/Hawley is clearly a mis-cast villain. Further, the numbers suggest the clear possibility that when compared to the enormity of the developing international economic crisis Smoot/Hawley had only a minimal impact and international trade was a victim of the Great Depression.

This possibility will become clear when the course of the Gross National Product (GNP) during 1929–1933 is examined and when price behaviour world-wide is reviewed, and when particular Tariff Schedules of Manufacturers outlined in the legislation are analyzed.

Before getting to that point another curious aspect of the ''villain'' theory is worthy of note. Without careful recollection it is tempting to view a period of our history some 50–60 years ago in terms of our present world. Such a superficial view not only makes no contribution to constructive policy-making. It overlooks several vital considerations which characterized the Twenties and Thirties:

1. The international trading system of the Twenties bears no relation to the interdependent world of the Eighties commercially, industrially and financially in size or complexity.

2. No effective international organization existed, similar to the General Agreement for Tariffs and Trade (GATT) for example for resolution of disputes. There were no trade ''leaders'' among the world's nations in part because most mercantile nations felt more comfortable without dispute settlement bodies.

3. Except for a few critical products foreign trade was not generally viewed in the ''economy-critical'' context as currently in the U.S. As indicated earlier neither President Hoover nor President Roosevelt viewed foreign trade as crucial to the economy in general or recovery in particular.

4. U.S. foreign trade was relatively an amorphous phenomenon quite unlike the highly structured system of the Eighties; characterized largely then by ''caveat emptor'' and a broadly laissez-faire philosophy generally unacceptable presently.

These characteristics, together with the fact that 66 percent of U.S. imports were Duty Free in 1929 and beyond, placed overall international trade for Americans in the Twenties and Thirties on a very low level of priority especially against the backdrop of world-wide depression. Americans in the

Twenties and Thirties could no more visualize the world of the Eighties than we in the Eighties can legitimately hold them responsible for failure by viewing their world in other than the most pragmatic and realistic way given those circumstances.

For those Americans then, and for us now, the numbers remain the same. On the basis of sheer order of magnitude of the numbers illustrated so far, the ''villain'' theory often attributed to Smoot/Hawley is an incorrect reading of history and a misunderstanding of the basic and incontrovertible law of cause and effect.

It should also now be recalled that, despite heroic efforts by U.S. policy-makers its GNP continued to slump year-by-year and reached a total of just $55.4 billion in 1933 for a total decline from 1929 levels of 46 percent. The financial collapse of October, 1920 had indeed left its mark.

By 1933 the 1929 collapse had prompted formation in the U.S. of the Reconstruction Finance Corporation, Federal Home Loan Bank Board, brought in a Democrat President with a program to take control of banking, provide credit to property owners and corporations in financial difficulties, relief to farmers, regulation and stimulation of business, new labor laws and social security legislation.[1]

So concerned were American citizens about domestic economic affairs, including the Roosevelt Administration and the Congress, that scant attention was paid to the solitary figure of Secretary of State Cordell Hull. He, alone among the Cabinet, was convinced that international trade had material relevance to lifting the country back from depression. His efforts to liberalize trade in general and to find markets abroad for U.S. products in particular from among representatives of economically stricken Europe, Asia and Latin America were abruptly ended by the President and the 1933 London Economic Conference collapsed without result.

The Secretary did manage to make modest contributions to eventual trade recovery through the Most Favored Nation (MFN) concept. But it would be left for the United States at the end of World War II to undertake an economic and political role of leadership in the world; a role which in the Twenties and Thirties Americans in and out of government felt no need to assume, and did not assume. Evidence that conditions in the trade world would have been better, or even different, had the U.S. attempted some leadership role cannot responsibly be assembled. Changing the course of past history has always been less fruitful than applying perceptively history's lessons.

The most frequently used members thrown out about Smoot/Hawley's impact by those who believe in the ''villain'' theory are those which clearly establish that U.S. dollar decline in foreign trade plummeted by 66 percent by the end of 1933 from 1929 levels, $9.6 billion to $3.2 billion annually.

Much is made of the co-incidence that world-wide trade also sank about 66 percent for the period. Chart II summarizes the numbers.

CHART II.—UNITED STATES AND WORLD TRADE, 1929–33

[In billions of U.S. dollars]

	1929	1930	1931	1932	1933
United States:					
Exports	5.2	3.8	2.4	1.6	1.7
Imports	4.4	3.0	2.1	1.3	1.5
Worldwide:					
Exports	33.0	26.5	18.9	12.9	11.7
Imports	35.6	29.1	20.8	14.0	[a] 12.5

[a] Series U Department of Commerce of the United States, League of Nations, and International Monetary Fund.

[1] Beard, Charles and Mary, New Basic History of the United States.

The inference is that since Smoot/Hawley was the first ''protectionist'' legislation of the Twenties, and the end of 1933 saw an equal drop in trade that Smoot/Hawley must have caused it. Even the data already presented suggest the relative irrelevance of the tariff-raising Act on a strictly trade numbers basis. When we examine the role of a worldwide price decline in the trade figures for almost every product made or commodity grown the ''villain'' Smoot/Hawley's impact will not be measurable.

It may be relevant to note here that the world's trading ''system'' paid as little attention to America's revival of foreign trade beginning in 1934 as it did to American trade policy in the early Thirties. From 1934 through 1939 U.S. foreign trade rose in dollars by 80% compared to world-wide growth of 15%. Imports grew by 68% and exports climbed by a stunning 93%. U.S. GNP by 1939 had developed to $91 billion, to within 88% of its 1929 level.

Perhaps this suggests that America's trading partners were more vulnerable to an economic collapse and thus much less resilient than was the U.S. In any case the international trade decline beginning as a result of the 1929 economic collapse, and the subsequent return by the U.S. beginning in 1934 appear clearly to have been wholly unrelated to Smoot/Hawley.

As we begin to analyze certain specific Schedules appearing in the Tariff Act of 1930 it should be noted that sharp erosion of prices world-wide caused dollar volumes in trade statistics to drop rather more than unit-volume thus emphasizing the decline value. In addition, it must be remembered that as the Great Depression wore on, people simply bought less of everything increasing further price pressure downward. All this wholly apart from Smoot/Hawley.

When considering specific Schedules, No. 5 which includes Sugar, Molasses, and Manufactures Of, maple sugar cane, sirups, adonite, dulcite, galactose, inulin, lactose and sugar candy. Between 1929 and 1933 import volume into the U.S. declined by about 40% in dollars. In price on a world basis producers suffered a stunning 60% drop. Volume of sugar imports declined by only 42% into the U.S. in tons. All these changes lend no credibility to the ''villain'' theory unless one assumes, erroneously, that the world price of sugar was so delicately balanced that a 28% drop in sugar imports by tons into the U.S. in 1930 destroyed the price structure and that the decline was caused by tariffs and not at least shared by decreased purchases by consumers in the U.S. and around the world.

Schedule 4 describes Wood and Manufactures Of, timber hewn, maple, brier root, cedar from Spain, wood veneer, hubs for wheels, casks, boxes, reed and rattan, toothpicks, porch furniture, blinds and clothes pins among a great variety of product categories. Dollar imports into the U.S. slipped by 52% from 1929 to 1933. By applying our own GNP as a reasonable index of prices both at home and overseas, unit volume decreased only 6% since GNP had dropped by 46% in 1933. The world-wide price decline did not help profitability of wood product makers, but to tie that modest decline in volume to a law affecting only 6½% of U.S. imports in 1929 puts great stress on credibility, in terms of harm done to any one country or group of countries.

Schedule 9, Cotton Manufactures, a decline of 54% in dollars is registered for the period, against a drop of 46% in price as reflected in the GNP number. On the assumption that U.S. GNP constituted a rough comparison to world prices, and the fact that U.S. imports of these products was infinitesimal, Smoot/Hawley was irrelevant. Further, the price of raw cotton in the world plunged 50% from 1929 to 1933. U.S. growers had to suffer the consequences of that low price but the price itself was set by world market prices, and was totally unaffected by any tariff action by the U.S.

Schedule 12 deals with Silk Manufactures, a category which decreased by some 60% in dollars. While the decrease amounted to 14% more than the GNP drop, volume of product remained nearly the same during the period. Assigning responsibility to Smoot/Hawley for this very large decrease in price beginning in 1930 stretches credibility beyond the breaking point.

Several additional examples of price behaviour are relevant.

One is Schedule 2 products which include brick and tile. Another is Schedule 3 iron and steel products. One outstanding casualty of the financial collapse in October, 1929 was the Gross Private Investment number. From $16.2 Billion annually in 1939 by 1933 it has fallen by 91% to just $1.4 Billion. No tariff policy, in all candor, could have so devastated an industry as did the economic collapse of 1929. For all intents and purposes construction came to a halt and markets for glass, brick and steel products with it.

Another example of price degradation world-wide completely unrelated to tariff policy is Petroleum products. By 1933 these products had decreased in world price by 82% but Smott/Hawley had no Petroleum Schedule. The world market place set the price.

Another example of price erosion in world market is contained in the history of exported cotton goods from the United States. Between 1929 and 1933 the volume of exported goods actually increased by 13.5% while the dollar value dropped 48%. This result was wholly unrelated to the tariff policy of any country.

While these examples do not include all Schedules of Smoot/Hawley they clearly suggest that overwhelming economic and financial forces were at work affecting supply and demand and hence on prices of all products and commodities and that these forces simply obscured any measurable impact the Tariff Act of 1930 might possibly have had under conditions of several years earlier.

To assert otherwise puts on those proponents of the Smoot/Hawley ''villian'' theory a formidable challenge to explain the following questions:

1. What was the nature of the ''trigger'' mechanism in the Act that set off the alleged domino phenomenon in 1930 that began or prolonged the Great Depression when implementation of the Act did not begin until mid-year?

2. In what ways was the size and nature of U.S. foreign trade in 1929 so significant and critical to the world economy's health that a less than 4% swing in U.S. imports could be termed a crushing and devastating blow?

3. On the basis of what economic theory can the Act be said to have caused a GNP drop of an astounding drop of 13.5% in 1930 when the Act was only passed in mid-1930? DId the entire decline take place in the second half of 1930? Did world-wide trade begin its decline of some $13 Billion only in the second half of 1930?

4. Does the fact that duty free imports into the U.S. dropped in 1930 and 1931 and in 1932 at the same percentage rate as dutiable imports support the view that Smoot/Hawley was the cause of the decline in U.S. imports?

4. Is the fact that world wide trade declined less rapidly than did U.S. foreign trade prove the assertion that American trading partners retaliated against each other as well as against the U.S. because and subsequently held the U.S. accountable for starting an international trade war?

5. Was the international trading system of the Twenties so delicately balanced that a

single hastily drawn tariff increase bill affecting just $231 Million of dutiable products in the second half of 1930 began a chain reaction that scuttled the entire system? Percentage-wise $231 Million is but 0.65% of all of 1929 world-wide trade and just half that of world-wide imports.

The preponderance of history and facts of economic life in the international area make an affirmative response by the ''villain'' proponents an intolerable burden.

It must be said that the U.S. does offer a tempting target for Americans who incessantly cry ''mea culpa'' over all the world's problems, and for many among our trading partners to explain their problems in terms of perceived American inability to solve those problems.

In the world of the Eighties U.S. has indeed very serious and perhaps grave responsibility to assume leadership in international trade and finance, and in politics as well.

On the record, the United States has met that challenge beginning shortly after World War II.

The U.S. role in structuring the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund, the Bretton Woods and Dumbarton Oaks Conference on monetary policy, the World Bank and various Regional Development Banks, for example, is a record unparalleled in the history of mankind.

But in the Twenties and Thirties there was no acknowledged leader in International affairs. On the contrary, evidence abounds that most nations preferred the centuries-old patterns of international trade which emphasized pure competition free from interference by any effective international supervisory body such as GATT.

Even in the Eighties examples abound of trading nations succumbing to nationalistic tendencies and ignoring signed trade agreements. Yet the United States continues as the bulwark in trade liberalization proposals within the GATT. It does so not because it could not defend itself against any kind of retaliation in a worst case scenario but because no other nation is strong enough to support them successfully without the United States.

The basic rules of GATT are primarily for all those countries who can't protect themselves in the world of the Eighties and beyond without rule of conduct and discipline.

The attempt to assign responsibility to the U.S. in the Thirties for passing the Smoot/Hawley tariff act and thus set off a chain reaction of international depression and war is, on the basis of a prepondance of fact, a serious mis-reading of history, a repeal of the basic concept of cause and effect and a disregard for the principle of proportion of numbers.

It may constitute a fascinating theory for political mischief-making but it is a cruel hoax on all those responsible for developing new and imaginative measures designed to liberalize international trade.

Such constructive development and growth is severely impeded by perpetuating what is no more than a symbolic economic myth.

Nothing is less worthwhile than attempting to re-write history, not learning from it. Nothing is more worthwhile than making careful and perceptive and objective analysis in the hope that it may lead to an improved and liberalized international trading system.

Mr. HOLLINGS. One, Smoot-Hawley, Mr. President, was passed 8 months after the crash. It could not have caused the crash we had that occurred in 1929. Smoot-Hawley was June 1930.

It only affected one-third of the trade. As is stated here, Alan William Wolff, in ''Improving United States Trade Policy,'' ''Smoot-Hawley was only half of that which had been put into effect by the Fordney-McCumber Tariff Act of 1922. Even after enactment of Smoot-Hawley, two-thirds of all U.S. imports, in value, entered the United States duty-free.''

A statement, also, by the distinguished professor of economics at MIT, Paul Krugman, who just recently had an article, and we will get to that—I did not realize this was coming up —in the London Economist relative to monetary policy. He stated, in ''The Age of Diminished Expectations,'' ''In popular arguments against protectionism, the usual warning is that protectionism threatens our jobs—the Smoot-Hawley tariff of 1931, we are told, caused the Depression, and history can repeat itself.''

The claim that protectionism caused the Depression is nonsense; the claim that future protectionism will lead to a repeat performance is equally nonsensical.

Now, Mr. President, within 3 years in 1933 we had a plus balance of trade. Trade at that time was only about 1 percent of our GNP. It is up to about 17 percent to 18 percent. It was not a factor, really, but that is the false history that these politicians run around and they will call the Senator from North Dakota ''Smoot,'' and they will call the Senator from South Carolina ''Hawley.'' There they are on the floor again. They are trying to get in protectionism and start a depression.

Mr. President, when they get to trade deficits, I have another article that we want to have printed in the RECORD, because they all talk, ''exports, exports, exports.'' They never want to talk about imports.

I want to have printed in the RECORD the merchandise trade deficits since 1979, and I ask unanimous consent to have it printed in the RECORD at this point.

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

Merchandise trade deficit since 1979

	Billion
1979	$27.6
1980	25.5
1981	28.0
1982	36.0
1983	67.1
1984	112.5
1985	122.2
1986	145.1
1987	159.6
1988	127.0
1989	115.0
1990	109.0
1991	73.8
1992	96.1
1993	132.6
1994	166.1
1995	174

Mr. HOLLINGS. Mr. President, it shows we lost 1.5 trillion bucks in deficits. That means more imports than exports. I could get into the argument about exports creating 20,000 jobs. The Department of Commerce finally revised that just 6 weeks ago. It is only 14,000 jobs. The exports are not the reason.

I am quoting from Business Week, September 2, just 8 days ago:

Indeed, exports are not the reason for the second quarter deterioration in the trade deficit. That blame goes to imports. Exports dipped 0.3 percent in June to $69.7 billion, but much of the decline reflected a drop in the volatile aircraft shipments. For the quarter, total exports rose at a 7.3 percent annual rate, up from 2.6 percent in the first quarter.

So far, the dollar's recent strength has not forced exporters to raise prices. Export prices fell 0.5 percent in July and, excluding farm products and the soaring cost of grain prices, are down 1.6 percent from a year ago. That plus improving economies in Mexico and Canada should continue to lift exports in coming months.

The story for imports is much less encouraging for growth. Despite a 3.3 percent drop in imports in June, goods and services from abroad in the second quarter still soared at a 13.9 percent annual rate, up from an already rapid 11.7 percent gain in the first.

Rather than get into the whole article, every time I get to this particular part of the debate they all want to talk exports, exports, and that is more or less like the octopus squirting oil on the troubled waters and escaping in its own dark mist. Exports are not our problem; they are our opportunity, and we have every office in the Lord's world working with exports. I work with the Export Council and gave out the awards in my own backyard just this past month. But the truth is that it is imports and it is the deficit of $1.5 trillion in the last 12 to 13 years.

Now, Mr. President, the competition, that is what we really want to talk about. The competition is our sales. I remember these folks coming to me in the early days now that we have been in this game for at least 35 years, and the export job creation myth—I use a figure in the debate I got from the Department of Commerce of 41 percent back in 1978, 41 percent of the imports in the United States were U.S. companies that moved their manufacturing offshore, and bringing it back in, the finished product. It was 41 percent then, and since that there has been a deluge. But if you go over there, they give you the 41 percent.

I have been like a detective trying to get the truth out of that crowd, but they are controlled. They are controlled on this particular score, particularly when you make these joint ventures. You cannot go into China. You cannot go into Japan. You cannot go into Indonesia unless you make a joint venture, and that part you have 49 and they have 50 percent, and that part of your manufacturing, the 49 percent, is not counted in the figures. That is why we do not realize how we have gone from some 26 percent in manufacturing 10 years ago down to 13 percent.

However, 50 percent of the U.S. exports come from 100 companies, 80 percent from 250 companies, a very small part. Our distinguished colleague from North Dakota is talking about small

business. These are the same companies, now, that have been the largest downsizers.

Did you hear that right? Those are the ones who were talking about downsizing. General Electric in 1985 had 243,000 jobs; in 1995, they are down to 150,000. IBM shaved 132,000 jobs in the last 10 years; it now employs more people abroad than at home. Abroad is 116,000. We have a foreign company—Mr. President, IBM is not a United States company any longer. They have more workers overseas, 116,000 and 111,000 here. Intel reduced U.S. employment last year 22,000, down to 17,000. General Motors in 1985 had 559,000 and are down to 314,000 last year.

I ask unanimous consent to have printed in the RECORD at this point another emphasis on this measure, and that is by William Greider on August 8, 1996, in the Rolling Stone, ''How the taxpayer-funded Export-Import Bank helps ship the jobs overseas.''

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

THE EX-IM FILES

HOW THE TAXPAYER-FUNDED EXPORT-IMPORT BANK HELPS SHIP JOBS OVERSEAS

(By William Greider)

WASHINGTON, D.C.—As the Nation's salesman in chief, Bill Clinton looks like a smashing success. When Clinton came to office, his long-term strategy for restoring American prosperity had many facets, but the core of the plan could be summarized in one word: exports. The U.S. economy would boom or stagnate, it was assumed, depending on how American goods fared in global markets. So the president mobilized the government in pursuit of sales.

Flying squads of Cabinet officers, sometimes accompanied by corporate CEOs, were dispatched to forage for buyers in foreign capitals from Beijing to Jakarta. The Commerce Department targeted 10 nations—India, Mexico and Brazil among them—as the ''big emerging markets.'' Trade negotiators hammered on Japan and China to buy more American stuff. And two new agreements were completed—GATT and NAFTA—to reduce foreign tariffs.

U.S. industrial exports have soared in the Clinton years, from $396 billion during the recessionary trough of 1992 to around $520 billion last year. And as this administration has said time and again, more exports means more jobs—usually good jobs with higher wages. In his fierce commitment to trade, Clinton is not much different from Ronald Reagan, who (notwithstanding his laissezfaire pretensions) also played hardball on trade deals and, in some cases, intervened with more effective results. George Bush, too, bargained on behalf of corporate interests and played globe-trotting salesman. Promoting exports and foreign investment is not a new idea; it has enjoyed a bipartisan political consensus for decades.

What does seem to be new in American politics are the thickening doubts among citizens and a rising chorus of critics, informed and uninformed, who question Washington's assumptions about exports. The conventional strategy, the critics argue, may help the multinational companies turn profits, but does it really serve American workers and the broad public interest? The new realities of globalized production play havoc with the old logic of exports-equal-jobs. Sometimes it is the jobs that are exported, too.

This contradiction, usually covered up with platitudes and doublespeak in political debate, becomes powerfully clear when you look closely at the dealings of an obscure federal agency located just across Lafayette Park from the White House: the U.S. Export-Import Bank with only 440 civil servants and a budget of less than $1 billion—small change as Washington bureaucracies go.

Yet America's most important multinational corporations devote solicitous attention to the Ex-Im Bank. Their lobbyists shepherd its appropriation through Congress every year and defend the agency against occasional attacks. Why? The Ex-Im Bank provides U.S. corporations with hundreds of millions of dollars each year in financial grease that smooths their trade deals in the new global economy.

This year, Ex-Im will pump our $744 million in taxpayer subsidies to America's export producers, financing the below-market loans and loan guarantees that help U.S. companies sell aircraft, telecommunications equipment, electric power turbines and other products—sometimes even entire factories—to foreign markets. Since the biggest subsidies always go to the largest corporations, skeptics in Congress sometimes refer to Ex-Im as the Bank of Boeing. It might as well be called the Bank of General Electric—or AT&T, IBM, Caterpillar or other leading producers. Ex-Im's senior officers call these firms ''the customers.''

But the banker-bureaucrats at Ex-Im see their main mission as fostering American employment. ''Our motto is, Jobs through exports,'' says James C. Cruse, vice president for policy planning, ''Exports are not the end in itself, so we don't care about the company and the company profits.'' That was indeed the purpose when the bank was chartered as a federal agency back in 1945 and the reason it has always enjoyed broad support, including that of organized labor.

At this moment, the tiny agency is under intense pressure from influential U.S. multinationals to change the rules of the game. Specifically, the companies want taxpayer money to subsidize the sale of products that aren't actually manufactured in America. They want subsidies for products that are not really U.S. exports, since companies ship them from their factories abroad to buyers in other foreign countries. If the rules aren't changed, the exporters warn, they will lose major deals in the fierce global competition and may be compelled to move still more of their production offshore.

''Global competitiveness, multinational sourcing and the deindustrialization of the U.S.'' wrote Cruse in a policy memo for the bank,'' were the three most common factors that exporters cited as reasons to revise Ex-Im Bank's foreign content policy. . . . U.S. companies need multisourcing to be able to compete with foreign companies. Foreign buyers are becoming more sophisticated and they are expressing certain preferences for a particular item to be sourced foreign . . . [and] U.S. suppliers may not always exist for a particular good.''

In plainer language, foreign is usually cheaper—often because the wages are much lower—and sometimes better. As U.S. producers have begun to buy more hardware and machinery overseas, the capacity to make the same components in the United States has diminished or even disappeared. What the companies want in Cruse's bureaucratic parlance, is ''broadly based support for foreign-sourced components.''

As the complaints from American firms swelled in the last few years, Ex-Im officials agreed to convene the Foreign Content Policy Review Group to explore how the U.S. financing rules might be relaxed. The review group's members include 11 major exporters (General Electric, AT&T, Boeing, Caterpillar, Raytheon, McDonnell Douglas and others) plus several labor representatives from the AFL-CIO and the machinists' and textile-workers' unions.

The Ex-Im Bank must decide who wins and who loses—a fundamental argument over what is in the national interest, give globalized business. The review group discussions are couched in polite police talk, but they speak directly to the economic anxieties of Americans. If young workers worried about their livelihood could hear what these powerful American companies are saying in private, there would be many more sleepless nights in manufacturing towns across this Nation. The information below is taken from confidential Ex-Im Bank members that were recently leaked to me. What these executives have to say is not reassuring, but it's at least a more accurate vision of the future than anything you are likely to hear from this year's political candidates.

A decade ago the rule was simple: Ex-Im would not underwrite any trade package that was not 100 percent U.S.-made. Then and now Ex-Im scrutinizes the content of very large export projects, item by item. to establish the national origin of subcomponents. Any subcomponents produced offshore must be shipped back to American factories to be incorporated into the final assembly. If Caterpillar sells 10 earthmoving machines to Indonesia all 10 of them have to come out of a U.S. factory to get a U.S. subsidy, even if the axles or engines were made abroad.

By the late 1980s, however, as major manufacturers pursued globalization strategies that moved more of their production offshore. Ex-Im, with labor approval opened the door. In 1987 it agreed to finance deals with 15 percent foreign inside content. Partial financing would also be provided for export deals that involved at least 50 percent U.S. content.

Now the multinationals are back at the table again, demanding still more latitude. The bank's rules, they complain, have created a bureaucratic snarl that threatens U.S. sales. These regulations are oblivious to the complexities of modern trade which multinationals routinely ''export'' and ''import'' huge volumes of goods internally—that is among their own fur-flung subsidiaries or foreign joint ventures.

The flavor of the company complaints is revealed in Ex-Im Bank minutes of the review group's first meeting last year, where various company managers sounded off about the new global realities. David Wallbaum, from Caterpillar, urged the bank to be ''more flexible in supporting foreign content,'' according to the minutes, General Electric's Selig S. Merber said GE needs ''access [to] worldwide pricing.'' Merber proposed that instead of insisting on American content item by item, Ex-Im look only at the U.S. aggregate.

Lisa DeSoto of Fluor Daniel, one of America's largest construction engineering firms, suggested in a follow-up memo that Ex-Im subsidize ''procurement from the NAFTA countries,'' Mexico and Canada as if the goods were from the U.S.

But it was Angel Torres, a representative for AT&T, who spoke more bluntly than the others, AT&T's foreign content has grown in the last 10 years because the U.S. is becoming a ''service-oriented society,'' Torres said, according to the minutes. ''AT&T's priority,'' he declared, ''is to increase the allowable percentage of foreign content.''

When I rang up these corporate managers and some others to ask them to elaborate on their views, all of them ducked my questions. The one exception was David L. Thornton, a manager from Boeing, whose newest jetliner, the 777, actually involves 30

percent foreign content in the manufacturing process (mostly from Japan). It still qualifies for full Ex-Im financing. Thornton explained, because Boeing's original investment in research and development also counts in the sales price. ''Our general view of 75 percent is we can live with it for the time being,'' Thornton said, ''but over time it probably won't be adequate.''

The labor-union representatives, not surprisingly, choked at the ominous implications of such comments—especially the matter-of-fact references to America's de-industrialization. Corporate leaders and politicians, after all, have been celebrating the ''comeback'' of American manufacturing in the 1990s. Exports are booming, and U.S. competitiveness has supposedly been restored, thanks to the corporate restructurings and downsizings. Stock prices are rising, and shareholders are happy again.

The private corporate view is not so cheery for the employees. A memo from one multinational corporation (its identity whited-out by Ex-Im bureaucrats) made it sound like the demise of American manufacturing is already inevitable. ''We believe the current policy does not reflect the de-industrialization of the U.S. economy and the rise of the Western European and Asian capabilities to produce high-tech quality equipment . . .'' the memo states. ''Location is no longer important in the competitive equation, and where the suppliers of components will be [is] wherever the competitive advantage lies.''

The more that labor heard from the companies, the more hostile it became to any revision. ''We have been presented with no credible evidence that current bank policies have cost companies sales, thereby reducing U.S. employment,'' the labor representatives fired back in a jointly signed letter in April. ''While we understand that global corporations might prefer fewer restrictions—even the provision of financing regardless of the effect on jobs in the United States—that desire simply ignores the very purpose of extending taxpayer-based credit.''

If Ex-Im agrees to finance more foreign content, the labor reps asked, won't that simply encourage the multinationals to move still more U.S. jobs overseas, thus accelerating deindustrialization? When I put this question to Ex-Im officials and corporate spokesmen, their answer was a limp assurance that this isn't what the bank or the companies have in mind.

But can anyone trust these assurances? The massive corporate layoffs have sown general suspicions of the companies' national loyalties, and the ''outsourcing'' of high-wage jobs has already boiled up as a strike issue in major labor-management confrontations. The United Auto Workers shut down General Motors earlier this year over that question. The UAW lost a long, bitter strike at Caterpillar when it demanded wage cutbacks, threatening to relocate production if the union didn't yield. The International Association of Machinists and Aerospace Workers closed down Boeing's assembly lines for two months last fall, demanding a stronger guarantee of job security as Boeing globalizes more of its supplier base.

''Ex-Im financing is corporate welfare with a fig leaf of U.S. jobs, and now they want to take away the fig leaf,'' says Mark A. Anderson, director of the AFL' task force on trade. ''They want to be able to ship stuff from Indonesia to China and use U.S. financing, I said to them, 'You're nuts. If you go ahead with this, you're going to be eaten alive in Congress.'''

George J. Kourpiss, president of the machinists' union whose members make aircraft at Boeing and McDonnell Douglas, and jet engines at GE and Pratt & Whitney, put it more starkly: ''The American people aren't financing that bank to take work away from us. If the foreign content gets bigger, then we're using the bank to destroy ourselves.''

EXPORTS—JOBS

According to the government's dubious rule of thumb, each $1 billion in new exports generates 16,000 jobs. By that measure, Bill Clinton's traveling salesmen brought home 2 million good jobs. So why is there not greater celebration? The first, most-obvious explanation is imports. Foreign imports soared, too, albeit at a slower rate of growth, and so America's trade deficit with other nationals actually doubled in size under Clinton, despite his aggressive corporate strategy. Thus a critic might apply the government's own equation to Clinton's trade deficit and argue that there was actually a net loss of 11 million good jobs.

Bickering over the trade arithmetic, however, does not get to the heart of what's happening and what really bothers people: the specter of continued downsizing among the nation's leading industrial firms. In fact, globalization has created a disturbing anomaly. U.S. exports multiply robustly, yet meanwhile the largest multinationals that do most of the exporting are shrinking dramatically as employers. It's important to note that about half of U.S. manufacturing exports comes from only 100 companies, and 80 percent from some 250 firms, according to Ex-Im's executive vice president, Allan I. Mendelowitz. The top 15 exporters—names like GM, GE, Boeing, IBM—account for nearly one quarter of all U.S. manufactured exports. Yet these same firms are shedding American employers in alarming dimensions. The 15 largest export producers with few exceptions have steadily reduced their U.S. work forces during the past 10 years—some of them quite drastically—even though their export sales nearly doubled.

GE is a prime example because the company is widely emulated in business circles for its tough-minded corporate strategies. In 1985, GE employed 243,000 Americans and 10 years later, only 150,000. GE became stronger, then Executive Vice President Frank P. Doyle said. But, he conceded. We did a lot of violence to the expectations of the American work force.

So, too, did GM, the top U.S. exporter in dollar volume (though the auto companies are not big users of Ex-IM financing). GM has shrunk in U.S. work force from 559,000 to 314,000. IBM shed more than half of its U.S. workers during the past decade (about 132,000 people). By 1995, Big Blue had become a truly global firm—with more employees abroad than at home (116,000 to 111,000). Even Intel, a thriving semiconductor maker, shrank U.S. employment last year from 22,000 to 17,000. Motorola has grown, but its work force is now only 56 percent American.

The top exporters that increased their U.S. employment didn't begin to offset the losses. The bottom line tells the story. The government's great substitute for America's major multinational corporations has not been reciprocated, at least not for American workers. The contradiction is not quite as stark as the statistics make it appear, because the job shrinkage is more complicated than simply shipping jobs offshore. Some companies eliminated masses of employees both at home and abroad. Others, like Boeing, reduced payrolls primarily because global demand weakened in their sectors. Some jobs were wiped out by labor-saving technologies and reorganizations. But virtually all of these companies offloaded major elements of production to lower-cost independent suppliers, both in the U.S. and overseas. If the jobs did not disappear, the wages were downsized.

This dislocation poses an important question, which American politicians have not addressed. Does the success of America's multinationals translate into general prosperity for the country or merely for the companies and their shareholders? The question is a killer for politicians—liberals and conservatives alike—because it challenges three generations of conventional wisdom. That's why most Democrats or Republicans never ask it.

When these facts are mentioned, the exporters retreat to a few trusty justifications. First there is the ''half a loaf'' argument. Yes, it is unfortunately true that companies must disperse an increasing share of the production jobs abroad, either to reduce costs or to appease the foreign customers. But if this were not done, there might be no export sales at all and, thus, no jobs for Americans. Next, there is the ''me, too'' argument. All of the other advanced industrial nations have export banks that provide financing subsidies to their multinationals. The export banks in Europe do allow greater foreign content than the U.S.—but only if the goods originate from an allied nation in the European community. France supports German goods and vice versa, just as Michigan supports California. The U.S. Ex-Im Bank, as Mendelowitz has pointed out, actually provides greater risk protection and generally charges lower premiums.

Japan's Ex-Im bank is indeed more flexible than America's, but Japan's industrial system also operates on a very different principle; major Japanese corporations take responsibility for their employees. That understanding creates a mutual trust that allows both the government and the firms to pursue more sophisticated globalization strategies. Japanese jobs are regularly eliminated when Japan's manufacturing is relocated offshore in Asia or in Europe (and sometimes in the U.S.), but the companies find new jobs for displaced employees and only rarely, reluctantly, lay off anyone.

''The situation that our companies see,'' Ex-Im's Cruse explains, ''is that Japan is willing to finance as much as 50 percent foreign content, and [the companies] say to us, ''You're not competitive.'' But an important difference is that the Japanese government doesn't have to worry about the workers because the Japanese companies worry about them. . . . If GE subcontracts work to Indonesia, it tends to lay off a line of workers back in the U.S.''

BAIT AND SWITCH

In April 1994, AT&T announced a $150 trillion joint venture with China's Qingdao Telecommunications to build two new factories, in the Shandong province and in the city of Chengdu, in the Sichuan province, that will manufacture the high-capacity 5ESS switch, the heart of AT&T's advanced telephone systems. AT&T's chairman, Robert Allen, said that it will more than double its Chinese work force over the next two or three years.

Five months later, in September, the Ex-Im Bank in Washington approved the first of $87.6 million in loan guarantees to underwrite AT&T's export sales to China—switching equipment that will modernize the phone systems in Qingdao and several other cities. AT&T won the contract in head-to-head competition with Canada's Northern Telecom, Germany's Siemens and France's Alcatel Alsthom. The Clinton administration celebrated another big win for the home team.

But who actually won in this deal? A Telecom Publishing Group article provided a different version of what AT&T's victory meant for the United States. ''While some equipment for AT&T's network projects in China will be built in this country,'' the article reported, ''the Chinese are demanding

that eventually the bulk of the equipment in their system be built in their country, the carrier [AT&T] said.''

An AT&T public-affairs vice president, Christopher Padilla, denies this, but then Padilla also denies that AT&T is prodding the Ex-Im Bank to relax its foreign-content rules. Further, he assures me that despite their proximity, there was no explicit quid pro quo and no connection between the two transactions, the taxpayer-financed export sales and AT&T's agreement to build new factories in China.

''It's a reality of the marketplace,'' Padilla says. ''If we tried to pursue a strategy of just making everything in Oklahoma City''—where the 5ESS switch is now manufactured—''we wouldn't have any market share at all.''

The White House also led cheers for Boeing because Boeing was also stomping its competitors in the Chinese market. In 1994 alone, Boeing sold 21 737s and seven 757s to various Chinese airlines and obtained nearly $1 billion in Ex-Im loans to finance the deals. When President Clinton hailed the news, he did not mention that Boeing had agreed to consign selected elements of its production work to Chinese factories. The state-owned aircraft company at Xian, for instance began making tail sections for the 737, work that is normally done at Boeing's plant in Wichita, Kan. The first order for Xian was for 100 sets, but that was just the beginning. In March 1996, a China news agency boasted that Boeing had agreed to buy 1,500 tail sections from Chinese factories, both for the 737 and the 757. The deal was described as ''the biggest contract in the history of China's aviation industry.''

Unlike AT&T and some others, Boeing is relatively straightforward about acknowledging that it's trading away jobs and technology for foreign sales. China intends to build its own world-class aircraft industry, and Boeing helps by giving China a piece of the action, relocating high-wage production jobs from America to low-wage China, as well as relocating some elements of the advanced technology that made Boeing the world leader in commercial aircraft. Boeing has told its suppliers to do the same. Northrop Grumman, in Texas, is sharing production of 757 tail sections with Chengdu Aircraft, in China.

''What we've done with China,'' says Lawrence W. Clarkson, Boeing's vice president for international development, ''we've done for the same reason we did it with Japan—to gain market access.'' The two transactions—the export sales and job transfers—are legally separate but typically negotiated in tandem, Clarkson explains. China always insists upon a written acknowledgement of the job commitment in the export sales contract—the same sale to China submitted to the Ex-Im Bank for its financial assistance.

Until recently, the Ex-Im Bank's operative policy on this issue could be described as ''don't ask, don't tell'': The bank officials didn't ask the companies if they were offloading jobs, and the companies didn't tell them. When I asked various Ex-Im managers if they knew about AT&T's new switch factories in China before they approved AT&T's export financing their answer was no. What about companies like Boeing doing similar deals?

''Yes, we're aware of that,'' Cruse says. It's not that the companies tell us, but it's not hard to read the newspapers.''

After prodding from labor officials, the bank last year began requiring exports to reveal whether they dispersed U.S. jobs or technology in connection with the Ex-Im-financed sales. But the federal agency still approves these deals without weighing the potential impact on future employment. In fact, Ex-Im still pretends that the export sales and corporate decisions to relocate jobs are unrelated transactions, though every company knows otherwise.

The practice of swapping jobs for sales is widespread in global trade—deals are negotiated in secrecy because such practices ostensibly violate trade rules. But everyone knows the game, and most everyone plays it. If Boeing doesn't swap jobs for Chinese sales, then its European competitor Airbus will. If AT&T doesn't move its switch manufacturing to China, then Siemens or Alcatel will (in fact, Alcatel already has). The cliché at Boeing is ''60 percent of something is better than 100 percent of nothing.''

The trouble is that nothing may be what many American workers wind up with anyway—especially if China eventually becomes a world-class aircraft producers itself. Officials at the Communications Workers of America, which represents AT&T workers, recall that Ma Bell once made all its home telephones in the U.S. and now makes none here.

Is the same migration under way now for the high-tech switches? The AT&T spokesman insists not. Anyway, he adds the assurance that the most valuable input in these switches is the software, not the hardware from the factories, and the design work is still American. This may reassure the techies, but it's not much comfort to those who work on the assembly lines. Besides, AT&T plans to open a branch of Bell Laboratories in China.

The dilemma facing American multinationals is quite real, but the question remains: Why should American taxpayers subsidize export deals contingent on increased foreign production, or even offloading portions of the American industrial base? Americans are told repeatedly that they cannot exercise any influence over these global firms, but that claim is mistaken. The Ex-Im Bank is an important choke point in the bottom line of these multinationals. Americans should demand that the subsidies be turned off, at least for the largest companies, until the multinationals are willing to provide concrete commitments to their work forces.

The gut issue is not about economics but about national loyalty and mutual trust. ''Every meeting we have in the union, we open it with the pledge of allegiance,'' machinists union president George Kouepias muses, ''Maybe the companies should start doing that at their board meetings.''

Mr. HOLLINGS. Now, Mr. President, that gives a general feel for the amendment that I cosponsored with the Senator from North Dakota, just a minuscule part, but it will start maybe in the other direction the conscience and the awareness and the understanding of us as Senators about this important particular problem.

We are giving deferrals of $2.2 billion over 7 years to companies using your taxpayer money and my taxpayer money. Talking about the deficit, using our taxpayer money to get them out of the country, to lose the jobs. We have a financial gimmick, the Eximbank; they call it the ''bank of Boeing'', to, by gosh, move the jobs over there.

Now they have taken over in Europe, and you watch, in China, they are demanding now and they have in the RECORD the particular article that we had about the number of tail assemblies being manufactured for the 27 747 planes ordered by the People's Republic of China. We have now orders over there to manufacture in China over 1,000 planes. So, gradually the value to the economy of these exports is being diminished. We are losing, losing, losing, and we act like we are happy about it, running around here competing with ourselves over 60 percent of exports and imports being U.S.-generated.

I don't blame the Chinese, the Japanese, and all for the ignorance or the lack of awareness on the part of the Government of the United States and its policy. I would ride a free train. I do blame—the agents of influence, Senator. They got 100 Washington law firms, paid $113 million to represent one country—Japan. Do you know what it is for the 100 Senators and the 435 House Members? Mr. President, $71.3 million. The people of Japan, by way of pay, are represented better in Washington than the people of the United States. When are we going to wake up? When are we going to sober up? When are we going to compete? You will get a little flavor of it in an hour when they announce that Vice President fellow, because he will run all over the country and run a touchdown. I am telling you right now you are going to see an ''O.J.'' going around running touchdowns economically when this fellow gets started because he knows the subject.

This is a serious amendment to bring the attention of the U.S. Senate to this all-important problem of losing our standard of living and jobs. Let's quit financing it, let's stop subsidizing it, let's stop bankrolling it, and let's stop using that symbolic nonsense of free trade and protectionism. We have to come here and start protecting our industrial backbone. Your security as a nation is like a three-legged stool. One leg is the values of a nation. We sacrificed to feed the hungry in Somalia. We sacrificed to build democracy in Haiti. We sacrificed to try to build peace in Bosnia. Unquestioned. The second leg, Mr. President, is that of military strength. Unquestioned. The third leg, economic strength, is fractured. Our stool of the United States is about to topple because what we are talking about is family values and homosexual marriages and all kind of them silly things coming around here like we in Congress can control these things, and our duty and responsibility to pay the bill goes wanting. Our duty and responsibility is to develop, in a bipartisan fashion, a competitive trade policy because that is what we are into. Europe is protectionist. They enforce their laws. In 1980, we had a $4 billion deficit in the balance of textile trade, and Europe had it. They enforced their particular trade laws and they are down to less than $1 billion, and we are up to a $36 billion deficit in the balance on textile trade. So the Senator from New Hampshire has to know where his textile industry has gone. I thank the distinguished colleagues. I thank, particularly, the Senator from North Dakota.

I yield the floor.

Mr. KERRY. Mr. President, I am pleased to support the amendment by my colleague, the Senator from North Dakota.

Mr. President, we must balance the budget. We cannot set our sights lower than that goal. Earlier in this session of Congress, I introduced a bill which would cut wasteful and unnecessary spending by $90 billion over 7 years. This spring, I worked with my distinguished colleague from Arizona [Senator MCCAIN], to reduce spending programs, subsidies, and corporate welfare by $60 billion over 6 years. And most recently, I introduced the Family Income and Economic Security Act—a 20-point program to provide education, job, income and retirement security for Americans while eliminating wasteful spending and costly, counterproductive subsidies and giveaways. This provision is an integral part of that 20-point plan.

Mr. President, it is clear that all sectors of our society must contribute to the effort of deficit reduction. That includes the private business sector.

The Dorgan-Kerry amendment would close a noxious loophole in our Tax Code which is costing the American taxpayers $2.2 billion over 7 years. And, Mr. President, what adds insult to injury is the fact the current tax law also encourages domestic manufacturers to move their plants overseas. The Senator from North Dakota is quite correct in calling this loophole the job export subsidy. This is clearly something the American taxpayers and our national economy cannot afford.

This is not just a hypothetical situation. I ask unanimous consent to have printed in the RECORD a compelling article from the Boston Globe which describes the effect of this loophole on Massachusetts companies and their workers.

Mr. President, if we are to remain a competitive Nation, we must do all we can to eliminate our budget deficit, reduce our national debt, maintain robust economic growth, and encourage manufacturers to retain high-wage jobs on our shores. This amendment moves us in that direction and I encourage our colleagues to support it.

I yield the floor.

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

[From the Boston Globe, July 8, 1996]

TAX CODE GIVES COMPANIES A LIFT

(By Aaron Zitner)

WASHINGTON.—When Robert M. Silva's job moved to Singapore two years ago, his company flew him overseas so he could train his replacement. Then the company closed its North Reading factory, laid off Silva and 119 co-workers and began importing from its Asian plant medical products once made in Massachusetts.

Moving jobs to Singapore had obvious advantages for Baxter International Inc. Taxes are low, and Silva's $26,000 salary was far higher than what the company pays his replacement.

But Baxter reaped another reward for moving overseas: a tax break, courtesy of the United States government. In the name of boosting US business, the tax code offers a special benefit to companies that move jobs offshore, a gift also accepted by Massachusetts employers such as Stratus Computer Inc. of Marlborough (500 layoffs last year), Augat Inc. of Mansfield (260 layoffs) and the Shrewsbury division of Quantum Corp. (85 layoffs), among others.

It is one of many tax breaks that ripple perversely through the economy—favoring multinationals over small firms, investors over average taxpayers and foreign workers over those at home.

The federal government gives up about $70 billion each year through corporate tax breaks, enough to cover the IRS bill for every Massachusetts resident two times over. Corporate tax breaks carry a lower political profile than direct subsidies to businesses for programs such as the one that helps McDonald's Corp. sell Chicken McNuggets overseas. But they cost about as much. For a nation trying to balance its budget and pay for social services tax benefits to businesses are a gold mine.

''The tax code is a major source of corporate welfare,'' says US Rep. Lane Evans, an Illinois Democrat. ''Not only that, but we are using our tax dollars in a way that hurts our own economy. It drains our treasury. It forces average Americans to bear a larger share of the tax burden.''

The Clinton administration says that closing some tax breaks may force companies to raise prices and lose customers, and therefore pay less taxes. ''There are two sides to every part of this,'' says Leslie Samuels, until recently the Treasury Department's tax policy chief. ''If you're thinking that there's hundreds of billions of dollars, it's not there.''

Republican lawmakers have actually moved to widen some tax breaks. A 1993 law, for example, narrowed the provision that benefited Baxter International, Stratus and Augut, but a GOP bill scheduled for debate on the Senate floor today would fully restore the loophole.

Other lawmakers and analysts disagree with that approach. At a time when Medicare, Medicaid and other social welfare programs are being curtailed, they say, many tax policies which explicitly benefit corporations cannot be justified. These critics argue:

The US should not give tax breaks for breaking the law. For example, after testing faulty medical products on unwitting hospital patients, C.R. Bard Inc. paid $61 million in penalties in 1993. But the pain was tempered by the tax code, which allowed Bard to take half the fine as a tax deduction.

Tax breaks to boost exports are not worth the cost. Companies naturally will try to sell their products overseas, so export incentives worth at least $7 billion a year are a waste of money.

Too many companies pay no taxes at all. Nearly 60 percent of US-controlled corporations and 74 percent of foreign companies doing business here paid no federal tax in 1991, the last year figures were available. Critics say the US is not tough enough on companies that use illegal accounting maneuvers to shift profits to low-tax nations. The amount lost to the Treasury each year: as much as $40 billion over and above the $70 billion in legal tax breaks.

Congress must stop the bidding war among the states for jobs, in which companies win ever-greater tax breaks to relocate. It should not let states use federal tax dollars when ''poaching'' jobs from other states. Labor Secretary Robert Reich calls it ''one of the most egregious forms of corporate welfare.''

Congress and the Clinton administration have cut some tax concessions to businesses. They curtailed deductions for meals, sports tickets and country club dues, raising $3 billion a year in tax revenue. They also banned write-offs for ''excessive'' executive salaries, those over $1 million, raising $70 million annually. And they have worked out a deal—not yet final—to phase out a tax break for companies that build plants in Puerto Rico, which costs $2.6 billion a year in tax revenue.

But as a presidential candidate, Clinton promised more. He vowed to make foreign companies, widely accused of underpaying US taxes, pay $45 billion more over four years. Clinton has taken steps in this direction, but Treasury officials cannot show how much money has been gained. Moreover, the president has done little to fulfill another promise in his 232-page campaign platform, called ''Putting People First,'' to ''end tax breaks for American companies that shut down their plants here and ship American jobs overseas.''

INCENTIVE TO LEAVE

Just ask Robert Silva.

A 33-year-old father of two, Silva spent six years at the C.R. Bard plant in North Reading. He assembled and tested infusion pumps, devices that allow patients to receive regular injections without a nurse or traditional needle.

In 1993, the Bard unit was bought by Illinois-based Baxter. ''They promised us the world. Then they moved the plant to Singapore after telling us they wouldn't,'' says Silva of Nashua. About 130 people lost their jobs. ''It was quite the shock. People were in tears that day.''

One incentive for Baxter's move, critics say, was a tax break known as the ''runaway plant loophole,'' which accounts for $1.7 billion each year in lost tax revenue. Here's how it works:

The US taxes the worldwide profits of American companies. A million dollars earned in Ireland, for example, will be taxed at the US rate of 35 percent, minus the 10 percent tax the company must pay to the Irish government.

But Baxter, or any other company, is not required to pay the US tax bill unless it moves the money home to give to shareholders or to reinvest in the business here. As long as the money remains overseas—invested in foreign plants or banks—Baxter will pay only a small tax to Singapore. That is a total $191 million tax on its overseas profits over the years that the company has no intention of paying.

''The tax code literally says, 'Move your plant overseas and we'll give you a tax break,''' says Sen. Byron Dorgan, a North Dakota Democrat.

The ''runaway plant loophole'' also has saved millions of dollars for Stratus, Quantum, Digital Equipment Corp. of Maynard and many others that have moved New England jobs overseas while deferring US taxes on overseas profits.

''Closing it would discourage further investment in growing our business,'' said Mark Fredrickson, a spokesman for EMC Corp. of Hopkinton, a computer equipment maker that has accumulated $388 million in untaxed overseas profits over the years. ''It helps our profitability and helps secure the local jobs we have. The bigger we become, the more people have to be employed her eat corporate headquarters.''

Many companies take advantage of two other tax breaks designed to encourage exports. By creating a ''foreign sales corporation,'' which often exists only on paper, a firm can claim a tax exemption on some of its export sales. For example, Zoom Telephonics Inc. of Mansfield said recently it lowered its tax rate by selling more products through its foreign sales corporation. These tax rules, created in 1971 and refined in 1984, cost the government $1.5 billion a year.

The US Treasury also forfeits $3.6 billion annually through the ''title passage loophole,'' as Sen. Edward M. Kennedy has dubbed it, which allows companies to claim that some US sales were actually made on foreign soil. Companies do this because they sometimes have foreign tax credits they cannot use unless they show more foreign income.

A BREAK FOR LAWBREAKERS

While the tax code causes pain for some US workers, it provides comfort to some companies that break the law.

Last year, for example, three former executives of C. R. Bard Inc. were convicted of conspiring to conceal flaws in medical catheters manufactured in Billerica and Haverhill. Two deaths allegedly were linked to the catheters, and prosecutors said the faulty devices caused 21 emergency surgeries. Bard's $61 million legal settlement with the government was the largest ever for violations of Food and Drug Administration rules.

But the tax code cushioned the New Jersey-based company. Half of the settlement—$30.5 million—could be used as a tax write-off against earnings. That was the amount Bard paid to settle civil charges. The money was meant to reimburse the Medicare program for buying catheters that should not have been on the market. ''When they earned the money they should not have earned from the catheters, they paid taxes on it. So when they give up those earnings, they should get the taxes back,'' said Michael Loucks, the assistant US attorney who prosecuted Bard.

After agreeing last year to pay the second-largest amount ever in a health-care fraud case—$161 million—Caremark International Inc. plans to take a $110 million charge against earnings, on top of a write-off to cover its legal costs.

Tax law prevents companies from deducting criminal penalties, avoiding an incentive to commit criminal acts. Loucks said Bard did not negotiate with the Justice Department over what portion of the settlement would be a civil penalty, and therefore tax-deductible. But some companies try to. ''Part of the reason companies would rather do civil settlements is because they are deductible,'' he said.

ZERO-TAX ACCOUNTING

Some companies have gone beyond shielding profits from taxes. By stretching or even breaking U.S. accounting rules, they pay no tax at all. Their goal is to shift profits out of the country into low-tax nations like Bermuda, Ireland or Hong Kong. Their tool is the accounting ledger, and critics of the tax code say it is effective.

International Business Machines Corp., for example, paid virtually no tax in 1987, despite $25 billion in U.S. sales. Sen. Kennedy says IBM shifted an undue amount of its worldwide research costs onto its U.S. operation. That raised its American expenses, he says, and lowered its profits. IBM says its accounting practices are legal, but will not comment further.

Similarly, Nissan Motor Corp. of Japan overcharged its U.S. subsidiary for cars, the IRS charged several years ago, lowering its U.S. profits and tax bill. Nissan agreed to pay the IRS $160 million, one of several settlements with the agency the automaker signed between 1987 and 1993.

Both U.S. and foreign companies cut their taxes by profit shifting, but many lawmakers and tax analysts believe the practice is particularly widespread among foreign companies. More than 70 percent of foreign firms paid no tax each year between 1987 and 1991, the IRS reports, compared to about 60 percent of U.S. companies. Clearly, some paid no tax because they did not make a profit, but many lawmakers believe others are illegally shifting profits overseas.

Estimates on the tax revenue loss range from $10 billion to $40 billion a year. Treasury officials say the figure will decrease over time because of tighter regulations created under the Clinton administration.

Will the new rules raise the $45 billion that Clinton said he would draw from foreign companies over four years? ''It would be nice to say, 'Here's what's going to happen,' but I don't think anyone in the trenches can reliably say that,'' said Samuels, the former Treasury tax policy chief.

One group of lawmakers says the transfer-pricing system must be scrapped. In its place, they propose a formula similar to what the states use now to determine what portion of a company's profits can be taxed. The formula bases the tax on what portion of a company's sales, property and personnel are in each state.

The Treasury Department, under pressure from Sen. Dorgan, is holding a conference this year to consider how such a formula might be created.

A $143 MILLION JOLT

Every year, the US government spends $143 million to help generate electricity and run recreation programs for Tennessee and six neighboring states. Now 63 years old, the Tennessee Valley Authority keeps the region's electricity rates low.

By contrast, electric rates in Massachusetts are high. And that is a key reason Lexington-based Raytheon Co. last year threatened to take 15,000 jobs out of state unless it won $40 million in tax and electric rate relief. Had it left, Raytheon's likely new home would have been in Tennessee. In other words, says US Rep. Martin T. Meehan, a Lowell Democrat, Washington collected tax dollars from Massachusetts, then sent them to Tennessee, effectively helping to lure Massachusetts jobs.

Now, Fidelity Investments of Boston and the mutual fund industry, as well as life insurance companies, are demanding similar tax relief. Increasingly, other states find themselves being forced to offer tax breaks to businesses that threaten to leave town.

''This is one of the most egregious forms of corporate welfare, because the company essentially holds the state up to ransom,'' Labor Secretary Reich says. ''It's bad, because it's a zero-sum game. No new jobs are created. . . . From the national standpoint, this is money that is subsidizing companies with no net benefit whatsoever.''

Furthermore, tax breaks don't always save jobs. Raytheon this year is trying to buy out 4,400 workers whose jobs the tax relief intended to save. In 1993, Digital Equipment Corp. angered Boston officials when it closed its Roxbury factory and laid off 190 workers after taking $7 million from the city in financing, tax cuts and other subsidies.

Now, some are calling for the federal government to step in. Last year, Massachusetts delegates to an annual small business conference at the White House urged the president to ban the use of federal money in interstate bidding wars.

Congress could tax businesses on the value of the incentives they receive from states, or it could deny federal funding to states that get into bidding wars. It also could bar states from using federal grant money or government-backed loans in incentive packages.

Massachusetts at times has used federal dollars to lure businesses. Springfield, for example, this year beat out sites in six other states to be the home of a new customer service center for First Notice Systems of Medford, which could employ as many as 900 people. As an incentive, the city offered federal funds to train company workers. It also borrowed money from the federal government and used the cash, in essence, to give First Notice a low-interest loan for building renovations.

CORPORATE DARLINGS

Businesses like the tax breaks because, unlike spending programs and direct subsidies, they are outside the federal budget and therefore not subject to Revenue Service for tax rebates on weapons programs that date to the early 1980s. The IRS says the tax credits are not deserved, since the Pentagon paid for the weapons research and usually covers the costs even of failed weapons programs. But the companies have won an early round in the courts, arguing that the Pentagon paid for the weapons, not the research that produced them. The tax refunds could total billions of dollars.

Each tax break is a choice, favoring one group of taxpayers over another. Export rules, for example, favor exporters over companies that sell in the US. The ''runaway plant loophole'' favors companies that hire foreign workers over companies that strive for the ''Made in the USA'' label.

Most broadly, corporate tax breaks generally favor wealthy Americans over the less-well off. Tax benefits are designed to help businesses create jobs, but when corporations win a tax break it is the owners of the company who gain most.

Last December, with Republicans and Democrats deadlocked over a plan to end a 21-day shutdown of the federal government, 91 corporate chief executives signed a two-page newspaper advertisement that urged Congress to balance the budget. ''Without a balanced budget, the party's over. No matter which party you're in,'' the ad said.

Seven of the CEOs were from companies that take advantage of a major tax break for purchasing new equipment, which costs the US $26 billion a year. Exxon saved $760 million because of the so-called accelerated depreciation rules, according to calculations by the Center for the Study of Responsive Law, a Washington-based Ralph Nader group. Ford Motor Co., Chrysler Corp., DuPont and others that signed the ad saved hundreds of millions dollars more.

General Motors is a major recipient of federal technology grants. Kodak claimed $37 million in export and manufacturing tax credits last year. In 1994, IBM paid no US taxes on $11 billion in profits it earned overseas, while the US Labor Department reported that 1,755 IBM jobs were moved abroad.

''How can you demand that the budget be balanced when you're taking tax breaks like this?'' asked Janice Shields, a former accounting professor now with the watchdog group. ''These things save the companies from going into debt, but it's causing the country to do that.''

Ms. MIKULSKI. Mr. President, I rise in support of the jobs export subsidy amendment. This amendment will help to end the exodus of U.S. manufacturing industry overseas by eliminating a provision in the tax law that encourages and rewards that exodus.

How does the Dorgan amendment do this? It ends the tax deferral on profits of overseas U.S. companies who move plants to foreign tax havens then ship products back to the United States for sale.

This amendment eliminates a tax subsidy that is unfair to America's workers, that is unfair to taxpayers, and that is unfair to domestic companies.

Current law provides an incentive to move. We are actually rewarding companies for killing U.S. jobs. That

makes absolutely no sense. How can this Congress say it is for working families when we reward multinational firms who move their jobs overseas?

Since 1979, our country has lost 3 million good-paying manufacturing jobs. This tax break is one reason why. We can't afford to lose one more job, and that's why we need this amendment.

Current law costs the American taxpayer. The Joint Economic Committee estimates this subsidy will result in $2.26 billion over 7 years in lost revenues. If we are serious about giving taxpayers a break, and in reducing our deficit, this is one tax subsidy we just can't afford.

Current law actually puts companies that remain in the United States at a competitive disadvantage. We don't reward the good guys. We don't provide a tax break for them for keeping jobs here at home. Instead we make it harder for them to compete by giving an edge to those who move jobs overseas. This amendment will help create a level playing field so the ''good guys'' have a fair chance to compete.

It's important to understand what this amendment does not do. It does not hinder U.S. companies that produce abroad from competing with foreign firms in foreign markets. It does not burden companies with a new tax. It simply eliminates the special tax treatment given to overseas U.S. companies.

I urge my colleagues to support this amendment. It's good for America's workers. It's good for the taxpayers. It's good for America's domestic companies.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY. Mr. President, I am going to talk here for a bit until we can get a final group of amendments, which we would like to offer. Both the chairman and I have agreed to those. We should be able to get that list put together soon. One is an amendment that I and about 10 or 12 other Senators offered, having to do with reorganization of the IRS. The language of the amendment says:

The Internal Revenue Service is prohibited from expending funds for field office reorganization until the National Commission of Restructuring the IRS has had an opportunity to issue the final report.

The chairman has agreed to accept that language into this bill. Let me be clear that my intent is to change it when we get into conference. The idea is not to postpone this until after the final commission report. That, to me, would be an inappropriate thing for us to do.

What is appropriate is to ask the Treasury Department to come up with a justification on customer service, a justification on cost-effectiveness, and a number of other areas, which they currently have not done. They are talking about actually doing a reduction of force of about 2,300 at a time. For example, they are also proposing to fire another 14 or 15 upper-echelon executives. Some other questions have been raised by a number of Members. That is what this amendment is attempting to do.

It will be my intent to modify that language once we get to conference.

Mr. SHELBY. Mr. President, I ask unanimous consent that the pending committee amendments be temporarily laid aside.

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

AMENDMENTS NOS. 5225 THROUGH 5232, EN BLOC

Mr. SHELBY. Mr. President, I send a group of amendments to the desk, en bloc, and ask for their immediate consideration.

The amendments are as follows: One is for myself to extend the pilot program authority provided by the GMRA until December 31, 1999; one for Senator STEVENS to clarify section 645 of the bill; one for Senator MIKULSKI regarding closure of an alley in the District of Columbia for construction of a Federal building; one for Senators MACK and GRAHAM to transfer a property for animal research; one for Senator D'AMATO to provide criminal sanctions for fictitious financial instruments; one for Senator GREGG regarding distribution of Federal employees' names; one for Senator KOHL, a sense-of-the-Senate resolution, regarding IRS telephone service; one for Senator KERREY regarding the IRS reorganization.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SHELBY] proposes amendments numbered 5225 through 5232, en bloc.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 5225

(Purpose: To extend the OMB's authority to streamline financial management authority under the GMRA pilot program)

On page 135, after line 4 insert the following new section:

SEC. . Subsection (b) of section 404 of Public Law 103–356 is amended by deleting ''September 30, 1997'' and inserting ''December 31, 1999''.

AMENDMENT NO. 5226

(Purpose: To provide for a Government accounting of regulatory costs and benefits of major rules, and for other purposes)

On page 134, line 7 strike all through page 135, line 4, and insert the following:

SEC. 645. REGULATORY ACCOUNTING.

(a) IN GENERAL.—No later than September 30, 1997, the Director of the Office of Management and Budget shall submit to the Congress a report that provides—

(1) estimates of the total annual costs and benefits of Federal regulatory programs, including quantitative and nonquantitative measures of regulatory costs and benefits;

(2) estimates of the costs and benefits (including quantitative and nonquantitative measures) of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs;

(3) an assessment of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government; and

(4) recommendations from the Director and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources.

(b) NOTICE.—The Director shall provide public notice and an opportunity to comment on the report under subsection (a) before the report is issued in final form.

AMENDMENT NO. 5227

(Purpose: To provide for the closing of an alley owned by the United States to allow construction of a facility for the United States Government in the District of Columbia)

On page 93, after line 19 insert the following new section:

SEC. . FACILITY FOR THE UNITED STATES GOVERNMENT

(a) CLOSING OF ALLEY.—The alley bisecting the property on which a facility is being constructed for use by the United States Government at 930 H Street, N.W., Washington, District of Columbia, is closed to the public, without regard to any contingencies.

(b) JURISDICTION.—The Administrator of General Services shall have administrative jurisdiction over, and shall hold title on behalf of the United States in, the alley, property, and facility referred to in subsection (a).

AMENDMENT NO. 5228

(Purpose: To transfer certain property to be used as an animal research facility)

At the appropriate place in the bill, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Secretary may, on behalf of the United States, transfer to the University of Miami, without charge, title to the real property and improvements that as of the date of the enactment of this Act constitute the Federal facility known as the Perrine Primate Center, subject to the condition that, during the 10-year period beginning on the date of the transfer—

(1) the University will provide for the continued use of the real property and improvements as an animal research facility, including primates, and such use will be the exclusive use of the property (with such incidental exceptions as the Secretary may approve); or

(2) the real property and improvements will be used for research-related purposes other than the purpose specified in paragraph (1) (or for both of such purposes), if the Secretary and the University enter into an agreement accordingly.

(b) The conveyance under subsection (a) shall not become effective unless the conveyance specifies that, if the University of Miami engages in a material breach of the conditions specified in such subsection, title to the real property and improvements involved reverts to the United States at the election of the Secretary.

(c) The real property referred to in subsections (a) and (b) is located in the county of Dade in the State of Florida, and is a parcel consisting of the northernmost 30 acre-parcel of the area. The exact acreage and legal description used for purposes of the transfer under subsection (a) shall be in accordance with a survey that is satisfactory to the Secretary.

(d) For the purposes of this section—

(1) the term ''Secretary'' means the Secretary of Health and Human Services; and

(2) the term ''University of Miami'' means the University of Miami located in the State of Florida.

AMENDMENT NO. 5229

(Purpose: To prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes)

At the appropriate place in the bill, insert the following new section:

SEC. . CRIMINAL SANCTIONS FOR FICTITIOUS FINANCIAL INSTRUMENTS AND COUNTERFEITING.

(a) INCREASED PENALTIES FOR COUNTERFEITING VIOLATIONS.—Sections 474 and 474A of title 18, United States Code, are amended by striking ''class C felony'' each place that term appears and inserting ''class B felony''.

(b) CRIMINAL PENALTY FOR PRODUCTION, SALE, TRANSPORTATION, POSSESSION OF FICTITIOUS FINANCIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE ORGANIZATIONS.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 513, the following new section:

''§ 514. Fictitious obligations

''(a) Whoever, with the intent to defraud—

''(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

''(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

''(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

''(b) For purposes of this section, any term used in this section that is defined in section 513(c) has the same meaning given such term in section 513(c).

''(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.''.

(2) TECHNICAL AMENDMENT.—The analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 513 the following:

''514. Fictitious obligations.''.

(c) PERIOD OF EFFECT.—This section and the amendments made by this section shall become effective on the date of enactment of this Act and shall remain in effect during each fiscal year following that date of enactment.

Mr. D'AMATO. Mr. President, I would like to commend the distinguished chairman and ranking minority member of the Treasury Appropriations Subcommittee. Thanks to their efforts, we have reached an agreement to include my amendment into this important legislation. This amendment incorporates the text of S. 1009, the Financial Instruments Anti-Fraud Act. This bill has bipartisan support and has been cosponsored by Senators LIEBERMAN, GRASSLEY, JOHNSTON, BRYAN, BOND, and FRAHM.

Mr. President, over the past several years, innovative criminals have exploited a loophole in Federal anti-counterfeiting laws. These laws do not specifically criminalize the production or passing of a phony check, bond or security if is not a copy of an actual financial instrument. Criminals are now making and passing completely fictitious financial instruments. These instruments may involve, for example, a bank, an asset or a security that does not even exist.

Under existing Federal and State law, in order to prosecute a criminal who produces or passes a completely fictitious instrument, the criminal must use the wires or mails, or deposit the instrument in a bank. These laws simply do not prohibit the making and passing of fictitious financial instruments.

The International Chamber of Commerce estimates that frauds involving fictitious financial instruments cost investors around the world $10 million per day. The Office of the Comptroller of the Currency reports that in the first 6 months of 1996, con artists have attempted to pass more than $3 billion in fictitious instruments in the United States.

In many cases, criminals who are caught attempting to perpetrate these frauds cannot be prosecuted. That is wrong. This loophole must be closed.

On July 17, the Banking Committee held hearings on this issue. Charitable institutions such as the Salvation Army and the National Council of Churches of Christ testified that they lost millions of dollars in these scams. The committee also heard testimony from a private institution in North Carolina that paid out on a fictitious financial instrument.

Mr. President, there is another sinister side to these frauds. Antigovernment groups use fictitious financial instruments to commit economic terrorism against Government agencies, private businesses, and individuals. Prior to their 81-day siege, the Montana Freemen passed fictitious instruments called comptroller warrants. The Freeman used these instruments to stockpile food, water, gasoline, and even vehicles.

This past April, a California woman, Elizabeth Broderick, was arrested for mail fraud and conspiracy for passing comptroller warrants to banks, automobile dealers, bail bondsmen and even the IRS. Ms. Broderick, who calls herself the Lien Queen, has held seminars on how to produce and pass phony checks, charging her students $125 each. Federal authorities monitored the Lein Queen's activities for several years. They finally were able to arrest her only after she slipped and used the mails to send some of her phony checks.

Fictitious instruments are an important source of funds for antigovernment groups. The Lien Queen attempted to pass more than $124 million in phony checks. LeRoy Schweitzer, the founder of the Montana Freemen, successfully passed more than $85 million in phony notes, netting more than $670,000 in profits.

Armed antigovernment groups such as the Freemen use fictitious instruments to undermine the banking and monetary systems of the United States. These groups believe that the Federal Government has declared war on its citizens, and that Federal institutions such as the Federal Reserve must be destroyed.

My amendment would close this loophole. The amendment would give Federal agents the tools necessary to prevent millions of dollars in losses to banks, mutual funds, and individuals.

Under this amendment, criminals found guilty of trafficking in fictitious financial instruments would face up to 25 years in prison.

Mr. President, the Banking Committee has worked closely with the Treasury Department and the Secret Service to develop this legislation. I would like to thank my colleagues who are cosponsors of the bill and the floor managers. Federal law enforcement officials need this weapon to combat this new brand of financial fraud and to protect our financial institutions.

AMENDMENT NO. 5230

(Purpose: To prohibit distribution of federal employee personal information without consent of the individual)

On page 135, after line 4, add the following new section:

SEC. . None of the funds appropriated by this Act may be used by an agency to provide a Federal employee's home address except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

Mr. GREGG. Mr. President, earlier this year the Vice-President of the United States, ALBERT GORE, directed the Office of Personnel Management [OPM] to make available to the Federal Employees' Union the home addresses of all Federal employees regardless of their affiliation with the Federal Employee Union. The Administration claims this is just a step to enable the unions to communicate with employees in an emergency.

Subsequently, on March 8, 1996, OPM published in the Federal Register a notice of proposed rulemaking which raises considerable privacy concerns and in my opinion severely undermines the Privacy Act of 1974. Citing as its reason for the new rulemaking—the confusion and turmoil caused by the Government shutdowns—OPM proposed permitting Federal agencies to release employee addresses to recognized Federal labor organizations. This notice went on to state that, ''OPM has determined that the most current home addresses of OPM employees are contained in the payroll system records.

Because this system is updated for changes annually by OPM employees and is automated, it is the most efficient, as well as the most accurate, mechanism for releasing this information.''

What perplexes me is that if the Federal Employee Union is interested in obtaining the addresses of all Federal employees, the union itself should ask for the addresses. The idea of mandating the availability of Federal employee addresses is outrageous and a direct violation of the Privacy Act of 1974. The Federal Government cannot and should not make available to the Federal labor unions the addresses of all Federal employees regardless of their union or non-union affiliation. This would not be permitted under my amendment.

My amendment is a simple one. It states that no Federal funds will be made available to the OPM or any other Federal Government agency to provide Federal Government employee addresses to anyone unless authorized by that given employee or ordered by a court of competent jurisdiction.

I ask unanimous consent that a July 28, 1996 Washington Post article, and a subsequent letter to the editor appearing in the Washington Post on August 12, 1996, be printed in the RECORD following my remarks.

I want to thank the chairman and ranking member for making my amendment part of their managers' amendment and I yield the floor.

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

[From the Washington Post, July 28, 1996]

THE ERA OF JOB INSECURITY

(By Mike Causey)

If you think the words ''Uncle Sam'' still mean total job security, chances are you have been out of touch for a while.

In the past, about 33 percent of the people who hired on with government made it to retirement. Turnover was low compared with many private companies. But the image of the government as a rock-steady employer may be gone with the wind.

Even the Internal Revenue Service—one of the government's few moneymaking operations and an agency that has detailed plans to keep trucking AFTER a major nuclear attack—is having layoffs.

The Defense Department is shrinking rapidly. The once-glamorous National Aeronautics and Space Administration is getting smaller, and congressional Republicans still want to see the Commerce Department disappear altogether.

Working for the government today is a little like being in a big crowd at an outdoor rock concert during a violent electrical storm: Some people won't even get wet, or know it if they do. Others will get wet but won't get hurt. But a few may end up on the receiving end of a bolt of lightening. Welcome to ''stable'' federal employment, 1996 style.

Several things have combined to make government service less binding. They include the new retirement system (with its portable 401(k), which doesn't lock employees into a pension plan); the end of the Cold War; the new emphasis on deficit reduction and the adoption of ''reengineering'' as a form of New Age religion.

Federal unions have taken reengineering in stride. They are supporting President Clinton for reelection, even though he is campaigning on his success in eliminating 231,000 federal jobs. It could have been worse, and it will be if Republican Robert J. Dole is elected, unions tell members.

Unions soon will be able to reach members (and nonmembers) at home, thanks to a White House order telling agencies to give their employees' home addresses to unions. This isn't a political payoff, both sides say, but a way to allow unions to communicate with employees during emergencies. House Republicans are furious, contending that the arrangement violates the privacy rights of federal workers.

In the meantime, congressional Republicans have shut down two styles of buyouts, which, for want of better terms, might be called the ''Golden Handshakes'' and ''Zombie Buyouts.''

Golden Handshakes involved paying retirement-age workers as much as $25,000 to retire. Zombie Buyouts are so named because some agencies revived the program (which legally died last year) to offer another chance at buyouts to employees this year.

Members of Congress think some agencies milked buyouts when they offered employees as much as $25,000 to leave and then paid them big-buck bonuses to delay their departure. Those employees got bonuses and buyouts.

Because of concerns about past buyouts, future buyouts in non-Defense agencies will be selective and closely monitored.

In parts of the IRS, one in every four employees is facing layoff. That includes about 2,000 workers in the Washington area. The IRS has asked for limited buyout authority, and the Senate is working on allowing the agency to give buyouts to early retirees. But the IRS has determined that nobody who is eligible for either regular or early retirement will get a buyout, even if Congress approves them for early retirees.

The Agency for International Development also is seeking limited buyout authority. Rep. Benjamin A. Gilman (R–N.Y.) is pushing the plan. It would allow AID to pay severance of as much as $25,000 to as many as 100 workers—none of them eligible to retire—who agree to resign. Normally employees who resign can't get severance. The plan, supported by the White House and congressional leaders, would let AID—and maybe other agencies—have what amounts to buyouts without offering buyouts. It also sends a message to retirement-age workers that the era of buyouts, for them, may be gone.

[From the Washington Post]

SAFEGUARD THE PRIVACY OF FEDERAL EMPLOYEES

As the concerned wife of a federal employee, I implore The Post: Please tell me that Mike Causey misspoke in his July 28 column ''The Era of Job Insecurity'' [Metro]. Mr. Causey reported that the Clinton administration has ordered federal agencies to give the home addresses of their employees, including nonmembers, to federal unions. The unions and the Clinton people claim this is just a step to enable the unions to communicate with employees in emergencies.

While government employees' names, grades and salaries are matters of public record, until now, their home addresses have not been publicly available.

How are the unions going to ensure that some disgruntled person with access to the lists of home addresses—someone who is currently undergoing a tax audit, for example—doesn't start sending threatening letters to the home of the auditor who is assigned to her case? Or what if she decides to drop by the auditor's home for a personal confrontation?

I have no doubt that agencies will try to withhold the addresses of some of their employees—FBI agents, IRS criminal investigators, etc.—because they might be harassed at home. One has to wonder, through, why a secretary at the FBI or a personnel staffer at the National Archives shouldn't be entitled to the same respect for her privacy. Additionally, many federal workers are married to other federal employees. What happens when the FBI secretary is married to an FBI agent? How does the FBI manage to give the union the secretary's home address without also handing over the home address of the agent?

It's true that we give our addresses out to our friends, associates and businesses, such as bank and department stores, all the time. But that choice is ours, and we freely assume any risks attached to the release of our addresses. Additionally, we can limit the amount of information we provide to any particular person or institution. The public library has my home address, but it has no information on what either my husband or I do for a living. The same is true of various museums and charities. No one who comes across our address on a membership renewal form has any reason to associate us with the government, unless we choose for them to have that information.

Having been both a tax law specialist in the disclosure function at IRS and a personnel staffer with that agency, I am somewhat familiar with the obligation of federal agencies to safeguard information they collect. I'm curious as to whether any privacy considerations come into play here. My own gut reaction is that federal agencies have no business handing over the addresses of their employees to unions or to anyone else who asks for them.

Regina F. McCormick—New York.

AMENDMENT NO. 5231

(Purpose: To express the sense of Congress that the level of telephone assistance provided by the Internal Revenue Service to taxpayers should be increased)

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING TELEPHONE ASSISTANCE PROVIDED BY INTERNAL REVENUE SERVICE.

It is the sense of the Congress that the Internal Revenue Service should, in implementing any reorganization plan or otherwise, make all efforts to increase the level of service provided to taxpayers through its telephone assistance program. It is further the sense of the Congress that the Internal Revenue Service should establish performance goals, operating standards, and management practices which ensures such an increase in customer service.

AMENDMENT NO. 5232

On page 26 after line 9 add the following new section:

The Internal Revenue Service is prohibited from expending funds for the field office reorganization plan until the National Commission on Restructuring the Internal Revenue Service has had an opportunity to issue their final report.

Mr. CONRAD. Mr. President, this amendment would disallow funds for the Internal Revenue Service to execute their field office reorganization plan until the National Commission on Restructuring the IRS has had an opportunity to issue its final report.

The amendment addresses the recent proposal by the IRS to downsize the offices of its headquarters and those in

the field. Recently, the IRS announced that it will cut back 3,300 employees at sites around the country and hire 1,400 new employees to do the same work at another location. While this Congress has routinely supported initiatives to eliminate unnecessary positions at Federal agencies, I worry that this recent decision at the IRS will do nothing to aid taxpayers in America and may reduce the level of customer service taxpayers deserve.

The IRS formulated this plan, without regard to final decisions on fiscal year 1997 spending levels, in order to consolidate the administrative operations of their field offices. Because these offices are to remain open, there does not seem to be a reason for rehiring 1,400 people to perform the jobs that are capably being done in the field. In my own State of North Dakota, our taxpayers will lose many people who provide front-line services such as a public affairs officer, a taxpayer education coordinator, and several others who provide the critical liaison between the taxpayer and the IRS. I fail to see how shifting these positions to larger metropolitan areas will increase the efficiency of work already being done.

Mr. President, I receive many letters every year from concerned North Dakotans who have exhausted several hours and days attempting to reach representatives of the IRS. Their complaints have only intensified over the years. This recent decision by the IRS will only worsen an already tenuous relation between taxpayers and the IRS.

This amendment prevents the IRS from taking these actions in their field offices until the National Commission to Restructure the Internal Revenue Service has had a chance to report back to Congress on the troubles facing the IRS and their possible solutions. Until the Congress has had a chance to evaluate and propose solutions to many of the predicaments at the IRS, it does not make sense to frustrate taxpayers with a pointless restructuring plan which does nothing to better serve their needs. I ask my colleagues to support this amendment.

Mr. SHELBY. I ask unanimous consent that these amendments be considered and agreed to, en bloc, and that accompanying statements be placed at the appropriate place in the RECORD.

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

The amendments (Nos. 5225 through 5232), en bloc, were agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WESTERN STATES HIGH INTENSITY DRUG TRAFFICKING AREA

Mr. CAMPBELL. Mr. President, I take this opportunity to join my distinguished colleagues from the West in recognizing the alarming rise in drug trafficking plaguing our region of the country. Included in the committee report to accompany this measure, there is language giving consideration for this problem, with special consideration for the State of Colorado. The committee further directed the Office of National Drug Control Policy to evaluate the drug problem in the Rocky Mountain region and elsewhere, and report its findings back to the committee.

Would the Senator from Alabama yield a few moments at this time to enter into a brief colloquy?

Mr. SHELBY. I would be happy to yield to the Senator from Colorado.

Mr. CAMPBELL. I thank the Senator from Alabama.

As chairman of the subcommittee with jurisdiction, the Senator from Alabama is aware of the drug problem facing the entire country.

I would like to point out the efforts of the Rocky Mountain Division of the Drug Enforcement Agency. In cooperation with numerous State and local law enforcement agencies, DEA has presented a proposal to the Office of National Drug Control Policy to have the region identified as a high intensity drug trafficking area. For example, at the Treasury, Postal and Government Operations Subcommittee hearing of June 26, the ONDCP Director, General McCaffrey, cited the drug smuggling problem in Denver, CO. Thorough investigations by law enforcement personnel indicate that the trafficking problem centered in Denver impacts not only the neighboring States of Utah and Wyoming, but also the rest of the Nation. In addition, evidence suggests that Denver serves as a transshipment point between Los Angeles, Mexico, and the east coast.

Based upon the actions taken by the appropriate law enforcement agencies in the Rocky Mountain region, as well as the advanced stage of their pending request to be identified as a high intensity drug trafficking area, I take this opportunity to request that the Senator continue to work with me to address this matter.

Mr. SHELBY. I look forward to working with the Senator on this matter. I know how important combating the drug trafficking problem is to the communities in the Rocky Mountain region.

Mr. CAMPBELL. I thank the distinguished Senator from Alabama for his consideration and I yield the floor.

Mr. HATCH. Mr. President, I want to commend my esteemed colleague from Colorado, Senator CAMPBELL, for his vision and hard work on the drug trafficking problem in the Rocky Mountain region. I join him today in supporting the committee's focus on the unfortunate, growing tragedy in our region.

The Rocky Mountain region contains three important States. My home State of Utah, Colorado, the home State for my colleague, Senator CAMPBELL, and the State of Wyoming. It is important that the DEA and other Federal and State drug enforcement officers be able to accomplish their important tasks in each of these States, and the citizens of each one will benefit greatly from this project. It clearly is appropriate to this Senator that the Office of National Drug Control Policy should designate the States of Utah, Colorado, and Wyoming for increased assistance in the fight against drug traffickers.

Again, I want to thank my colleagues Senators SHELBY and KERREY for their leadership and hard work on this important legislation. I yield the floor.

GANG RESISTANCE EDUCATION AND TRAINING PROGRAM

Mr. GRASSLEY. Would the distinguished chairman of the Treasury-Postal Appropriations Subcommittee yield to a question?

Mr. SHELBY. I would be happy to yield to my friend, the Senator from Iowa.

Mr. GRASSLEY. I fully agree with the statement in the committee's report that the Gang Resistance Education and Training [GREAT] Program has proven to be highly successful. It is my understanding that the committee has provided funding for an expansion of the GREAT Program. Is my understanding correct?

Mr. SHELBY. I thank the Senator from Iowa for his support of this worthwhile program. It has proven to be very successful and very popular with State and local law enforcement authorities. The Senator is correct. The committee has provided funds for an expansion of the GREAT Program.

Mr. GRASSLEY. The Sioux City, IA, police department was one of the first agencies in my State to do a pilot GREAT Program in a public school environment. Because of their participation in the GREAT Program, this school in Sioux City went from a high-risk school to being recognized as one of Iowa's First In the Nation in Education [FINE] schools this past year. This is a significant and very important turnaround. I would urge my friend, the Senator from Alabama, to give serious consideration to adding Sioux City to the GREAT Program during the conference on this bill.

Mr. SHELBY. I can assure the Senator from Iowa that we will give Sioux City every consideration during the conference on this appropriations bill.

Mr. GRASSLEY. I thank the Senator for his assurance.

Mr. SHELBY. Mr. President, I yield the floor.

Mr. KERREY. Mr. President, as I understand it, we are going to go out relatively soon.

PRAISING THE FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION

Mr. HOLLINGS. Mr. President, I wanted to say a word of praise for James Lee Witt of the Federal Emergency Management Administration. I was highly critical back during Hugo,

at the time we had that hurricane in 1989, and justifiably so. What I did is go down at that particular time, on September 21, the next morning, with Senator THURMOND, and we reviewed the tremendous damage done to our air base, our naval base, the outer islands, the homes and everything, and realizing without electricity, communications, and otherwise, I could not do any good.

I flew back late that Friday evening and early Saturday morning, I got on the phone to FEMA, and I outlined the needs of generators, food, water, tents, and at personal insistence, Mr. Morris, then the FEMA Director, said, ''Senator, you don't understand the procedure.'' I said, ''What procedure?'' He says, ''You know you are supposed to get the mayor to advertise, and if he can't find two contractors to do the job, to satisfy the needs, then he bucks the request up to the Governor and the Governor does a similar thing; he surveys and gets two refusals, and then they come to Washington.'' I said, ''Are you serious?'' He said, ''Of course.'' I said, ''You are crazy,'' and I hung up and called General Gray of the Marine Corps, who was out at that time on the Army-Navy golf course. I said, ''General, the ox is in the ditch,'' and I outlined it. He said, ''Don't worry, we will get it in there.'' We have Parris Island located in the particular hurricane path down there. When I got down there the next day or day and a half, I ran into Gen. Ernest Troy Cook, who is a lieutenant general in charge of Quantico in the line of command. He motioned to me to be rather quiet. I said, ''What is the matter?'' He said, ''They have a procedure where I am not supposed to be helping, but it is obvious that the general called me, General Gray, and I am going to continue to do it.'' But go easy on this FEMA fellow because he is trying to hold up everything I am trying to do. They were trying to cancel help. Here, today, we find Director James Lee Witt is down in North Carolina going over the needs of all the people down there.

He was down there on Friday morning in South Carolina and in North Carolina when Senator THURMOND and I went there. I have a brochure here, the pertinent parts of which I will include, and I ask unanimous consent to have printed in the RECORD to show you how organized and orchestrated he was.

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

FEDERAL EMERGENCY MANAGEMENT AGENCY, EMERGENCY SUPPORT TEAM, FEMA HEADQUARTERS, EMERGENCY INFORMATION AND COORDINATION CENTER

HURRICANE FRAN SITUATION REPORT NO. 2—REPORTING PERIOD: 7 A.M. EDT, SEPTEMBER 5, 1996 TO 7 A.M. EDT SEPTEMBER 6, 1996

1. Background

The National Weather Service advises that FRAN is still a large and dangerous hurricane as it continues to move inland. It has not strengthened during the past 24 hours and is expected to weaken over land. It appears to be in a state of development where tropical storm-force winds have spread out laterally.

The eye of Hurricane FRAN passed over Cape Fear, North Carolina, during late evening September 5. Hurricane-force winds spread inland up to 100 miles from the coast and tropical-force winds extended over water up to 290 miles. Power outages, flooded streets and flapping roofs were reported from south of Myrtle Beach, South Carolina, to north of Topsail Beach, North Carolina. The storm accounted for nine confirmed deaths.

Hurricane warnings remain in effect through the night from Cape Fear, North Carolina, to the North Carolina-Virginia border including Pamlico and Albermarle Sounds. A tropical storm warning continues in effect from north of the North Carolina-Virginia border to Chincoteague, Virginia, including the Greater Hamptons Roads Area. A tropical storm warning is also in effect for the lower Chesapeake Bay.

All other hurricane warnings and watches were discontinued at 11:00 p.m. September 5.

A high wind warning and tornado watch are in effect for the interior sections of northeast North Carolina. A high wind watch is also in effect for parts of east-central Virginia late September 5 and all day September 6.

The U.S. Weather Service advises that officials need to continue preparedness actions in northeastern northeast North Carolina and east-central Virginia.

2. Current situation

FEMA Headquarters: The Emergency Support Team (EST) continued Level One operations (full staffing).

Regional Activity: The Atlanta Regional Operations Center (ROC) remains operational at Level 3 activation. Regional ESFs #1 through #12 will support ROC operations 24-hours per day until further notice.

The Emergency Response Team—Advance Element (ERT–A) is in position at the Georgia EOC. Regional Emergency Support Functions #2, #3, #5, #6, #7, #8, #10, #12 and the designated 1st US Army DCO/DCE provided representation for the ERT–A at the Georgia EOC beginning at 10:00 a.m. EDT on September 5.

The Advance Element of the ERT–N Red Team arrived in Columbia, South Carolina, on September 5. Team members operated in an Alternate Emergency Operations Center. Because of the change in the storm's track, the Advance Element of the ERT–N Red Team is preparing to relocate to Raleigh, North Carolina on September 6.

Federal Coordinating Officer Lacy Suiter is leading an advance team to Raleigh to work with Region IV ERT–A on redeployment of the remainder of the Advance Element. The advance contingent consists of 16 personnel representing the following organizations or groups: Community Relations; Public Affairs; Congressional Affairs; Information and Planning; Operations; Logistics; Finance and Administration.

The remainder of the group will relocate to Raleigh by charter air on September 6. Prior to leaving South Carolina, the group will transition its responsibilities to Region VI ERT–A.

Seven Operations Sections personnel deployed with the ERT–N Red Team Advance Element to the Alternate EOC. They have begun coordinating with their counterparts in the Region IV Regional Operations Center and the State EOC.

The Operations Section Chief and an Operations Officer went to Raleigh with the advance group from the ERT–N Red Team Advance Element.

Thirteen representatives from Emergency Support Functions #1, #3, #4, #6, #7 and #8 arrived at the Interim EOC and received briefings and workspace. South Carolina had requested one representative from each support function to work in the State EOC. The temporary address is 300 Gervais Street.

The Region IV ROC has provided Mission Assignment Activation Letters and taskings to Federal agency representatives at the ROC and mailed originals to agency offices. Two National Field Assessment Teams (FAsT) have been activated, and the East Team members arrived in Columbia, South Carolina, on September 5.

Region IV State Liaison are:

Florida: Annette Harrell at 904–413–9969 (fax 904–488–1016)

Georgia: John Johnson at 404–624–7000 (fax 404–624–7205)

South Carolina: Steve Brown at 803–734–8020 (fax 803–734–8062)

North Carolina: Bobby Clark at 919–733–3718 (fax 919–733–5406)

4. Weather forecast

The official forecast moves the track farther inland. The anticipated path will take FRAN over central Virginia, the eastern panhandle of West Virginia, west central Maryland and central Pennsylvania. The hurricane is predicted to weaken gradually over land. Speed is about 16 m.p.h. Hurricane-force winds will continue to spread inland up to 100 miles.

In addition to the heavy winds, heavy rainfall is likely, particularly over higher terrain. Rainfalls of 5 to 10 inches, sometimes locally even higher, are expected along the FRANs path. Heavy rains are expected to cause significant inland flooding over the next few days, especially in the mountainous areas of NC, VA, WV, MD, and central PA

5. Severity of impact on political jurisdictions

A. Jurisdictions Affected

(1) Florida: No evacuations have occurred.

(2) Georgia: Voluntary evacuations took place in coastal counties. Chatham County officials ordered evacuation of the coastal islands, manufactured homes and low-lying areas.

(3) South Carolina: Governor David Beasley issued an evacuation order at 2:40 p.m. EDT September 4 for those parts of Georgetown and Horry Counties east of US 17 and for all barrier islands, beachfront properties, low-lying areas and all property bordering waterways in Jasper, Beaufort, Colleton and Charleston Counties. The city of Mullins is reported to be without power.

(4) North Carolina: Voluntary evacuation occurred for beach communities in the Cape Fear region. Bald Head Island residents were ordered to evacuate. The city of Raleigh is reported to be without power.

6. Status of declaration

On September 4 Georgia Governor Zell Miller declared a state of emergency in Camden, Glynn, McIntosh, Liberty, Bryan, Chatham, Charlton, Brantley, Wayne, Long and Effingham Counties.

South Carolina Governor David Beasley declared a statewide emergency on September 4 and the following day requested from the President a major disaster declaration for the State. On September 5 North Carolina Governor James Hunt also declared a state of emergency and then requested from the President a major disaster declaration for the State. Both requests for a Presidential declaration went through FEMA Region IV Director Kenneth D. Hutchison.

7. Status of Federal operations

EST mitigation activities continue in full force. Staff has completed the following actions: Identified communities in South Carolina, North Carolina, Virginia, West Virginia and Maryland that are not participating in the National Flood Insurance Program

(NFIP); alerted the FEMA Map Service Center of anticipated map shipments during the coming weekend; established which publications are available for distribution in the post-disaster environment.

Staff is working on the following items: Assisting the GIS Hub in assuring the delivery of available digital maps for the anticipated affected States; determining communities that the NFIP has not yet mapped or that are still using a converted Flood Hazard Boundary Map. (In either case, this reflects no updating since 1980.)

A FEMA Region IV mitigation staff person will meet with the ERT-A Red Team Deputy Field Coordinating Officer before going to North Carolina and South Carolina. A FEMA Region III mitigation official is on alert for deployment to Virginia and other States in Region III.

The FEMA Mobile Emergency Response support (MERS) Detachment from Thomasville, GA, deployed five Field Assessment Team (FAsT) vehicles and six MERS Support Element (MSE) personnel to Columbia, SC, to support National FAsT-A. Additionally, the Thomasville MERS has deployed 30 vehicles and 41 personnel to Warner-Robins AFB near Macon, GA, to await direction following landfall of Hurricane FRAN.

The Maynard, MA, MERS Detachment spent the night near Richmond, VA, enroute to Raleigh, NC. Maynard MERS has deployed 19 vehicles and 22 personnel. The Denton MERS deployed 5 FAsT vehicles and 6 MSE personnel to Raleigh, via U.S. Air Force C–17 aircraft to support National FAsT-B.

The Mobile Air Transportable Telecommunications System (MATTS) has deployed one truck and two personnel with two ground satellite terminal systems to Columbia, SC, in support of the FEMA Recovery Channel. In addition, the remainder of the Denton MERS Detachment and the MATTS continue on alert.

Tentatively, plans call for the State of South Carolina to transport the National FAsT Team and members of two State Assessment Teams with a limited complement of FAsT equipment and supplies to the anticipated impact areas along the coast. The three teams will merge into two units and work as Federal/State teams.

Staff from Mt. Weather are enroute to the Carolinas with a full complement of communications and support equipment. Arrival is anticipated to be during the morning of September 6. The equipment includes: 5 vehicles (2 cargo vans, 1 passenger van, 1 Bronco and 1 Explorer); 2 satellite downlink/uplink dishes (1 viedo, 1 digital); 1 G3 PBX with 300 phones; 1 data router; miscellaneous equipment for the Advance ERT–N Team (16 VHF radios, 1 VHF repeater, 6 satellite telephones and some cellular phones).

The FEMA National Hurricane Center Liaison Team is in the National Hurricane Center in Miami, Florida and continues to provide FEMA Headquarters with storm updates.

FEMA is identifying and preparing to ship numerous Initial Response Resources (IRR) to support hurricane response efforts. These resources include tarpaulins, plastic sheeting, tents, cots, sleeping bags, blankets, emergency portable generators, flashlights and portable radios.

A. Information and Planning Section (ESF #5) began operations on Wednesday, September 5, and has been supporting two daily situation status briefings, as well as preparing daily situation reports, population maps of the affected areas and predicted hurricane tracks.

(1) Defense coordinating element

The Department of Defense Liaison indicated that three mobilization points have been identified depending on where the hurricane hits. If FRAN makes landfall south of Charleston, South Carolina, the Base Support Installation (BSI) will be Fort Stewart, near Savannah, Georgia. If the hurricane makes landfall south of Camp Lejeune, South Carolina, the BSI will be Fort Jackson, Columbia, South Carolina. If the storm makes landfall north of Camp Lejeune, the BSI will be Fort Bragg, Fayetteville, North Carolina. Each BSI must be habitable.

After landfall, but prior to a Presidential Declaration, DOD will be ready to provide support under Section 403(C) of the Stafford Act. The DoD Director of Military Support will coordinate such support. It will consist of air transport for various kinds of response and support teams, telecommunications systems and other needed materiel.

(2) Operations support branch

a. ESF #1 (Transportation). A temporary Crisis Management Center is operational on a limited basis tracking the hurricane. A small watch team was on duty during the night. A complete augmentation cadre from all operating administrations will be activated September 6.

Federal Aviation Administration Crisis Response Working Groups are active. Two mobile communications teams are on standby. One team will support GSA regional operations and the other FAA response and reconstitution efforts.

All air facilities within 75 miles of the coast line in the storm watch area are at the highest level of preparedness. Facilities in Florida and Georgia are back on routine status. Facilities in Virginia are at Readiness Level Alpha.

The Federal Railway Administration is working with the railroads to assess their storm preparedness. FRA headquarters emergency staff will check with FRA Region III to determine specific impacts on CSXT and Norfolk Southern operations. Both carriers have experience with such storms and have emergency plans in place.

RESPA/OPS has contacted State pipeline safety offices in the Carolinas, Florida and Georgia to coordinate preparations for the storm. The OPS Eastern Region Office will monitor conditions in this area if we begin to experience flooding.

The Coast Guard districts along the east coast are in the highest readiness condition possible. The Coast Guard has received from the Secretary of Transportation involuntary recall authority for reservists.

Hurricane FRAN has had the following impacts on transportation.

The following North Carolina airports were closed: New Hanover International, Wilmington, Myrtle Beach International; Guard Strand, Myrtle Beach; Beaufort County; Hilton Head; and Fayetteville Regional/Grannis Field.

Effective September 5 AMTRAK suspended operations on trains 81/91 and 82/92 (Silver Star) and trains 97 and 98 (Silver Meteor), both New York to Florida trains. These suspensions will last at least through September 6.

The U.S. Coast Guard Captain of the Port closed these ports: Charleston and Georgetown, South Carolina and Wilmington, North Carolina.

b. ESF #2 (Communications). Georgia Emergency Management Agency has arranged with AT&T for a representative in the EOC.

GTE Mobile NET is staging backup equipment at Raleigh/Durham, North Carolina. GTE Telephone Operations in Myrtle Beach and Georgetown also has equipment at the closed Myrtle Beach AFB it can activate if the base becomes a Disaster Field Office (DFO) site.

The FEMA/Mount Weather Emergency Assistance Center (MWEAC) Communications Resource Manager has been given area points of contact for GTE and BELLCORE.

c. ESF #7 (Resource Support). The General Services Administration EOC became active at 7:00 a.m. EDT Wednesday. Its counterpart ESF #7 did the same.

GSA Region IV has deployed a number of personnel to the ROC, to the ERT-A or to other units. In addition other personnel are on stand-by. ESF 7 is contributing to the Federal response in the following ways: Determining sources for and costs of obtaining 40 shower units and 600 portable toilets with cleaning service for North and South Carolina; procuring the identified initial response resources on the commercial market; deploying the ERT-A for each state; contracting for two 53-foot trailers each day to move FEMA-help initial response resources to the disaster area.

Operational goals for the next 24-hour period include the following: Continue to assist in deploying the initial response resources to the affected States; continue to locate additional resources; determine the location of the disaster Field Offices and mobilization points; recover and restore General Services Administration and Federal operations in the disaster area; provide protection for all federally-owned or leased facilities.

GSA Region III is arranging to provide 9 drivers and tractors (rated at 80,000 lbs. gross weight) to move preloaded refrigerated trailers filled with an assortment of IRR items from the Regional Emergency Inventory Center at Fort Gillem, Atlanta, Georgia. In addition, Region III is arranging to provide drivers, tractors and trailers to load and move 768 rolls of plastic sheeting from Thomasville, Georgia, to Fort Gillem.

Region III staff has contacted 29 vendors in the Georgia, North Carolina and South Carolina areas, and 25 of the vendors stated that they will be moving their equipment out of the affected areas until after the storm subsidies. Once damages have been assessed, the vendors would be willing to assist. Four of the vendors are looking for drivers and trucks to handle this request. Sheila Madison will be on duty at 6 a.m. EDT September 6 to handle this problem.

(3) Infrastructure support branch

The Infrastructure Support Branch continues to monitor all activities of ESF #3, #12, and the FEMA Infrastructure Officer. An action tracking updates shows that 50 generators are being moved from Fort Stewart to Fort Jackson and 50 more from Jacksonville, FL. These moves are to anticipate requests from North Carolina.

The Infrastructure Teams for ERT–N Red Team arrived in Atlanta, GA, late on September 6 and is scheduled to deploy Friday morning to Raleigh, NC. And the ERT–N Red Team will deploy to Raleigh, from Columbia SC.

As Hurricane FRAN came ashore and moved slowly north, there are no damage data or impact assessment at this time. Preliminary damage assessment teams are scheduled to be in the field once daylight arrives.

a. ESF #3 (Public Works & Engineering). During the past 24 hours the U.S. Army Corps of Engineers (USACE) continued preparations for individual and multi-state response. Two backup divisions were alerted and their EOCs activated to Level 1. ESF Representatives are enroute to Columbia, South Carolina, and Atlanta, Georgia, with a September 6 arrival anticipated.

Fifty generators are being moved from Jacksonville, Florida, to Ft. Jackson, South Carolina and an additional 50 from Ft. Stewart to Ft. Jackson. They will remain there

until FEMA decides on their use. Also, 25,000 liters of water were moved to Ft. Gillem, Atlanta, Georgia. They will remain there until FEMA decides their use.

During the next 24 hours USACE will spend a FAsT representative to Columbia, South Carolina. Contingency planning will focus on the following activities: Identify backup command structures and hand-off procedures for smooth transition from division to division and district to district; identify possible displacement locations for the district; be prepared to relocate or deploy generators, if needed; be prepared to respond to multi-sate disaster requirements; coordinate the transfer of water and ice obtained through the Atlanta Council of Government to Fort Jackson, South Carolina.

b. ESF #12 (Energy). Coordination with the Nuclear Regulatory Commission is taking place.

(4) Human services branch

a. The Human Services Section of the ERT–N Red Team Advance Element established contact with the Region IV ROC and Region IV ERT–A in Raleigh. Arrangements are complete to start preliminary damage assessment activities. The Small Business Administration will participate in this process in both states. Initial contacts with ESF–6, the National Teleregistration Center and the National Processing Service Center have occurred. When the President approves a disaster declaration for a State, the 1–800 number for national teleregistration will be released to the public.

b. ESF #11 (Food). The US Department of Agriculture/Food Service has identified sources of bulk food supplies should they be needed.

c. Donations referred an offer 200,000 lbs. of ice left over from the Olympics from the Atlanta Council of Government to USACE. The latter accepted and is coordinating the transfer to Fort Jackson, South Carolina.

Greyhound Bus Company offered the use of 50 buses. Donations referred this offer to the Senate Donations Coordinator.

In both North and South Carolina the following activations have occurred: State donations management systems including toll-free numbers and phone banks; donations coordination teams; State donations coordinators.

The States will release the phone numbers to the public after Hurricane FRAN makes landfall. FEMA will assist the States deploying Donations Coordination to North and South Carolina.

The Red Cross is ready to receive immediate referrals of in-kind or cash donations. The number for in-kind donations is 1–800–7–IN–KIND. The number for cash donation is 1–800–HELP–NOW. In addition, the Adventist Community Service will accept donations at 1–800–253–3000.

FEMA headquarters is facilitating a conference call at 10:00 a.m. today (September 6) with national voluntary agency donations managers, State Donations Coordinators in North and South Carolina and representatives of business and industry to share basic information on donating plans and procedures.

A Community Relations advance team is in place in South Carolina and is coordinating the deployment of additional community relations personnel. Similar actions will occur in North Carolina.

(5) Emergency services branch

a. ESF #4 (Firefighting). Two Interagency Incident Management Teams (IMT) were in staging by late September 5, one in Charlotte, North Carolina, and the other in Savannah, Georgia. There are approximately 70 interagency personnel involved in the current operation. Personnel are assisting on the two IMTs, in two State EOCs, at the Region IV Operations Center and at FEMA Headquarters.

b. ESF #8 (Health & Medical Services). Eleven National Disaster Medical Assistance Teams (DMATS) and one Disaster Mortuary Team (DMT) continue on alert. In addition one 25-person Medical/Management Support Team is in staging at the Fayetteville, North Carolina, VA Medical Center.

The Veterans' Administration is identifying additional medical support in anticipation of future needs.

c. ESF #9 (Urban Search & Rescue). The initial Incident Support Team (IST) relocated to the Raleigh-Durham area on September 5. A second IST is currently being deployed to the Alternate EOC in Columbia and was scheduled to arrive late afternoon September 5.

One ESF–9 representative at the Task Force Leader level is assigned to the South Caroline State EOC and one is assigned to the North Carolina State EOC. Both were expected to be in place by early evening on September 5.

Three Urban Search & Rescue Teams geographically closest to North Carolina are in position to provide assistant to North and South Caroline if needed. These are VA–1 (Fairfax County), VA–2 (Virginia Beach) and MD–1 (Montgomery County). MD–1 will stage in Gold Rock, North Carolina. Staging areas for the other two units are unknown at this time.

d. ESF #10 staffed the ERT–N in Columbia, South Carolina, and the ERT–N in Raleigh, North Carolina, on September 5. In addition, it has also staffed the National FAsT at Fort Jackson, Columbia, South Carolina, and the Eastern FAsT at Raleigh, North Carolina.

5. A second IST is standing by to be deployed.

One ESF–9 representative at the Task Force Leader level is assigned to the SC State EOC and one is assigned to the NC State EOC. Both were expected to be in place by early evening on September 5.

Three Urban Search & Rescue Teams geographically closet to NC are in position to provide assistance to North and South Carolina if needed. These are VA–1 (Fairfax County), VA–2 (Virginia Beach) and MD–1 (Montgomery County). MD–1 will stage in Gold Rock, NC. Staging areas for the other two units are unknown at this time.

d. ESF #10 staffed the ERT–N in Columbia, SC, and the ERT–N in Raleigh, NC, on September 5. In addition, it has also staffed the National FAsT at Fort Jackson, Columbia, SC, and the Eastern FAsT at Raleigh, NC.

In addition, eight On-scene Coordinators are on standby in Atlanta, for response to potential hazardous materials incidents. The Mobile Command Post is also on standby. Contractor support is available.

Staff has coordinated with the U.S. Coast Guard as well as with State Emergency Planning Commissions in North and South Carolina.

MICHEL S. PAWLOWSKI,
EST Director.

IRR COMMODITIES STATUS

Item	Source location	Ordered	Enroute	Destination or (enroute destination)	ETD (ATD)	ETA (ATA)
WATER						
ICE (wet) cubed/shaved	Donated, Atlanta			200,000 Bags	Sep 6–1200	Sep 6.
Water (bottled, bulk, ROWPU)			25,000 Liters		Sep 6–1200	Sep 6.
Water Bottles, 1 Litre	Donated, Atlanta				Sep 6—200	Sep 6.
FOOD						
Baby Food, assorted solid	Sourced by GSA	30,000 Ea				
Baby Formula	Sourced by GSA	30,000 Ea				
Disposable Dinner Packets (w/napkin, wet wipes, etc.)	Sourced by GSA	75,000 Ea				
Meals-Ready-to-Eat (MREs)	Sourced by GSA	25,000 Ea				
SHELTER						
Blankets, Blend	Sourced by GSA	4,000 Ea				
Blankets, Wool	Redi-Center		1,420 Ea	(Ft. Jackson)	(Sep 5—1530)	(Sep 5—2400).
			4.580 Ea		Sep 5	Sep 6.
Cots, Commercial	Redi-Center		2,996 Ea	(Ft. Jackson)	(Sep 5—1530)	(Sep 5—2400).
Plastic Sheeting, roofing quality, reinforced, 20' X 100' (blue ''FEMA'')	Thomasville MERS		800 Ro	(Ft. Jackson)		
			Truck 1		Sep 5—1900	Sep 6.
			Truck 2		Sep 5—2200	Sep 6.
Non–FEMA spec plastic, 20' X 100'' (for household goods)	Redi-Center	1232 Ro	616 Ro	(Ft. Jackson)	Sep 5—1530	Sep 6.
Tarps, 20' X 20' or 20' X 40' (for household goods)	Redi-Center		1,000 Ea	(Ft. Jackson)-	Sep 5—1530	Sep 6.
Sleeping Bags, Commercial, Waterproof	Redi-Center		900 Ea	(Ft. Jackson)	Sep 5—1530)	(Sep 5—2400).
Sleeping Bags, Commercial, Waterproof	Sourced by GSA	900 Ea				
Tents, commercial 4, 6, and 8 Person)	Redi-Center		600 Ea	(Ft. Jackson)	Sep 5—1530)	(Sep 5—2400).
Tents, Commercial 4, 6, and 8 Person)	Sourced by GSA		1400 Ea			
Tent Kit (stove, lantern, potty, fire extinguisher, fuel)		300 Ea				
HEALTH & COMFORT						
Bathroom Tissue	Sourced by GSA	12,000 Ro				
Bathroom Tissue	Redi-Center	768 Ro	768 Ro	(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Comfort Kits, unisex (towel, washcloth, soap, towelettes)	Redi-Center		3,000 Ea	(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Comfort Kits, unisex (towel, washcloth, soap, towelettes)		3,000 Ea				
Towelettes	Sourced by GSA		10,000 Ea			
Diapers, Disposable, assorted sizes (S,M,L)	Sourced by GSA	2,000 Cs				
Diapers, Disposable, assorted sizes (S,M,L)	Redi-Center					
Infants		27 Bx		(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Adults		12 Bx		(Ft. Jackson)	(Sep 5—1530)	Sep 6.

IRR COMMODITIES STATUS—Continued

Item	Source location	Ordered	Enroute	Destination or (enroute destination)	ETD (ATD)	ETA (ATA)
EQUIPMENT						
Portable Radios, handheld AM/FM w/batteries	Redi-Center		6,000 Ea	(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Flashlights	Redi-Center		6,000 Ea	(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Batteries, D cell	Redi-Center		12,000 Ea	(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Batteries, AA cell	Redi-Center		12,000 Ea	(Ft. Jackson)	(Sep 5—1530)	Sep 6.
Emergency Generator, Assorted Kws	Ft. Stewart		50 Ea	(Ft. Jackson)	(Sep 6	Sep 6.
Emergency Generator, Assorted Kws	Jacksonville UACE		50 Ea	(Ft. Jackson)	Sep 6	Sep 6.
Emergency Generator, Assorted Kws	Jacksonville UACE	100 Ea		Ft. Bragg	Sep 6	Sep 7.
Industrial Ice Makers						
Mobile Kitchens (Flyaway kits)						
Portable Refigerated Vans						
Portable Showers		200 Ea				
Portable Toilets w/Service		600 Ea				

STATUS OF FIELD TEAMS

[As of 09/06/96—0500 hrs]

Field team	Team leader		Team size	Status	Staging location (origin)	Departure date/time (ETD or ATD)	Operating location (destination)	Arrival; date time (ETA or ATA)
	Name	Pager number cellular phone						
ERT–N Red Team	Lacy Suiter FCO		24	Deployed to Raleigh and Columbia.	Wash, DC	Advance element 9/5 ATD0800.	Columbia, SC and Raleigh, NC.	ATA:0930 9/5.
ITS	Time Ritter		9	Deployed	Stateville, NC			EPA 0900 9/5.
ERT–A (Region 4)	Glen Woodard	(H) 404–355–0117	15	Deployed	Atlanta	Arrived	Raleigh, NC	ATA 1500.
ERT–A (Region 6)	Gary Jones	Skypage 759–8888, 817–391–0959.	23	Deployed	Denton	ETD 1700 9/5	Columbia, SC	ETA 2000 9/5.
ERT–A (Region 8)	Doug Gore	Skypage 521–9883	16	On alert	Denver	TBD		
ERT–A (Composite Team)	Jim Duncan	W–312/408–5592	16	On alert	Various locations	TBD		
US&R VA–TF1	Steve Rhea	703–916–4662	62	Deployed	Fairfax Co	2315 9/6	Raleigh, NC	
US&R–VA–TF2	Chase Sargent	804–475–7046 804–373–4569.	62	Predeploy	VA Beach	0600 9/6	Raleigh, NC	
US&R–MD–TF1	Tom Carr	301/831–2104	62	Activated	Mont. Co.	2120 9/5	Raleigh, NC	
US&R–CA–2	TBD		62	Backup		TBD		
US&R–NY–1	TBD		62	Backup		TBD		
US&R–WA–1	TBD		62	Backup		TBD		
US&R 1ST	Jim Strickland	Pager PIN1884692 703/916–4617.	11	Deployed will reposition at Raleigh.	Various locations	Advance element 0900 9/5.	Raleigh, NC	ATA1030.
DMAT–FL–1	Hank Christen	Pager 904/986–1815	42	Activated	Eglin AFB (Pensacola).	ETD 0600 9/6	TBD	TBD.
DMAT–FL–5	Bill Johnson	Pager 305/222–0655	35	On alert	Miami (Comm)			
DMAT–MA–2	Dr. Richard Aghababian.	Work 508/856–4101	35	On alert	Worcester Apt. (Comm) Chicopee AFB (Mil).			
DMAT–KY	John Hoyle	Pager 513/209–0001	35	On alert	Cincinnati Apt (Comm) Wright Patterson AFB (Mil).			
DMAT OH–1	Dr. Paul Reger	Pager 1–800 SKY–PAGE PIN2899950.	35	On alert	Toledo (Comm) Toledo (Mil).			
DMAT MI–1	Dr. Karl Bandlirn	Pager (313) 813–0953.	35	On alert	Detroit Arp (Comm) Selfridge AFB (Mil)L.			
DMAT PHS–1 *IRR Priority	Cdr. Kevin Yeskey	Pager 301–295–6773	42	Activated	Rockville, MD (via ground).	ETD 2100 9/5	Richmond, VA to RON	ETA 0001 9/6.
DMAT GA–3	Stanley Batchelor	Pager 1–800–592–9904.	35	On alert	Atlanta (via ground)			
DMAT NC–1	Dr. Llewellyn Stringer	Work 910–765–6762	42	Activated	Winston-Salem (via ground).		TBD	TBD.
MSU	Gary Moore	1–800–759–8888 PIN 2277085.	25	Activated	Rockville, MD (via ground).	Advance element ATD 1230 9/5.	Fayetteville, NC (VA Med Ctr).	Arrived 1930 9/5.
DMORT	Commander Thomas Shepardson.	Work 315–471–2349	6	On alert	Various location throughout U.S..			
FAsT–A	Jeannie Gallahger	617/223–9494	6	Deployed	Columbia, SC	9/4 ATD1900	Columbia, SC	9/5 ATA 1000.
FAsT–A MSE	Thomasville	Thomasville MOC	6	Deployed	Thomasville	Arrived	Columbia, SC	9/5 ATA 1800.
FAsT–B	Mike Delorenzo (RIV)		6	Deployed	NC State EOC	9/5 1000ETD	Nat'l Guard Armory, Raleigh, NC.	9/5 ETA 1800.
FAST B (MSE)	Denton	Denton MOC	6	Deployed	Denton, TX, Ft. Worth NAS.	9/5 1000ETD	Raleigh, NC	9/5 ATA 1530.
MATTS	N/A	N/A	9	Stand by	MWEAC Berryville, VA			
MERS Maynard	N/A	N/A	22	Deployed	VSAB Maynard, MA		Richmond, VA 9/6-redeploy to Raleigh.	
MERS TVILLE	N/A	N/A	41	Deployed	VSAB Thomasville GA	ETD 9/6 0700	Macon, GA, 9/6 location TBD.	
MERS Denton	N/A	N/A		Alerted	VSAB Denton, TX			
MERS Denver	N/A	N/A		Alerted	VSAB Denver, CO			
MERS Bothell	N/A	N/A		Alerted	Bothell, WA	VSAB		
DUSFS Incident Mgmt Team	Pat O'Bannon	W–9049429351	30	Staging	Various locations	ETD 1200 9/5	Staging at Savannah Charlotte.	ETA varies.
USFS Florida State IMT	TBD	TBD	30	Staging	Various locations	ETD1200 9/5	Savannah	ETA varies.

Mr. HOLLINGS. Mr. President, we know that you have to get generators around at the fast food places. People do not have power. They are not preparing meals. You are working trying to get the mud out of the house and trying to stop the roof from leaking.

So, if you can get a hamburger, fine. Incidentally, we also found that we needed food stamps for 10 days to be honored and redeemed at the fast food places. We needed a supply company. People volunteered all around the country, and it started flowing in. And we were afraid that the perishables would spoil.

So, Gen. Colin Powell sent me a supply company from Georgia up to Charleston so we could handle it. All of these kinds of things we worked on, and finally came to the floor with the holdup by the mayor. That occurred, and the letter came from FEMA that the Governor had to take care of 25 percent of the cost, and the Governor bucked 13 percent of the 25 percent to the mayor. The mayor said, ''Wait a minute. If I have to pay 13 percent of all costs for all of these troops and help and companies, what have you, I will have to raise taxes. After everybody is taken care of and happy, I will be out of office.'' So, more or less there was a freeze of the balance.

When we got on the floor here in the U.S. Senate with ALAN SIMPSON on the other side of the aisle, after day 8, 9, and finally day 15, we cleared that because we had the law in the Pennsylvania case where they pay 100 percent. James Lee Witt was there 100 percent with all of the units of government and joining hands and doing an outstanding job.

So having criticized FEMA, I think it is only noteworthy here and deserved that I should say that we properly praise him.

I thank the distinguished leaders of this bill for yielding me the time.

TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1997

The Senate continued with the consideration of the bill.

Mr. KERREY. Mr. President, I ask unanimous consent that Senator JEFFORDS, DORGAN, CONRAD, INOUYE, HARKIN, LEAHY, THURMOND, AKAKA, and DASCHLE be added as cosponsors of the IRS reorganization amendment that I offered earlier.

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

Mr. KERREY. Mr. President, we are about to go out here pretty soon. I want to talk a couple of minutes prior to that. Whenever we get ready to propound the UC to come back in tomorrow, I will cease and desist and pick it up again tomorrow.

I indicated earlier my support for the administration's selection of General McCaffrey to be the drug czar, the head of OMDCP. Indeed, I must say that I believe that some of that change can be attributed to last year Senator SHELBY and I objected to the funding of the OMDCP office. That is when Dr. BROWN was still there. We objected. We didn't see much progress. Change was made, and Senator SHELBY and I support General McCaffrey and his position.

There are three things that I think we need to focus on. One is you have to reduce the number of young people that are starting to use drugs to zero. That is only going to occur with the President leading.

A lot of people made fun of Ronald Reagan and Nancy Reagan when they did this, ''Just say no.'' But the fact is it works. Kids do not know gray. They do not know in between. It is either yes or no, hot or cold, black or white. You have to say ''no'' over and over. Otherwise they will start. So that is issue No 1.

You can see one of the reasons that we were concerned last year. You can see that of all the problems that we have—I do not know if you can see it on this pretty small thing compared to what we normally put up down here: marijuana, LSD, inhalants. In Nebraska we had a young man recently who was killed as a result of consumption of methamphetamine. Every State in the country is now seeing a substantial increase in methamphetamine. It is a drug more dangerous than cocaine because of its impact upon the body, more difficult to detect, and we are seeing increased consumption. That is why people are concerned. In spite of some success in other areas, we are not willing to battle it when it comes to youth.

This is another little chart that shows alcohol and marijuana use in Nebraska in 1993 through 1995. It is up.

I just do not think there is any other workable solution than the President of the United States on national television saying to the youth of America, ''Just say no.'' Over and over and over, we saw in the entertainment industry the bad guys who are the ones who smoked, drank, and did drugs—not the good guys. You have to send a message out there that these drugs are dangerous, and say to young people, ''Just do not do them.''

Second, the big area is in the area of interdiction and reducing the amount of drugs coming in. Senator SHELBY has been on our committee taking a big lead in making sure that our law enforcement people have the resources they need to knock those drugs down.

The third area that I would like to call a little bit of attention to is the area of hardcore drug users. I am going to go through a couple of charts very quickly just so people understand how we spend our $15 billion. This little thing you probably can't see. That is the drug czar up there; $137 million; Justice spent $7 billion; HHS, $2.3 billion; Treasury, $1.1 billion; even Veterans' Affairs spent $1 billion; Defense $800 million; Education $658 million. That is the proportion. The pie is put together something like that.

But one of the most interesting, and I think telling, facts for an awful lot of us trying to figure out what to do, tell the kids ''no,'' and give the law enforcement people the resources. There is almost universal agreement on that.

But one of the most difficult problems is this fact. This is how much every single year since 1987, and this is how far this goes back—10 years. You can actually track it all the way back if you want to. We have been spending more and more, with a different mix of expenditures; different sort of combinations; one year a little more interdiction; one year maybe prevention, and treatment—all of this different mix of efforts. The number of hardcore drug users stayed the same at about 2.7 million. It is a very important fact.

I do not have an answer to it. I do not really know myself what we need to be doing with hardcore drug users. I had some experience in it. I was trained in pharmacy prior to getting a preinduction notice from my draft board and signing up for the world's hardest, most powerful Navy. I was trained in that. I was a patient in a hospital. My roommate was addicted to Dilantin from serious burns. So I got some experience with addiction.

It seems to me that just in general terms the solution lies somewhere out there in the market. The solution I would love to see would be the President—because he is the guy in the pulpit—saying to the pharmaceutical companies, ''Look. You sell about $80 billion of over-the-counter and prescription drugs every single year to 260 million Americans, plus or minus a few millions. That is $80 billion a year.'' The Senator from South Carolina was talking about jobs in America. The pharmaceutical industry is one of the most important employers in the United States. These 2.7 million hardcore drug users spend $60 billion a year to feed their drug habit. That is a lot of money, as I see it. It is almost three-fourths of all the money that is being spent on legal drugs by Americans through pharmaceutical companies. I believe the pharmaceutical companies know a lot about addiction. It is an addiction. They know a lot about addiction. They have done research on it. They have had experience all the way for the last 30 years. I know that when I was practicing pharmacy in 1965 our No. 1 moving pharmaceutical in the store in Lincoln where I worked was Dexedrine. They then said that Dexedrine was not habit forming. We now know it is very seriously addictive, and we have restricted access to it.

I would put a challenge to it. There must be some better solution to what we have right now. Again, I have not reached any conclusion. I am not talking about legalization. I am not talking about basically throwing open the door and letting people have at it. But I know that when something is constant, when a number remains relatively constant, we ought to pay attention to it. I pay attention to gravity. I pay attention to things that stay the same no matter what I do. And the number of hardcore drug users in the United States of America has stayed the same regardless of what we have done.

I think it deserves some additional attention by any Member who is trying to figure out how to make this $15 billion-plus expenditure that we make every single year work so that we can say that we are getting the job done.

Again, I want to repeat. When it comes to kids, it has to be, ''Just say no.''

It has to be from parents. It has to be from political leaders, and the most important political leader is the President of the United States. When it comes to interdiction, you just have to play hardball with these guys. They are bad guys. They have to be dealt with very firmly. You have to put an unwelcome sign out in the United States, in every single State. You have to make sure that local law enforcement people have the resources to get convictions, and on and on.

But as for these hardcore drug users, I have to tell you, Mr. President, I am not persuaded at all that the status quo is working. All I have to offer right now is a big question mark. I have no answers, which is not altogether unusual for me when it comes to these more complex and difficult subjects.

I am through with my remarks here. We are ready to go out.

Mr. SHELBY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with speakers permitted to speak for up to 5 minutes each.

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

BILLY CLYDE DIFFIE'S RETIREMENT

Mr. HEFLIN. Mr. President, I want to take a moment to congratulate my friend, Billy Clyde Diffie, who entered the ranks of retired persons on August 31, 1996.

Billy Clyde Diffie was born on March 27, 1934 in Ohatchee, AL to Carl and Alta Diffie. He graduated from Ohatchee High School, where he excelled as a running back. He followed in his father's footsteps by later taking a job at the Anniston Foundry in Anniston, AL. In July 1959, he began a career with the Alabama Highway Department as an engineer assistant. Over the next three and a half decades, until his retirement last month, he worked his way through the engineer grades all the way to the rank of CE 1—civil engineer.

Right by his side during his long career with the Alabama Highway Department was his wife, Vera Sue, who he married on April 17, 1953. They have five children, Rodney Clyde, Stanley Keith, Anthony Karl, Pamela Rene, and Kimberly Sue. All five children graduated from Sylacauga High School in Sylacauga, AL, where the Diffies reside in the Fairmont Community. They have just recently purchased a second home in Laguna Beach, FL, just in time for his retirement. The house is located between his brother's beach house and his sister's on the other side.

As his children were growing up, Billy was very active in little league baseball both as a parent and as an umpire. He also coached baseball and football and was active in the youth program at the Marble City Baptist Church.

I congratulate and commend Billy Clyde Diffie on his outstanding career and wish him all the best for a happy, healthy retirement.

MESSAGES FROM THE HOUSE

At 5:56 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the concurrent resolution (H. Con. Res. 211) directing the Clerk of the House of Representatives to make a technical correction in the enrollment of H.R. 3060.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 3060) to implement the Protocol on Environmental Protection to the Antarctic Treaty.

The message further announced that pursuant to the provisions of Senate Concurrent Resolution 47, 104th Congress, the Speaker appoints the following Members on the part of the House to the Joint Congressional Committee on Inaugural Ceremonies: Mr. GINGRICH of Georgia, Mr. ARMEY of Texas, and Mr. GEPHARDT of Missouri.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3942. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–309 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3943. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–310 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3944. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–311 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3945. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–312 adopted by the Councilon July 3, 1996; to the Committee on Governmental Affairs.

EC–3946. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–314 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3947. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–315 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3948. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–316 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3949. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–317 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3950. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–318 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3951. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–320 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3952. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–321 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3953. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–322 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3954. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–323 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3955. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–325 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3956. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–326 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3957. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–327 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3958. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–328 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3959. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–329 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3960. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–331 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3961. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–332 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3962. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–333 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3963. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–334 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3964. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–337 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3965. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–338 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3966. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–339 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3967. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–340 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3968. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of

D.C. Act 11–341 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3969. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–342 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3970. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–343 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3971. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–347 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3972. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–348 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3973. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–349 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3974. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–353 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3975. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–354 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3976. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–355 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3977. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–358 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3978. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–359 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3979. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–360 adopted by the Council on July 3, 1996; to the Committee on Governmental Affairs.

EC–3980. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–361 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3981. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–362 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3982. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–364 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3983. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–367 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3984. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–370 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3985. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–371 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3986. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–372 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3987. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–374 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3988. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–378 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3989. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–380 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3990. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–381 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3991. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–384 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3992. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–386 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3993. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–389 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3994. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–391 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3995. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–392 adopted by the Council on July 17, 1996; to the Committee on Governmental Affairs.

EC–3996. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list (received on August 27, 1996); to the Committee on Governmental Affairs.

EC–3997. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list (received on September 3, 1996); to the Committee on Governmental Affairs.

EC–3998. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind Or Severely Disabled, transmitting, pursuant to law, a rule relative to additions to the procurement list (received on September 6, 1996); to the Committee on Governmental Affairs.

EC–3999. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule concerning Senior Executive Service, (RIN 3602-AF96) received on September 3, 1996; to the Committee on Governmental Affairs.

EC–4000. A communication from the Comptroller General of The United States, transmitting, pursuant to law, a list of reports and testimony for July 1996; to the Committee on Governmental Affairs.

EC–4001. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report under the Inspector General Act for the period ending March 31, 1996; to the Committee on Governmental Affairs.

EC–4002. A communication from the Deputy Associate Administrator for Acquisition Policy of the General Services Administration, transmitting, pursuant to law, a report concerning a rule regarding Federal Acquisition Regulation; Payment by Electronic Funds Transfer (received August 28, 1996); to the Committee on Governmental Affairs.

EC–4003. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

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 Ms. SNOWE:

S. 2061. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by import competition, and for other purposes; to the Committee on Finance.

By Mr. DOMENICI:

S. 2062. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE:

S. 2061. A bill to amend title II of the Trade Act of 1974 to clarify the definition of domestic industry and to include certain agricultural products for purposes of providing relief from injury caused by import competition, and for other purposes; to the Committee on Finance.

THE AGRICULTURAL TRADE REFORM ACT OF 1996

• Ms. SNOWE. Mr. President, I am introducing legislation today to give agricultural producers, including potato producers, some important and badly needed new tools for combating injurious increases in imports from foreign countries.

The Trade Act of 1974 contains provisions that permit U.S. industries to

seek relief from serious injury caused by increased quantities of imports. In practice, however, it has been very difficult for many U.S. industries to actually secure action under the act to remedy this kind of injury.

The ineffectiveness of the act results from some of the specific language in the statute. Specifically, the law requires the International Trade Commission, when evaluating a petition for relief from injury, to consider whether the injury affects the entire U.S. industry, or a segment of an industry located in a major geographic area of the U.S. whose production constitutes a substantial portion of the total domestic injury. This language has been interpreted by the ITC to mean that all or nearly all of the U.S. industry must be seriously injured by the imports before it can qualify for any relief.

Thus, if an important segment of an industry is being severely injured by imports that compete directly with that segment, the businesses who comprise this portion of the industry will not have much recourse—even though the industry segment in question may employ thousands of Americans and generate billions of dollars annually for the U.S. economy. In other words, our current trade laws leave large segments of an industry that serve particular regions and markets, or have other distinguishing features, practically helpless in the face of sharp and damaging import surges.

In addition, even if large industry subdivisions could qualify for assistance, the timeframes under the Trade Act for expedited, or provisional, relief for agricultural products are too long to respond in time to prevent or adequately remedy injury caused by increasing imports. At a minimum, 3 months must elapse before any relief can be provided, irrespective of the damage that American businesses may suffer during that time. And 3 months is an absolute minimum. In reality, it could take substantially longer to provide expedited relief.

Mr. President, when it comes to agricultural products, the problems in U.S. trade law that I have described are particularly acute. Due to their perishable nature, many agricultural products cannot be inventoried until imports subside or the ITC grants relief—if the industry is so fortunate—many months or even years later. And most agricultural producers, who are heavily dependent on credit each year to produce and sell a crop, cannot wait that long. They need assistance in the short term, while the injury is occurring, if they are going to survive an import surge. Also, because crops are grown during particular seasons and serve specific markets related to production in those growing seasons, the agricultural industry is more prone to segmentation. Finally, many of the agricultural industry entities that would have to file a petition for relief under the Trade Act are really grower groups that do not necessarily have the financial wherewithal to spend millions of dollars researching, filing, and pursuing a petition before the ITC.

The bill that I have introduced today is designed to empower America's agricultural producers to seek and obtain effective remedies for damaging import surges. It will make the Trade Act more user friendly for American businesses. Unlike the current law, which sets criteria for ITC consideration that are impossible to meet and that do not reflect the realities of today's industry, my bill establishes more useful criteria. It permits the ITC to consider the impacts of import surges on an important segment of an agricultural industry when determining whether a domestic industry has been injured by imports. This segment is defined as a portion of the domestic industry located in a specific geographic area whose collective production constitutes a significant portion of the entire domestic industry. The ITC would also be required to consider whether this segment primarily serves the domestic market in the specific geographic area, and whether substantial imports are entering the area.

Rather than rely solely on an industry petition to initiate an ITC review of whether provisional, or expedited, relief deserves to be granted, my bill would permit the U.S. Trade Representative or the Congress, via a resolution, to request such review.

Because the time frames in the present law for considering and providing provisional relief are so long that the damage from imports can already be done well before a decision by the ITC is ever issued, this bill would shorten the time frame for provisional relief determinations by the ITC by allowing the commission to waive, in certain circumstances, the act's requirement that imports be monitored by the USTR for at least 90 days.

And, finally, the bill expands the list of agricultural products eligible for provisional relief to include any potato product, including processed potato products. Under current law, only perishable agricultural products and citrus products are eligible to apply for expedited relief determinations. But this narrow eligibility list unreasonably excludes important U.S. agribusinesses, such as our frozen french fry producers, from the expedited remedies available in the Trade Act.

Major American companies like Ore-Ida and Lamb Weston have reported that U.S. companies have lost 150 million pounds of french fry sales in the U.S. market to Canada in 1996 alone due to Canadian imports priced below market rates. And Canada, particularly the western provinces, has dramatically expanded its french fry production capacity to expand exports to the United States even further over the next several years. Without the changes in my bill, these critical American businesses will have no effective means for combating a Canadian import surge in the next year.

For too long, American agriculture has been trying to combat sophisticated foreign competition with the equivalent of sticks and stones. My bill strengthens the position of American agricultural producers in the competitive arena, and will either provide effective remedies for agricultural producers, or provide effective deterrents to the depredations of their competitors from other countries. I hope other Senators with an interest in fair play for our domestic agricultural producers will join me in cosponsoring this important legislation. Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 2061

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Agricultural Trade Reform Act of 1996''.

SEC. 2. DEFINITION OF DOMESTIC INDUSTRY, ETC.

(a) DOMESTIC INDUSTRY.—

(1) IN GENERAL.—Section 202(c)(6)(A)(i) of the Trade Act of 1974 (19 U.S.C. 2252(c)(6)(A)(i) is amended to read as follows:

''(A)(i) The term 'domestic industry' means, with respect to an article—

''(I) the producers as a whole of the like or directly competitive article or those producers whose collective production of the like or directly competitive article constitutes a major proportion of the total domestic production of such article, or

''(II) the producers of a like or directly competitive perishable agricultural product, citrus product, or potato product, in a specific geographic area of the United States whose collective production in such area of such article constitutes a significant proportion of the total domestic production of such article.''.

(2) DETERMINATION BY COMMISSION.—Section 202(c)(4) of such Act (19 U.S.C. 2252(c)(4)) is amended—

(1) by striking ''and'' at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting ''; and'', and

(3) by adding at the end the following new subparagraph:

''(D) may—

''(i) in the case of one or more domestic producers—

''(I) who produce a like or directly competitive perishable agricultural product, citrus product, or potato product in a specific geographic area of the United States,

''(II) whose production of the product in such area constitutes a significant portion of the domestic industry in the United States, and

''(III) who primarily serve the market in such area, and

''(ii) if there are substantial imports of a like or directly competitive product in such area,

treat as such domestic industry only that portion of the production of the product located in such area.''.

(b) SPECIFIC GEOGRAPHIC AREA OF THE UNITED STATES, ETC.—Section 202(c)(6) of such Act (19 U.S.C. 2252(c)(6)) is amended by adding at the end the following new subparagraphs:

''(E) The term 'specific geographic area of the United States' means a discrete and distinguishable geographic area in the United

States in which a perishable agricultural product, citrus product, or potato product is produced.

''(F) The term 'significant portion of the domestic industry in the United States' means an important, recognizable part of the domestic industry, including a part of the industry characterized by production in the same growing season.''.

SEC. 3. PROVISIONAL RELIEF.

(a) IN GENERAL.—Section 202(d)(1)(C) of the Trade Act of 1974 (19 U.S.C. 2252(d)(1)(C)) is amended to read as follows:

''(C)(i) If—

''(I) a petition filed under subsection (a)—

''(aa) alleges injury from imports of a perishable agricultural product, citrus product, or potato product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under subparagraph (B) for not less than 90 days; and

(bb) requests that provisional relief be provided under this subsection with respect to such imports; or

''(II) a request made of the President or the Trade Representative, or a resolution adopted by either the Committee on Ways and Means or the Committee on Finance, under subsection (b), states that provisional relief provided under this subsection with respect to such imports may be necessary to prevent or remedy serious injury, or the threat thereof, to the domestic industry

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination described in clause (ii), on the basis of available information.

''(ii) The determination described in this clause is a determination by the Commission whether increased imports (either actual or relative to domestic production) of the perishable agricultural product, citrus product, or potato product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable agricultural product, citrus product, or potato product and whether either—

''(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

''(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.''.

(b) SPECIAL RULES FOR CONSIDERING CERTAIN REQUESTS.—Section 202(d)(1) of such Act (19 U.S.C. 2252(d)(1)) is amended by adding at the end the following new subparagraph:

''(H) In considering a petition filed under subsection (a) or a request or resolution described in subsection (b), the Commission may waive the 90-day monitoring requirement in subparagraph (C)(i)(I)(aa), if—

''(i) there is a reasonable expectation, based on all available evidence, including significant increases in production or production capacity for the product occurring in the country from which the like or directly competitive product is imported in the year preceding such petition, request, or resolution that the product will be imported from that country in the current year in such quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive product; and

''(ii) the quantities of imports of the like or directly competitive product from that country reported for the 1-month period preceding the date of such petition, request, or resolution are consistent with such expectation.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2)(B)(i) of such Act (19 U.S.C. 2252(a)(2)(B)(i)) is amended by striking ''subsection (d)(1)(C)(i)'' and inserting ''subsection (d)(1)(C)(i)(I)(aa)''.

(2) Section 202(d)(1)(A) of such Act (19 U.S.C. 2252(d)(1)(A)) are amended by striking ''perishable agricultural product or citrus product'' each place it appears and inserting ''perishable agricultural product, citrus product, or potato product''.

(3) Section 202(d)(5) of such Act (19 U.S.C. 2252(d)(5)) is amended by adding at the end the following new subparagraph:

''(D) The term 'potato product' means any potato product including any processed potato product.''.●

By Mr. DOMENICI:

S. 2062. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

JUVENILE JUSTICE AND DELINQUENCY MODERNIZATION ACT OF 1996

Mr. DOMENICI. Mr. President, noting that the occupant of the chair is the chairman of the subcommittee of jurisdiction of the Judiciary Committee and noting that he and others on that committee have been working diligently in an effort to modernize the Juvenile Justice Act which has been on the books for a long time and obviously is in need of modernization, I rise today to introduce a bill which I hope the subcommittee and the Committee of the Judiciary will take into consideration as they put together a modern bill. I choose to call my bill, which is comprehensive and is the result of some long work on my part and some hard work on the part of a number of people, the Juvenile Justice Modernization Act of 1996.

Mr. President, I rise today to introduce the Juvenile Justice Modernization Act of 1996, a bill to change the focus of our Federal juvenile crime and delinquency prevention efforts. Simply put, the current Federal approach to juvenile crime is outdated, under-funded and ineffective. It fails to address today's increasingly violent juvenile offender, while simultaneously imposing unrealistic burdens on State and local governments.

The nature of juvenile crime has changed substantially since Congress first enacted the Juvenile Justice and Delinquency Prevention Act over 20 years ago. From 1985 to 1994, the teen homicide rate increased 172 percent. Today, more kids use more drugs, have more guns and commit more violent crimes than ever before. Violent street gangs have begun to supply children with the sense of belonging once provided by the traditional family structure. The time has come for a greater Federal role in combating violent juvenile crime, but that new role should not tie the hands of State and local governments nor prevent them from implementing new and innovative solutions to this growing problem.

In July, Senator THOMPSON, the chairman of the Judiciary Committee's Subcommittee on Youth Violence, and I held a hearing in my home State of New Mexico to address this issue. New Mexico faces many of the same problems as other States—rising youth violence, increased teen pregnancy rates, overburdened law enforcement, judicial and corrections systems and a lack of adequate funding for juvenile crime prevention and enforcement programs. In New Mexico alone, 43 percent of the juveniles in State correctional facilities had at least 10 prior referrals to the juvenile system, 75 percent have a history of committing violent crime, 80 percent have a history of gang involvement, 67 percent have been truant, dropped out or expelled from school, and 63 percent report weekly use of drugs or alcohol. Clearly my State, like most others, faces an enormous challenge.

When we held our hearings, I proposed that we should increase Federal funding to allow States to implement better prevention programs and law enforcement and prosecution policies which reflect the changing nature of juvenile crime. This bill increases Federal juvenile justice funding from $160 to $500 million and creates two separate $250 million block grants for States.

The first $250 million will be available to States in much the same manner as under the current Federal law. However, the bill eliminates two of the most burdensome mandates in Federal law and makes it easier for States to meet the remaining ones.

However, we cannot simply throw money at the States and expect that the problem will go away. States must be willing to try new and innovative approaches and get tough on the most violent juvenile offenders. The second $250 million will fund incentive grants, available to States which enact certain juvenile justice reforms. Many of the suggested reforms in the bill came from ideas raised at the hearings we held in New Mexico. At those hearings, we heard from a wide variety of witnesses, and I want to tell you what they told us, because many of them had thoughtful criticisms and solutions to the problems States and localities face in dealing with juvenile crime.

We heard from judges, who described to us the lack of respect many kids have for the justice system. Children are not born with a lack of respect for law and order, it is learned after numerous contacts with a criminal justice system that typically imposes no penalties until the child commits a heinous act of violence. As one judge so eloquently stated:

> The initial contact with the law is a very important event in a young delinquent's life * * * when that contact occurs and nothing of significance occurs, as the youth perceives matters, that youth has turned a corner and formed an opinion about the law enforcement community.

The judges universally agreed that the No. 1 thing we need to do in our juvenile justice system is create a system of graduated sanctions, so that every delinquent act—no matter how small—has a sure, swift and substantial punishment. For quite some time, our juvenile courts have focused too heavily on rehabilitation and not

enough on punishment. We instead need balance—we need to use punishment as well as treatment to re-teach kids the difference between right and wrong.

When confronted with certain penalties for bad acts, children respond and are less likely to re-offend in the future. This bill encourages States to implement graduated sanctions programs and provides them with the resources to do so.

We also heard from director of the Children, Youth and Families Department in New Mexico, and the superintendent of the largest juvenile correctional facility in the State. While both noted the need to hold juveniles accountable for their actions, they also indicated the need to get parents involved in the process and to make sure that juveniles who are parents take responsibility for their children. According to one witness who has worked with delinquent kids for over 20 years,

> Two decades ago, when kids were misbehaving or out of control, [she] could talk to Mom and Dad about it. Now, parents have become enablers rather than good role models who set limits.

My bill will encourage States to enact laws and pursue programs to strengthen families in order to prevent the next generation of kids from growing up without parents and without discipline. It will require juveniles who have children to take financial responsibility for them as a condition of their parole or probation. It also will encourage States to enact laws to impose civil liability on parents for the destructive acts of their children and will provide more money for prevention programs to give families a better chance to raise their children so that they never get into trouble.

At our hearing, we also heard from educators and community leaders. They universally noted the need to keep kids in school, and to give them constructive things to do and positive role models to guide them. My bill will encourage States to adopt zero-tolerance truancy policies, enhanced mentoring programs and to increase the availability of educational and recreational programs that benefit all children. It also will encourage States to provide alternative classrooms and schools for delinquent kids, so that children who are expelled for disciplinary reasons are not simply forgotten and left out of the education system. The easiest way to ensure that children will become criminals is to expel them from school and deny them an education. Children deserve every opportunity to get an education, and my bill will encourage that.

Finally, at our hearing we heard from the victims of violent juvenile crime. Their compelling stories convinced me of the need to change the way we currently treat the most violent juveniles. In my State, an innocent young girl was brutally attacked by a 15-year-old young man who stabbed her in the neck as part of his gang initiation. The attack left her paralyzed. In New Mexico, the maximum sentence the young man can receive is a little over 4 years in a juvenile facility. Here is what the 18-year-old victim said about our current juvenile justice system:

> The out-dated laws which exist in our legal system today are nothing but a joke to juveniles. Our laws were meant for juveniles who were committing crimes like truancy and breaking curfews. They are not designed to deal with the violent crimes that juveniles are committing today.

For any Senator who has spoken to victims of juvenile crime in their State, I think this comment sums up the fear and frustration felt around the country. Our system protects violent juvenile criminals rather than protecting victims. Unless a kid commits murder, our system usually fails to hold him accountable for his actions. That must change, and this bill encourages States to adopt mandatory adult prosecution for juveniles over age 14 who commit serious violent crimes.

The bill also protects victims in other ways—by giving States an incentive to adopt victims' rights legislation, to allow for open access to juvenile court proceedings, and to require adult records, including fingerprints and photographs, be kept for violent juveniles. Victims and their families should have access to court proceedings, the right to know when a criminal has been sentenced, when he will be released, and the public has a right to be protected from future violent acts through the imposition of adult sentences for adult crimes. If States adopt these suggested reforms, and I think that many States will, our streets will be safer and there will be fewer innocent victims of violent juvenile crime.

Mr. President, I realize that we cannot change the juvenile justice system overnight. And I realize that this is for the most part, an issue which must be dealt with at the State and local level. But the Federal Government has a role to play and a responsibility to fulfill. That responsibility is to ensure that our streets are safe by giving States the resources and flexibility to implement new and innovative solutions to this very serious problem. My bill provides some suggestions on how we might do that.

I realize that time is short in this Congress, but I really believe that we can no longer sweep this problem under the rug and act like the current approach actually works. Clearly, it does not. I hope that my colleagues will support my efforts along with the efforts of others, that we will give our input to the committees of jurisdiction and ultimately vote on the floor of the Senate to dramatically change the Federal Government's role as it pertains to youth offenders in the United States.

In summary, we will repeal the following mandates found in the Juvenile Justice Act:

Deinstitutionalization of status offenders, those juveniles who commit acts that are criminal if committed by a child but not criminal if done by an adult. We will remove youths from adult jails and lockups, and we will provide flexibility to States by changing the current law on ''sight and sound'' separation found in the Juvenile Justice Act into a broad principle: States must provide physical separation for incarcerated juveniles and adults, but not necessarily sight-and-sound separation, which has been such a burden and so expensive, in particular in rural and small town facilities in the United States. We need to provide for the sharing of staff in facilities, not require that there be separate staff in each instance.

We make new findings and purposes for this entire section. Then, ultimately, we say that our States will receive incentive grants if they do the following three things:

Implement graduated sanctions, whereby every juvenile offender receives punishment for every crime, no matter how small. Punishment should be of an increasing severity, based on the nature of the crime and if the juvenile is a repeat offender.

Second, fingerprint and photography records to be kept for juveniles 15 and under who commit felonies, and, finally, mandatory adult prosecution for juveniles 14 years and older who commit serious violent crimes.

In addition to these three, without which the incentive grants will not be available, we provide a long list of actions that many think are required in our States if we are ever going to get a handle on this, and then ask the States, as their best practices, to adopt at least five of them. These reforms have been suggested by the very best people who are out there in the field struggling to do something about this very serious problem.

Mr. President, I have a section-by-section analysis and an outline and short table of contents of the bill. I ask unanimous consent that they be printed in the RECORD and that the bill be printed in the RECORD.

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

S. 2062

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Juvenile Justice Modernization Act of 1996''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—REFORM OF EXISTING PROGRAMS

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Youth violence reduction.
Sec. 104. Annual report.
Sec. 105. Block grants for State and local programs.
Sec. 106. Allocation.
Sec. 107. State plans.
Sec. 108. Repeals.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS
Sec. 201. Incentive grants for accountability-based reforms.
TITLE III—GENERAL PROVISIONS
Sec. 301. Authorization of appropriations.
Sec. 302. Technical and conforming amendments.
Sec. 303. Effective date; applicability of amendments.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's juvenile justice system is in trouble—facilities are dangerously overcrowded, field staff is overworked, and a growing number of children are breaking the law;

(2) a redesigned juvenile corrections program for the next century should be based on 4 principles—accountability for offenders and their families, restitution for victims, community-based prevention, and community involvement;

(3) existing programs have not adequately responded to the particular problems of juvenile delinquents in the 1990's;

(4) State and local communities, which experience directly the devastating failure of the juvenile justice system, do not presently have sufficient resources to deal comprehensively with the problems of juvenile crime and delinquency;

(5) limited State and local resources are being unnecessarily wasted complying with overly technical Federal requirements for ''sight and sound'' separation currently in effect under the 1974 Act. Prohibiting the commingling of adults and juvenile populations would achieve this important purpose without imposing an undue burden on State and local governments;

(6) limited State and local resources are being unnecessarily wasted complying with the overly restrictive Federal mandate that no juveniles be detained or confined in any jail or lockup for adults. This mandate is particularly burdensome for rural communities;

(7) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the area of sentencing;

(8) the term ''prevention'' in the context of this Act means both ensuring that families have a greater chance to raise their children so that those children do not engage in criminal or delinquent activities, and preventing children who have engaged in those activities from becoming permanently entrenched in the juvenile justice system;

(9) in 1992 alone, there were over 110,000 juvenile arrests for violent crimes, and 16.64 times that number of juvenile arrests for property and other crimes;

(10) in 1994, males ages 14 through 24 constituted only 8 percent of the population but accounted for more than 25 percent of all homicide victims and nearly half of all convicted murderers;

(11) in a survey of 250 judges, 93 percent of those judges stated that juvenile offenders should be fingerprinted, 85 percent stated that juvenile criminal records should be made available to adult authorities, and 40 percent stated that the minimum age for facing murder charges should be 14 or 15;

(12) studies indicate that good parenting skills, including normative development, monitoring, and discipline, clearly affects whether children will become delinquent, and adequate supervision of free-time activities, whereabouts, and peer interaction is critical to ensure that children do not drift into delinquency;

(13) 20 years ago, less than half of our Nation's cities reported gang activity, while a generation later, reasonable estimates indicate that there are now more than 500,000 gang members in more than 16,000 gangs on the streets of our cities, and there were more than 580,000 gang crimes in 1993;

(14) while the premise of adult corrections is that incarceration prevents the offender from committing additional crimes and punishes the offender by depriving the offender of freedom, the premise of juvenile corrections and this Act is that, unlike adults, children have a significant potential to change and become productive, law-abiding members of society if the juvenile justice system is premised upon accountability, consistent imposition of sanctions and graduated sanctions imposed so that every wrongful Act has a penalty;

(15) the high incidence of delinquency in the United States today results in an enormous annual cost and an immeasurable loss of human life, personal security, and wasted human resources; and

(16) juvenile delinquency constitutes a growing threat to the national welfare, requiring immediate and comprehensive action by the Federal Government to reduce and eliminate this threat.

TITLE I—REFORM OF EXISTING PROGRAMS

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by striking ''(b)''; and

(B) by striking ''Federal Government'' and inserting ''Federal, State, and local governments''.

(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

''SEC. 102. PURPOSES.

''The purposes of this title and title II are—

''(1) to assist State and local governments in promoting public safety by supporting juvenile delinquency prevention and control activities;

''(2) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

''(3) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

''(4) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile court and law enforcement records and the openness of the juvenile justice system;

''(5) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

''(6) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

''(7) to provide for the evaluation of federally assisted juvenile crime control programs, and training necessary for the establishment and operation of such programs;

''(8) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

''(9) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.''.

SEC. 102. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3), by inserting ''punishment,'' after ''control,'';

(2) in paragraph (22)(iii), by striking ''and'' at the end;

(3) in paragraph (23), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

''(24) the term 'serious violent crime' means—

''(A) murder or nonnegligent manslaughter, or robbery; or

''(B) aggravated assault committed with the use of a firearm, kidnaping, felony aggravated battery, assault with intent to commit a serious violent crime, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance; and

''(25) the term 'serious habitual offender' means a juvenile who meets one or more of the following criteria:

''(A) Arrest for a capital, life, or first degree aggravated sexual offense.

''(B) Not less than 5 arrests, with 3 arrests chargeable as felonies and at least 3 arrests occurring within the preceding 12 months.

''(C) Not less than 10 arrests, with 2 arrests chargeable as felonies and at least 3 arrests occurring within the preceding 12 months.

''(D) Not less than 10 arrests, with 8 or more arrests for misdemeanor crimes involving theft, assault, battery, narcotics possession or distribution, or possession of weapons, and at least 3 arrests occurring within the preceding 12 months.''.

SEC. 103. YOUTH VIOLENCE REDUCTION.

(a) OFFICE OF YOUTH VIOLENCE REDUCTION.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

(1) by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''; and

(2) by striking subsections (b) and (c) and inserting the following:

''(b) ADMINISTRATOR.—The Office shall be headed by an Administrator (hereafter in this title referred to as the 'Administrator') who—

''(1) shall—

''(A) be a career appointee (as that term is defined in section 3132(a)(4) of title 5, United States Code) serving at the pleasure of the Attorney General and having experience in juvenile justice programs; and

''(B) report to the head of the Office of Justice Programs; and

''(2) may prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title.''.

(b) CONCENTRATION OF FEDERAL EFFORTS.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by inserting before ''diversion'' the following: ''punishment'';

(B) in the first sentence, by inserting before the period the following: '', and shall submit such plan to the Congress''; and

(C) by striking the second sentence;

(2) in subsection (b)—

(A) in paragraph (1), by adding ''and'' at the end; and

(B) by striking paragraphs (2) through (7) and inserting the following:

''(2) reduce duplication among Federal juvenile delinquency programs and activities

conducted by Federal departments and agencies.'';

(3) by redesignating subsection (h) as subsection (f); and

(4) by striking subsection (i).

(c) COORDINATING COUNCIL ON YOUTH VIOLENCE REDUCTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in the section heading, by striking ''JUVENILE JUSTICE AND DELINQUENCY PREVENTION'' and inserting ''YOUTH VIOLENCE REDUCTION''; and

(2) by striking ''Justice and Delinquency Prevention'' each place that term appears and inserting ''Youth Violence Reduction''.

SEC. 104. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Governor of each State a report that contains the following with respect to such fiscal year:

(1) SUMMARY AND ANALYSIS.—A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, the number of repeat offenders, the number of juveniles using weapons, the number of juvenile and adults victims and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged, data on serious violent crimes committed by juveniles and data on serious habitual offenders;

(B) the race and gender of the juveniles and their victims;

(C) the ages of the juveniles and their victims;

(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

(E) the number of juveniles who died while in custody and the circumstances under which they died;

(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school;

(G) the number of juveniles who are substance abusers; and

(H) information on juveniles fathering or giving birth to illegitimate children and whether these juveniles have assumed financial responsibility for their children.

(2) ACTIVITIES FUNDED.—A description of the activities for which funds are expended under this part.

(3) STATE COMPLIANCE.—A description based on the most recent data available of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

(4) SUMMARY AND EXPLANATION.—A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

(5) EXEMPLARY PROGRAMS AND PRACTICES.—A description of selected exemplary delinquency prevention programs and accountability based youth violence reduction practices.

SEC. 105. BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', including initiatives for holding juveniles accountable for any act for which they are adjudicated delinquent, increasing public awareness of juvenile proceedings, and improving the content, accuracy, availability, and usefulness of juvenile court and law enforcement records (including fingerprints and photographs) and education programs such as funding for extended hours for libraries and recreational programs which benefit all juveniles'';

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Of amounts made available to carry out this part in any fiscal year, $10,000,000 or 1 percent (whichever is greater) may be used by the Administrator—

''(A) to establish and maintain a clearinghouse to disseminate to the States information on juvenile delinquency prevention, treatment, and control; and

''(B) to provide training and technical assistance to States to improve the administration of the juvenile justice system.''; and

(B) in paragraph (2), by striking the last sentence.

SEC. 106. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended to read as follows:

''SEC. 222. ALLOCATION OF FUNDS.

''(a) ALLOCATION AND DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—Of the total amount made available to carry out this part for each fiscal year, the Administrator shall allocate to each State the sum of—

''(A) an amount that bears the same relation to one-third of such total as the number of juveniles in the State bears to the number of juveniles in all States;

''(B) an amount that bears the same relation to one-third of such total as the number of juveniles from families with incomes below the poverty line in the State bears to the number of such juveniles in all States; and

''(C) an amount that bears the same relation to one-third of such total as the average annual number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data are available, bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for such years.

''(2) MINIMUM REQUIREMENT.—Each State shall receive not less than 0.35 percent of one-third of the total amount appropriated to carry out this part for each fiscal year.

''(3) UNAVAILABILITY OF INFORMATION.—For purposes of this subsection, if data regarding the measures governing allocation of funds under paragraphs (1) and (2) in any State are unavailable or substantially inaccurate, the Administrator and the State shall utilize the best available comparable data for the purposes of allocation of any funds under this part.

''(b) AVAILABILITY.—Any amounts made available to carry out this section shall remain available until expended.''.

SEC. 107. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) by striking the second sentence;

(B) in paragraph (5) by striking '', other than'' and all that follows through ''section 222(d),''; and

(C) by striking paragraph (14) and inserting the following:

''(14) provide assurances that, in each secure facility located in the State (including any jail or lockup for adults), there is no commingling in the same cell or community room of, or any other regular contact between—

''(A) any juvenile detained or confined for any period of time in that facility; and

''(B) any adult offender detained or confined for any period of time in that facility.'';

(D) by striking paragraphs (3), (8), (9), (10), (12), (13), (15), (17), (18), (19), (24), and (25); and

(E) by redesignating paragraphs (4), (5), (6), (7), (11), (14), (16), (20), (21), (22), and (23) as paragraphs (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), and (13), respectively; and

(2) by striking subsections (c) and (d).

SEC. 108. REPEALS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

(1) in title II—

(A) by striking parts C, E, F, G, and H;

(B) by striking part I, as added by Public Law 102–586; and

(C) by amending the heading of part I, as in effect immediately before the date of enactment of Public Law 102–586, to read as follows:

''PART E—GENERAL AND ADMINISTRATIVE PROVISIONS''; and

(2) by striking title V, as added by Public Law 102–586.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

SEC. 201. INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part B the following:

''PART C—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

''SEC. 241. AUTHORIZATION OF GRANTS.

''The Administrator shall provide juvenile delinquent accountability grants under section 242 to eligible States to carry out the purposes of this title.

''SEC. 242. ACCOUNTABILITY-BASED INCENTIVE GRANTS.

''(a) ELIGIBILITY FOR GRANT.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application at such time, in such form, and containing such assurances and information as the Administrator may require by rule, including assurances that the State has in effect (or will have in effect not later than 1 year after the date on which the State submits such application) laws, or has implemented (or will implement not later than 1 year after the date on which the State submits such application)—

''(1) policies and programs that ensure that juveniles who commit an act after attaining 14 years of age that would be a serious violent crime if committed by an adult are treated as adults for purposes of prosecution;

''(2) graduated sanctions for juvenile offenders, ensuring a sanction for every delinquent or criminal act, ensuring that the sanction is of increasing severity based on the nature of the act, and escalating the sanction with each subsequent delinquent or criminal act; and

''(3) a system of records relating to any adjudication of juveniles less than 15 years of age who are adjudicated delinquent for conduct that if committed by an adult would

constitute a serious violent crime. Such records shall be—

''(A) equivalent to the records that would be kept of adults arrested for such conduct, including fingerprints and photographs;

''(B) submitted to the Federal Bureau of Investigation in the same manner as adult records are so submitted;

''(C) retained for a period of time that is equal to the period of time records are retained for adults; and

''(D) available to law enforcement agencies, the courts, and school officials (and such school officials shall be subject to the same standards and penalties that law enforcement and juvenile justice system employees are subject to under Federal and State law, for handling and disclosing such information).

''(b) ADDITIONAL AMOUNT BASED ON ACCOUNTABILITY-BASED YOUTH VIOLENCE REDUCTION PRACTICES.—A State that receives a grant under subsection (a) is eligible to receive an additional amount of funds added to such grant if such State demonstrates that the State has in effect, or will have in effect, not later than 1 year after the deadline established by the Administrator for the submitting of applications under subsection (a) for the fiscal year at issue, not less than 5 of the following practices:

''(1) VICTIMS' RIGHTS.—Increased victims' rights, including the right to a final conclusion free from unreasonable delay, and the right to be notified of any release or escape of an offender who committed a crime against a particular victim.

''(2) VICTIM RESTITUTION.—Mandatory victim restitution.

''(3) ACCESS TO PROCEEDINGS.—Public access to juvenile court proceedings.

''(4) PARENTAL RESPONSIBILITY.—Juvenile curfews and parental civil liability for serious acts committed by juveniles released to the custody of their parents by the court.

''(5) ZERO TOLERANCE FOR DEADBEAT JUVENILE PARENTS.—Require as condition of parole that—

''(A) juvenile offenders who are parents demonstrate parental responsibility by working and paying child support; and

''(B) juveniles attend and successfully complete school or pursue vocational training.

''(6) SERIOUS HABITUAL OFFENDERS COMPREHENSIVE ACTION PROGRAM (SHOCAP).—A multidisciplinary, interagency management, information and monitoring system for the early identification, control, supervision, and treatment of the most serious juvenile offenders.

''(7) COMMUNITY-WIDE PARTNERSHIPS.—Community-wide partnerships involving county, municipal government, school districts, appropriate State agencies, and nonprofit organizations to administer a unified approach to juvenile delinquency.

''(8) ZERO TOLERANCE FOR TRUANCY.—School districts should implement programs to curb truancy and implement certain and swift punishments for truancy, including parental notification of every absence, mandatory Saturday school makeup sessions for truants or weekends in jail for truants and denial of participation or attendance at extracurricular activities by truants.

''(9) ALTERNATIVE SCHOOLING.—A requirement that, as a condition of receiving any State funding provided to school districts in accordance with a formula allocation based on the number of children enrolled in school in the school district, each school district shall establish one or more alternative schools or classrooms for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons and shall require that such juveniles attend the alternative schools or classrooms. Any juvenile who refuses to attend such alternative school or classroom shall be immediately detained pending a hearing. If a student is transferred from a regular school to an alternative school for juvenile offenders or juveniles who are expelled or suspended for disciplinary reasons such State funding shall also be transferred to the alternative school.

''(10) JUDICIAL JURISDICTION.—A system under which municipal and magistrate courts have—

''(A) jurisdiction over minor delinquency offenses such as truancy, curfew violations, and vandalism; and

''(B) short term detention authority for habitual minor delinquent behavior.

''(11) ELIMINATION OF CERTAIN INEFFECTIVE PENALTIES.—Eliminate 'counsel and release' or 'refer and release' as a penalty for juveniles with respect to the second or subsequent offense for which the juvenile is referred to a juvenile probation officer.

''(12) REPORT BACK ORDERS.—A system of 'report back' orders whenever juveniles are placed on probation, so that after a period of time (not to exceed 2 months) the juvenile appears before and advises the judge of the progress of the juvenile in meeting certain goals.

''(13) PENALTIES FOR USE OF FIREARM.—Mandatory penalties for the use of a firearm during a violent crime or a drug felony.

''(14) STREET GANGS.—Make it illegal to engage in criminal conduct as a member of a street gang and impose severe penalties for terrorism by criminal street gangs.

''(15) CHARACTER COUNTS.—Character education and training for juvenile offenders.

''(16) MENTORING.—Mentoring programs for at-risk youth.

''(17) DRUG COURTS AND COMMUNITY-ORIENTED POLICING STRATEGIES.—Courts for juveniles charged with drug offenses and community-oriented policing strategies.

''SEC. 243. FORMULAS FOR GRANTS.

''The amount made available for any fiscal year for grants under section 241 shall be allocated among the States proportionately on the basis of the number of residents of such States who are less than 18 years of age, in accordance with the following:

''(1) 50 percent shall be allocated among the States that meet the requirements of section 242(a).

''(2) 50 percent shall be allocated among the States that meet the requirements of subsections (a) and (b) of section 242.

''SEC. 244. ACCOUNTABILITY.

''A State that receives a grant under section 241 shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Administrator, and shall ensure that any funds used to carry out section 241 shall represent the best value for the State at the lowest possible cost and employ the best available technology.

''SEC. 245. LIMITATION ON USE OF FUNDS.

''(a) NONSUPPLANTING REQUIREMENT.—Funds made available under section 241 shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(b) ADMINISTRATIVE AND RELATED COSTS.—Not more than 2 percent of the funds appropriated under section 291(c) for a fiscal year shall be available to the Administrator for such fiscal year for purposes of—

''(1) research and evaluation, including assessment of the effect on public safety and other effects of the expansion of correctional capacity and sentencing reforms implemented pursuant to this part; and

''(2) technical assistance relating to the use of grants made under section 241, and development and implementation of policies, programs, and practices described in section 242.

''(c) CARRYOVER OF APPROPRIATIONS.—Funds appropriated under section 291(c) shall remain available until expended.

''(d) MATCHING FUNDS.—The Federal share of a grant received under this part may not exceed 90 percent of the costs of a proposal as described in an application approved under this part.''.

TITLE III—GENERAL PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended to read as follows:

''SEC. 291. AUTHORIZATION OF APPROPRIATIONS.

''(a) OFFICE OF YOUTH VIOLENCE REDUCTION.—There are authorized to be appropriated for each of fiscal years 1997, 1998, 1999, 2000, and 2001 such sums as may be necessary to carry out part A.

''(b) BLOCK GRANTS FOR STATE AND LOCAL PROGRAMS.—There is authorized to be appropriated to carry out part B $250,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

''(c) INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS.—There is authorized to be appropriated to carry out part C $250,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

''(d) SOURCE OF APPROPRIATIONS.—Funds authorized by this section to be appropriated may be appropriated from the Violent Crime Reduction Trust Fund.''.

SEC. 302. TECHNICAL AND CONFORMING AMENDMENTS.

(a) JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. et seq.) is amended—

(1) in part A, by striking the part designation and the part heading and inserting the following:

''OFFICE OF YOUTH VIOLENCE REDUCTION'';

(2) in section 217(a), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(3) in part B, in the part heading, by striking ''FEDERAL ASSISTANCE'' and inserting ''BLOCK GRANTS'';

(4) in section 222, by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(5) in section 299A, by striking ''this Act'' each place that term appears and inserting ''this title'';

(6) by striking section 299C;

(7) in section 299D—

(A) in subsection (b), by striking ''Except as provided in the second sentence of section 222(c), financial'' and inserting ''Financial''; and

(B) by striking subsection (d);

(8) by redesignating sections 299A, 299B, and 299D as sections 292, 293, and 294, respectively;

(9) in section 385(c), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''; and

(10) in section 403(2), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(b) TITLE 5.—Section 5315 of subchapter II of chapter 53 of title 5, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(c) TITLE 18.—Section 4351(b) of title 18, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(d) TITLE 39.—Section 3220 of title 39, United States Code, is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction''.

(e) SOCIAL SECURITY ACT.—Section 463(f) of the Social Security Act (42 U.S.C. 663(f)) is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(f) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 102(a)(5), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(2) in section 801, by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction'';

(3) in section 804, by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction'';

(4) in section 805, by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(5) in section 813, by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction'';

(6) in section 1701(a), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''; and

(7) in section 2501(a)(2), by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(g) VICTIMS OF CHILD ABUSE ACT.—Sections 217 and 222 of the Victims of Child Abuse Act (42 U.S.C. 13013, 13022) are amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' each place that term appears and inserting ''Office of Youth Violence Reduction''.

(h) NATIONAL CHILD PROTECTION ACT OF 1993.—Section 2(f) of the National Child Protection Act of 1993 (42 U.S.C. 5119(f)) is amended by striking ''Office of Juvenile Justice and Delinquency Prevention'' and inserting ''Office of Youth Violence Reduction''.

(i) OTHER REFERENCES.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Office of Juvenile Justice and Delinquency Prevention established under section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act, shall be deemed to refer to the Office of Youth Violence Reduction established under section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended by this Act.

SEC. 303. EFFECTIVE DATE; APPLICABILITY OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the first day of the first fiscal year beginning after the date of enactment of this Act.

(b) APPLICABILITY OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any fiscal year beginning before the effective date of this Act.

Juvenile Justice Modernization Act of 1996—SECTION-BY-SECTION ANALYSIS

Section 1—Short title & table of contents.

TITLE I—REFORM OF EXISTING JUVENILE JUSTICE PROGRAMS

Section 101—Strikes the ''Findings'' in subsection (a) of Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601). Amends subparagraph (b) of Section 101 to recognize the need for comprehensive state, local and federal government action to combat juvenile crime.

Amends the ''Purposes'' in Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) to recognize the new Act's focus on assisting State and local governments' efforts to promote public safety by supporting juvenile delinquency prevention and law enforcement programs and to provide for the establishment, operation and evaluation of federally assisted juvenile crime programs.

Section 102—Amends Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) and adds two new terms.

For purposes of the Act, ''serious violent crime'' means murder, nonnegligent manslaughter, forcible rape, robbery, aggravated assault with a firearm, kidnaping, felony aggravated battery, assault with the intent to commit a serious violent crime, or vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance.

''Serious habitual offender'' means a juvenile who meets one or more of several criteria: (1) Arrest for a capital, life or first degree aggravated sexual offense; (2) 5 or more arrests, with 3 chargeable as felonies and at least 3 arrests within the preceding 12 months; (3) 10 or more arrests, with 2 chargeable as felonies and at least 3 arrests in the preceding 12 months; or (4) 10 or more arrests, with 8 or more for misdemeanor crimes involving theft, battery, narcotics possession or possession of weapons, with at least 3 arrests occurring within the preceding 12 months.

Section 103—Amends Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) and renames the Office of Juvenile Justice and Delinquency Prevention. OJJDP will be known as the ''Office of Youth Violence Reduction.''

Eliminates Presidential appointment for the Administrator of the Office. Requires that the Administrator of the Office be a career appointee with experience in juvenile justice programs. The Administrator will report to the head of the Office of Justice Programs and will continue to prescribe regulations and administer grants awarded by the Office. Eliminates the Deputy Administrator position.

Amends Section 204 of the JJ&DP Act and requires the Administrator to submit to Congress the plan for the implementation of federal juvenile delinquency programs. Eliminates requirement that the Administrator consult with the Coordinating Council on Juvenile Justice and Delinquency Prevention. Limits the Office's responsibilities to two: to report to the President on all matters related to federal juvenile justice programs and to reduce duplication of federal juvenile justice programs and the activities of federal departments and agencies.

Renames the Coordinating Council on Juvenile Justice and Delinquency Prevention as the ''Coordinating Council on Youth Violence Reduction.''

Amends Section 207 of the JJ&DP Act and requires the Administrator to submit an annual report to the President, Congress and the Governors of the 50 states which contains a summary and analysis of juvenile crime and incarceration data, as well as information on juvenile substance abuse and the degree to which juvenile offenders have taken financial responsibility for their children. The annual report also must contain a description of activities funded under the Act, an explanation of the extent to which states comply with the requirements of Section 223, a summary and evaluation of each program or activity for which assistance is provided, and a list and description of selected exemplary delinquency prevention programs and accountability-based youth violence reduction practices.

Section 104—Amends Section 221 of the JJ&DP Act to authorize the Administrator to make grants to states for initiatives with the additional purposes of holding juveniles accountable for all delinquent acts, increasing public awareness of juvenile proceedings, improving juvenile court and law enforcement records, including fingerprints and photographs and increasing the availability of education programs which benefit all juveniles.

Allows the Administrator to use the greater of one percent of the funds made available under the Act or $10 million to establish and maintain a clearinghouse to disseminate to States information on juvenile delinquency, prevention, treatment and control and to provide training and technical assistance to States to improve their juvenile justice systems.

Section 105—Amends Section 222 of the JJ&DP Act and creates a new formula for the allocation and distribution of grants under Part B of the Act. $250 million available under this section will be allocated based equally on the number of juveniles in each state, the number of juveniles in the state living below the poverty line and the violent crime rate of the state.

Maintains federal funding levels by requiring that each state continue to receive 0.35 percent of one-third of the funds appropriated to carry out the Act. Allows the Administrator and states to use the best available comparable data to determine eligibility under the formula. Eliminates the requirement that states use 5 percent of grant money to assist state advisory groups.

Section 106—Amends Section 223 of the JJ&DP Act and eliminates the requirement that states update their plans annually to include new programs and challenge activities. Eliminates the requirement that states form juvenile justice advisory groups. Eliminates the requirement that 75 percent of funds be used for particular programs.

Eliminates many of the mandates imposed upon states as conditions of receiving federal funds, including deinstitutionalization of status offenders and removal of juveniles from adult jails and lock-ups. Requires that States provide assurances that there is no commingling of or regular contact between juvenile and adult offenders in the same cell or community room in state facilities.

Section 107—Repeals several parts in title II of the JJ&DP Act. Eliminates the National Institute for Juvenile Justice and Delinquency Prevention, Special Emphasis Prevention and Treatment Programs, State Challenge Activities, Treatment for Juvenile Offenders Who Are Victims of Child Abuse or Neglect, Mentoring, Boot Camps and the White House Conference on Juvenile Justice. Eliminates state incentive grants for local delinquency prevention programs.

TITLE II—INCENTIVE GRANTS FOR ACCOUNTABILITY-BASED REFORMS

Section 201—Amends the JJ&DP Act by creating a new Part C. Creates a new Section 241 authorizing the Administrator to award $250 million in new incentive grants for states which enact certain accountability-based reforms to their juvenile justice systems. States must submit applications to the Administrator certifying that the State has

enacted or implemented (or will enact or implement within one year) certain laws and policies which will improve the State's juvenile justice system.

Creates a new Section 242(a). States must enact the following three reforms in order to receive 50 percent of the funds available under Part C: (1) policies and programs to ensure that juveniles age 14 or over who commit ''serious violent crimes'' are prosecuted as adults; (2) graduated sanctions, ensuring a punishment for every delinquent or criminal act, and ensuring that the sanctions are of increasing severity for each subsequent offense; and (3) require that adult records (including fingerprints and photographs) be kept for juveniles under age 15 who commit ''serious violent crimes.''

Creates a new Section 242(b). In addition to the reforms mentioned above, States must enact five of the following in order to receive 100 percent of the funds available under Part C: (1) victims' rights laws; (2) mandatory victim restitution; (3) public access to juvenile court proceedings; (4) juvenile curfews and civil parental responsibility laws for serious acts committed by juveniles released to the custody of their parents; (5) financial responsibility for offspring and successful completion of school or vocational training as a condition of parole or probation; (6) serious habitual offender comprehensive action plans, a multi disciplinary interagency system for the early identification, control, monitoring, supervision and treatment of the most serious juvenile offenders; (7) community-wide partnerships involving county and municipal governments, school districts, State agencies and private organizations to administer a unified approach to juvenile justice; (8) zero tolerance for truancy, including parental notification and mandatory make-up sessions for truants; (9) alternative schools or classrooms for expelled or suspended juveniles; (10) jurisdiction for municipal and magistrate courts over minor delinquency offenses and short-term detention authority for habitual minor delinquency behavior; (11) expedited prosecution procedures and prompt resolution of juvenile cases; (12) eliminate ''counsel and release'' or ''refer and release'' as a penalty for second offenses for which juveniles are referred to a juvenile probation officer; (13) ''report back orders'' whereby juveniles on probation appear before the court and advise the court of their progress in meeting certain goals; (14) mandatory penalties for the use of a firearm during a violent crime or drug felony; (15) laws making it illegal to engage in criminal conduct as a member of a street gang; (16) character education and training; (17) mentoring programs for at-risk youth; (18) courts for juveniles charged with drug offenses and community-oriented policing strategies.

Creates a new Section 243. Grants will be allocated proportionately based on the number of residents in the State under the age of 18, in accordance with the following: (1) 50 percent allocated among the States which meet the requirements of Section 242(a); and (2) 50 percent among the States which meet the requirements of Sections 242(a) and 242(b).

Creates a new Section 244 requiring that States utilize accounting, auditing and fiscal procedures prescribed by the Administrator and that States ensure that funds used will represent the best value for the State at the lowest cost and employ the best available technology.

Creates a new Section 245 prohibiting States from using grants to supplant existing State juvenile justice funds. Allows up to 2 percent of available funds be available to the Administrator for research and evaluation projects, and technical assistance. Appropriated funds will carry over and remain available until expended. The Federal share of grant received under Part C must not exceed 90 percent of the costs of the submitted proposal.

TITLE III—GENERAL PROVISIONS

Section 301—Authorizes necessary funding through 2001 for the Office of Youth Violence Reduction. Authorizes $250 million for each year through 2001 for Part B grants and $250 million for each year through 2001 for Part C grants. Allows appropriation of funds from the Violent Crime Reduction Trust Fund.

Section 302—Technical and conforming amendments.

Section 303—Sets the effective date of the Act as the first day of the first fiscal year beginning after the date of enactment.

OUTLINE OF DOMENICI JUVENILE JUSTICE BILL

TITLE I—GRANTS TO STATES

1. New ''Findings'' and ''Purposes'' sections which discuss the increase and changing nature of juvenile crime.

2. Repeal the following mandates found in the current Juvenile Justice Act:

(a) deinstitutionalization of ''status'' offenders—those juveniles who commit acts that are criminal if committed by a child but not criminal if done by an adult;

(b) remove youths from adult jails and lockups; and

3. Provide flexibility to states by changing the current law ''sight and sound'' mandate found in the Juvenile Justice Act into a broad principle:

(a) provide physical separation of incarcerated juveniles and adults, but not necessarily sight and sound separation;

(Need to allow for the sharing of staff and facilities. Rural areas should be able to keep adults and juveniles in the same facility so long as they are in separate cells.)

Require states to provide assurances that they are adhering to the principles.

4. More money and more flexibility for states:

GRANTS

Replace Justice's OJJDP with a new office within DOJ's OJP. Make the new Administrator a career person who serves at the pleasure of the Attorney General.

Increase funding from $150 million per year to $500 million.

Use one-half ($250 million) for grants to the states for prevention programs for juveniles and meeting requirements of the incentive grants. Grants will be distributed proportionately based on number of juveniles below age 18, poverty and crime rates.

States could use the money to continue to fund existing programs, create their own new programs or to meet the requirements for the second set of grants.

Allow funds to be used for programs directed at all juveniles not just ''at risk'' juveniles. For example, money could be used to keep libraries and gyms open and staffed after hours.

No strings other than one mandate regarding minorities and retaining one current mandate, as a ''principle.''

States file an action plan with the Office of Juvenile Crime Control and Delinquency Prevention.

$250 million for new incentive-based grants for states which enact certain reforms (much like Truth-in-Sentencing).

Grants would be used for law enforcement.

THREE STRINGS FOR THE INCENTIVE GRANTS

States must certify to the Administrator that they have enacted or will within one year enact laws to require that they have implemented a system of:

1. Graduated sanctions, whereby every juvenile offender receives a punishment for every crime.

The punishment should be of increasing severity based on the nature of the crime and if the juvenile is a repeat offender.

2. Fingerprint and photograph records to be kept for juveniles 15 and under who commit felonies.

Records would be kept like adult records—submitted to the FBI, available to law enforcement, courts and schools.

For non-felony crimes, records would follow juvenile as long as he/she is in the juvenile system. Whether to seal records would be at the discretion of the judge, but would always be available for law enforcement purposes.

For felony crimes (regardless of whether tried as juvenile or adult) records would follow juvenile into adulthood. There would be no special rules allowing sealing of records just because the offender is a juvenile.

3. Mandatory adult prosecution for juveniles 14 or over who commit a ''serious violent crimes.''

''Serious violent crimes'' are defined as murder, non-negligent manslaughter, forcible rape, robbery, aggravated assault with a firearm, kidnaping, felony aggravated battery, and vehicular homicide committed while under the influence of an intoxicating liquor or controlled substance.

States would also have to enact at least five of the following juvenile justice ''best practices'' to receive the additional funds:

1. Provide for victims' rights including final conclusion free from unreasonable delay and right to be notified of any release or escape of an offender who committed a crime against a particular victim.

2. Mandatory victim restitution.

3. Public access to juvenile court proceedings.

4. Parental responsibility laws for serious acts committed by juveniles released to their parents by the court and juvenile curfews.

5. Financial responsibility for offspring as condition for parole.

6. Serious habitual offenders comprehensive action program. If you do the crime you do the time. Among other items, it establishes a system for tracking the most serious juvenile offenders

7. Establish community-wide partnerships involving county, municipal governments, school districts, appropriate state agencies and non-profits to administer a unified approach to delinquency.

8. Zero tolerance for truancy. School districts should implement programs to curb truancy and implement certain and swift punishments for truancy. For example, parents should be advised of every absence; schools should hold Saturday ''make-up'' sessions or weekends in jail or denying extra curricular activities to truants.

9. Alternative schools or classrooms for expelled or suspended juveniles. Expelled or suspended students should be required to attend. Alternative schools should start earlier and go later than regular school. Counseling, tutoring, community service, and work oriented restitution would be required during extra hours. Any juvenile who refuses to attend alternative school would be subject to immediate detention pending a hearing. Funding made available from the state on a formula for each pupil should follow the child so if the child is put into an alternative school, the state funding should follow that student.

10. Provide municipal and magistrate courts with jurisdiction over minor delinquency offenses such as truancy, curfew, motor vehicle violations and graffiti. Authorize Municipal and Magistrate courts short term detention authority in response to persistent minor delinquent behavior.

11. Establish expedited procedures for prosecution and prompt resolution of juvenile cases.

12. Eliminate ''counsel and release'' or ''refer and release'' as a penalty for a second or subsequent offense.

13. Institute a system of ''report back'' orders whenever juveniles are placed on probation so that after a period of time (two months) the juvenile advises the judge of his/her progress toward meeting certain goals.

14. Mandatory penalties for the use of a firearm during a violent crime or drug felony.

15. Enact a state law making it illegal to engage in criminal conduct as a member of a street gang and enact a street terrorism act.

16. Provide Character education and training, like Character Counts.

17. Establish mentoring programs for youth in trouble.

18. Youth drug courts and community oriented policing strategies targeted at juveniles.

Mr. DOMENICI. Mr. President, I send the bill to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and referred.

ADDITIONAL COSPONSORS

S. 984

At the request of Mr. GRASSLEY, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 984, a bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes.

S. 1632

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1632, a bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes.

S. 1975

At the request of Mr. MCCONNELL, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1975, a bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes.

S. 1978

At the request of Mr. DORGAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1978, a bill to establish an Emergency Commission To End the Trade Deficit.

S. 2030

At the request of Mr. LOTT, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

S. 2056

At the request of Mr. BRYAN, his name was added as a cosponsor of S. 2056, a bill to prohibit employment discrimination on the basis of sexual orientation.

SENATE RESOLUTION 286

At the request of Mr. DODD, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. COHEN], the Senator from Ohio [Mr. DEWINE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Vermont [Mr. JEFFORDS], the Senator from Pennsylvania [Mr. SPECTER], the Senator from South Carolina [Mr. THURMOND], the Senator from Louisiana [Mr. BREAUX], the Senator from South Dakota [Mr. DASCHLE], the Senator from California [Mrs. FEINSTEIN], the Senator from Kentucky [Mr. FORD], the Senator from Alabama [Mr. HEFLIN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 286, a resolution to commend Operation Sail for its advancement of brotherhood among nations, its continuing commemoration of the history of the United States, and its nurturing of young cadets through training in seamanship.

AMENDMENTS SUBMITTED

THE TREASURY DEPARTMENT APPROPRIATIONS ACT, 1997

WYDEN (AND KENNEDY) AMENDMENT NO. 5206

Mr. WYDEN (for himself and Mr. KENNEDY) proposed an amendment to the bill (H.R. 3756) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the end of the Committee amendment insert the following new title:

TITLE —PROTECTION OF PATIENT COMMUNICATIONS

SEC. 01. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the ''Patient Communications Protection Act of 1996''.

(b) FINDINGS.—Congress finds the following:

(1) Patients need access to all relevant information to make appropriate decisions, with their physicians, about their health care.

(2) Restrictions on the ability of physicians to provide full disclosure of all relevant information to patients making health care decisions violate the principles of informed consent and practitioner ethical standards.

(3) The offering and operation of health plans affect commerce among the States. Health care providers located in one State serve patients who reside in other States as well as that State. In order to provide for uniform treatment of health care providers and patients among the States, it is necessary to cover health plans operating in one State as well as those operating among the several States.

SEC. 02. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) IN GENERAL.—

(1) PROHIBITION OF CERTAIN PROVISIONS.—Subject to paragraph (2), an entity offering a health plan (as defined in subsection (d)(2)) may not include any provision that prohibits or restricts any medical communication (as defined in subsection (b)) as part of—

(A) a written contract or agreement with a health care provider.

(B) a written statement to such a provider or

(C) an oral communication to such a provider.

(2) CONSTRUCTION.—Nothing in this section shall be construed as preventing an entity from exercising mutually agreed upon terms and conditions not inconsistent with paragraph (1), including terms or conditions requiring a physician to participate in, and cooperate with, all programs, policies, and procedures developed or operated by the person, corporation, partnership, association, or other organization to ensure, review, or improve the quality of health care.

(3) NULLIFICATION.—Any provision described in paragraph (1) is null and void.

(b) MEDICAL COMMUNICATION DEFINED.—In this section, the term ''medical communication'' means a communication made by a health care provider with a patient of the provider (or the guardian or legal representative of such patient) with respect to the patient's physical or mental condition or treatment options.

(c) ENFORCEMENT THROUGH IMPOSITION OF CIVIL MONEY PENALTY.—

(1) IN GENERAL.—Any entity that violates paragraph (1) of subsection (a) shall be subject to a civil money penalty of up to $25,000 for each violation. No such penalty shall be imposed solely on the basis of an oral communication unless the communication is part of a pattern or practice of such communications and the violation is demonstrated by a preponderance of the evidence.

(2) PROCEDURES.—The provisions of subsection (c) through (1) of section 1129A of the Social Security Act (42 U.S.C. 1320a-(a) shall apply to civil money penalties under paragraph (1) in the same manner as they apply to a penalty or proceeding under section 1128(a) of such Act.

(d) DEFINITIONS.—For purposes of this section.

(1) HEALTH CARE PROVIDER.—The term ''health care provider'' means anyone licensed or certified under State law to provide health care services.

(2) HEALTH PLAN.—The term ''health plan'' means any public or private health plan or arrangement (including an employee welfare benefit plan) which provides, or pays the cost of, health benefits, and includes an organization of health care providers that furnishes health services under a contract or agreement with such a plan.

(3) COVERAGE OF THIRD PARTY ADMINISTRATORS.—In the case of a health plan that is an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income Security Act of 1974), any third party administrator or other person with responsibility for contracts with health care providers under the plan shall be considered, for purposes of this section, to be an entity offering such health plan.

(e) NON-PREEMPTION OF STATE LAW.—A State may establish or enforce requirements

with respect to the subject matter of this section, but only if such requirements are consistent with this title and are more protective of medical communications than the requirements established under this section.

(f) EFFECTIVE DATE.—Subsection (a) shall take effect 180 days after the date of the enactment of this Act and shall apply to medical communications made on or after such date.

FEINSTEIN (AND OTHERS) AMENDMENT NO. 5207

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself, Mr. WYDEN, Mr. GLENN, Mr. KERRY, Mr. SIMON, Mr. KENNEDY, Mrs. BOXER, and Mr. REID) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the appropriate place insert the following: ''Section 245(b) of title 18, United States Code, is amended (1) in paragraph (2) in the matter before subparagraph (A), by inserting ', sexual orientation,' after 'religion'; and (2) in paragraph (4)(A), by inserting ', sexual orientation,' after 'religion'.''

THOMPSON (AND OTHERS) AMENDMENT NO. 5208

Mr. HELMS (for Mr. THOMPSON, for himself, Mr. HELMS, Mr. THURMOND, Mrs. HUTCHISON, Mr. WELLSTONE, and Mr. GRASSLEY) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the end of the Committee amendment insert the following: ''No adjustment under section 5303 of title 5, United States Code, for Members of Congress and members of the President's Cabinet shall be considered to have taken effect in fiscal year 1997.''

SHELBY AMENDMENTS NOS. 5209–5222

Mr. SHELBY proposed 14 amendments to the bill, H.R. 3756, supra; as follows:

AMENDMENT NO. 5209

On page 131, line 13, strike ''and''.

On page 131, line 18, strike ''.'', and insert '', and''.

AMENDMENT NO. 5210

On page 42, strike all from line 9 through line 15.

AMENDMENT NO. 5211

On page 4, line 4, line type ''$29,319,000''.

AMENDMENT NO. 5212

On page 118, line 16 strike all through page 120, line 15.

AMENDMENT NO. 5213

On page 135, strike line 5 through line 20.

AMENDMENT NO. 5214

On page 34, after line 23 insert the following:

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $35,536,000.

AMENDMENT NO. 5215

On page 22, line 21 strike all from ''(modernized'' through ''systems'' on line 23, and insert: ''(development and deployment) and operational information systems''.

On page 23, line 14 strike all from ''to manage,'' through ''Management Office'' on line 17.

On page 23, line 18 strike ''and other necessary Program Management activities'' and insert: ''the Internal Revenue Service shall seek contractual support in managing, integrating, testing and implementing''.

On page 23, line 22 strike all from ''none of'' through ''program without'' on page 24, line 3.

On page 24, line 5 strike ''which''.

On page 24, line 8 strike all from ''except that'' through ''Board'' on line 11.

On page 24, line 18 strike all from '': *Provided further,*'' through ''modernization'' on line 20.

AMENDMENT NO. 5216

On page 128, line 9 before the semicolon insert the following: '', or under section 4823 of title 22, United States Code.''

AMENDMENT NO. 5217

On page 101, on line 3, insert after ''boards'' the following: ''(except Federal Executive Boards)''.

AMENDMENT NO. 5218

On page 69, after line 20, add the following new section:

SEC. 422. Subparagraph (B) of section 8348(a)(1) of title 5, United States Code, is amended by striking ''title;'' and inserting ''title and providing other post-adjudicative services to annuitants;''.

AMENDMENT NO. 5219

On page 57, line 21 before the colon insert the following new provision: '': *Provided further,* That to the extent that the Federal Communications Commission does not receive sufficient appropriations for necessary expenses associated with its relocation to the Portals in Washington, DC, funds available to the Administrator of General Services shall hereafter be available for payments to the lessor of the amortized amount, to be financed at the lowest cost to the Government, of such expenses. Such payments shall be in addition to amounts authorized pursuant to section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606) and shall be made for a term not to exceed the useful life of the improvements, furniture, equipment, and services provided, up to a maximum of ten years.''.

AMENDMENT NO. 5220

On page 51, line 10 strike all from ''*Provided further,*'' through ''House and Senate.'' on line 16.

AMENDMENT NO. 5221

On page 61, line 5 strike all from '': *Provided,*'' through ''or expanded'' on line 8.

AMENDMENT NO. 5222

On page 69, after line 20 add the following new section:

SEC. . Paragraph (1) of section 8906(e) of title 5, United States Code, is amended—

(1) by striking the last sentence of that paragraph and redesignating the remainder of that paragraph as (1)(A);

(2) by adding at the end of paragraph (1)(A) (as so designated) the following:

''(B) During each pay period in which an enrollment continues under subparagraph (A)—

''(i) employee and Government contributions required by this section shall be paid on a current basis; and

''(ii) if necessary, the head of the employing Agency shall approve advance payment, recoverable in the same manner as under section 5524a(c), of a portion of basic pay sufficient to pay current employee contributions.

''(C) Each agency shall establish procedures for accepting direct payments of employee contributions for the purposes of this paragraph.''.

DORGAN (AND OTHERS) AMENDMENT NO. 5223

Mr. DORGAN (for himself, Mr. BUMPERS, Mr. HOLLINGS, Mr. KERRY, Mr. SIMON, Mr. KOHL, Mr. REID, Mr. WELLSTONE, Mr. LEAHY, Mr. HARKIN, Mr. FEINGOLD, and Mr. KENNEDY) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).''

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of such Code is amended by adding at the end the following new subsection:

''(h) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property,

''(B) the sale, exchange, or other disposition of imported property, or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States, or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

''(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of such Code (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)).''

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) of such Code is amended by striking ''or (E)'' and inserting ''(E), or (I)''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of such Code (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

''(III) imported property income,''.

(2) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1996, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1996.

THOMAS AMENDMENT NO. 5224

(Ordered to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the end of title VI add the following:

SEC. 646. (a) Except as provided in subsection (b), none of the funds appropriated by this or any other Act may be used by the Office of Management and Budget, or any other agency, to publish, promulgate, or enforce any policy, regulation, or circular, or any rule or authority in any other form, that would permit any Federal agency to provide a commercially available property or service to any other department or agency of government unless the policy, regulation, circular, or other rule or authority meets the requirements prescribed under subsection (b).

(b)(1) Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe regulations applicable to any policy regulation, circular, or other rule or authority referred to in subsection (a).

(2) The requirements prescribed under paragraph (1) shall include the following:

(A) A requirement for a comparison between the cost of providing the property or service concerned through the agency concerned and the cost of providing such property or service through the private sector.

(B) A requirement for cost and performance benchmarks relating to the property or service provided relative to comparable services provided by other government agencies and contractors in order to permit effective oversight of the cost and provision of such property or service by the agency concerned or the Office of Management and Budget.

SHELBY AMENDMENT NO. 5225

Mr. SHELBY proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 135, after line 4, insert the following new section:

SEC. . Subsection (b) of section 404 of Public Law 103–356 is amended by deleting ''September 30, 1997'' and inserting ''December 31, 1999''.

STEVENS AMENDMENT NO. 5226

Mr. SHELBY (for Mr. STEVENS) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 134, line 7 strike all through page 135, line 4, and insert the following:

SEC. 645. REGULATORY ACCOUNTING.

(a) IN GENERAL.—No later than September 30, 1997, the Director of the Office of Management and Budget shall submit to the Congress a report that provides—

(1) estimates of the total annual costs and benefits of Federal regulatory programs, including quantitative and nonquantitative measures of regulatory costs and benefits;

(2) estimates of the costs and benefits (including quantitative and nonquantitative measures) of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs;

(3) an assessment of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government; and

(4) recommendations from the Director and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources.

(b) NOTICE.—The Director shall provide public notice and an opportunity to comment on the report under subsection (a) before the report is issued in final form.

MIKULSKI AMENDMENT NO. 5227

Mr. SHELBY (for Ms. MIKULSKI) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 93, after line 19 insert the following new section:

SEC. . FACILITY FOR THE UNITED STATES GOVERNMENT.

(a) CLOSING OF ALLEY.—The alley bisecting the property on which a facility is being constructed for use by the United States Government at 930 H Street, N.W., Washington, District of Columbia, is closed to the public, without regard to any contingencies.

(b) JURISDICTION.—The Administration of General Services shall have administrative jurisdiction over, and shall hold title on behalf of the United States in, the alley, property, and facility referred to in subsection (a).

MACK (AND GRAHAM) AMENDMENT NO. 5228

Mr. SHELBY (for Mr. MACK, for himself and Mr. GRAHAM) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) Notwithstanding any other provision of law, the Secretary may, on behalf of the United States, transfer to the University of Miami, without charge, title to the real property and improvements that as of the date of the enactment of this Act constitute the Federal facility known as the Perrine Primate Center, subject to the condition that, during the 10-year period beginning on the date of the transfer—

(1) the University will provide for the continued use of the real property and improvements as an animal research facility, including primates, and such use will be the exclusive use of the property (with such incidental exceptions as the Secretary may approve); or

(2) the real property and improvements will be used for research-related purposes other than the purpose specified in paragraph (1) (or for both of such purposes), if the Secretary and the University enter into an agreement accordingly.

(b) The conveyance under subsection (a) shall not become effective unless the conveyance specifies that, if the University of Miami engages in a material breach of the conditions specified in such subsection, title to the real property and improvements involved reverts to the United States at the election of the Secretary.

(c) The real property referred to in subsections (a) and (b) is located in the county of Dade in the State of Florida, and is a parcel consisting of the northernmost 30 acre-parcel of the area. The exact acreage and legal description used for purposes of the transfer under subsection (a) shall be in accordance with a survey that is satisfactory to the Secretary.

(d) For the purposes of this section—

(1) the term ''Secretary'' means the Secretary of Health and Human Services; and

(2) the term ''University of Miami'' means the University of Miami located in the State of Florida.

D'AMATO AMENDMENT NO. 5229

Mr. SHELBY (for Mr. D'AMATO) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . CRIMINAL SANCTIONS FOR FICTITIOUS FINANCIAL INSTRUMENTS AND COUNTERFEITING.

(a) INCREASED PENALTIES FOR COUNTERFEITING VIOLATIONS.—Sections 474 and 474A of

title 18, United States Code, are amended by striking ''class C felony'' each place that term appears and inserting ''class B felony''.

(b) CRIMINAL PENALTY FOR PRODUCTION, SALE, TRANSPORTATION, POSSESSION OF FICTITIOUS FINANCIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE ORGANIZATIONS.—

(1) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 513, the following new section:

''§ 514. Fictitious obligations

''(a) Whoever, with the intent to defraud—

''(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

''(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

''(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be guilty of a class B felony.

''(b) For purposes of this section, any term used in this subdivision that is defined in section 513(c) has the same meaning given such term in section 513(c).

''(c) The United States Secret Service, in addition to any other agency having such authority, shall have authority to investigate offenses under this section.''.

(2) TECHNICAL AMENDMENT.—The analysis for chapter 25 of title 18, United States Code, is amended by inserting after the item relating to section 513 the following:

''514. Fictitious obligations.''.

(c) PERIOD OF EFFECT.—This section and the amendments made by this section shall become effective on the date of enactment of this Act and shall remain in effect during each fiscal year following that date of enactment.

GREGG AMENDMENT NO. 5230

Mr. SHELBY (for Mr. GREGG) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 135, after line 4, add the following new section:

SEC. . None of the funds appropriated by this Act may be used by an agency to provide a Federal employee's home address except when it is made known to the Federal official having authority to obligate or expend such funds that the employee has authorized such disclosure or that such disclosure has been ordered by a court of competent jurisdiction.

KOHL AMENDMENT NO. 5231

Mr. SHELBY (for Mr. KOHL) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SENSE OF CONGRESS REGARDING TELEPHONE ASSISTANCE PROVIDED BY INTERNAL REVENUE SERVICE.

It is the sense of the Congress that the Internal Revenue Service should, in implementing any reorganization plan or otherwise, make all efforts to increase the level of service provided to taxpayers through its telephone assistance program. It is further the sense of the Congress that the Internal Revenue Service should establish performance goals, operating standards, and management practices which ensure such an increase in customer service.

KERREY (AND CHAFEE) AMENDMENT NO. 5232

Mr. SHELBY (for Mr. KERREY, for himself and Mr. CHAFEE) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 26, after line 9, add the following new section:

The Internal Revenue Service is prohibited from expending funds for the field office reorganization plan until the National Commission on Restructuring the Internal Revenue Service has had an opportunity to issue their final report.

HELMS (AND INHOFE) AMENDMENT NO. 5233

(Ordered to lie on the table.)

Mr. HELMS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the end of the bill add the following:

TITLE —ADDITIONAL GENERAL PROVISIONS

SEC. . None of the funds appropriated by this Act shall be available to pay any amount to, or to pay the administrative expenses in connection with, any health plan under the Federal employees health benefits program, when the Federal official having authority to obligate or expend such funds determines that such health plan operates a health care provider incentive plan that does not meet the requirements of section 1876(i)(8)(A) of the Social Security Act (42 U.S.C. 1395mm(i)(8)(A)) for physician incentive plans in contracts with eligible organizations under section 1876 of such Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 10, 1996, at 5 p.m. in executive session, to consider certain pending military nominations.

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

SUBCOMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, September 10, 1996 session of the Senate for the purpose of conducting a hearing on Amtrak Service.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 10, 1996, at 9:30 a.m.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THURMOND. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Tuesday, September 10, 1996, at 10 a.m., for a hearing on the subject: Technical and Management Issues in IRS Modernization.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Constitution, Federalism, and Property Rights be authorized to meet during the session of the Senate on Tuesday, September 10, 1996, at 10 a.m. to hold a hearing on Constitutional Implications of the Chemical Weapons Convention.

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

SUBCOMMITTEE ON HUD OVERSIGHT

Mr. THURMOND. Mr. President, I ask unanimous consent that the Subcommittee on HUD Oversight and Structure of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, September 10, 1996, to conduct a hearing on oversight of the Fair Housing Act and its enforcement.

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

ADDITIONAL STATEMENTS

DEATH OF AN ORIGINAL

● Mr. THOMPSON. Mr. President, with Monday's passing of bluegrass legend Bill Monroe at the age of 84, Tennessee and the world mourn the loss of an American musical original.

In a career spanning more than 60 years, Bill Monroe was the undisputed king and keeper of the music that he pioneered. In his trademark dress suit, and white, ten-gallon hat, Bill Monroe held the stage before admiring audiences around the world who watched him create and then popularize bluegrass music.

Bill Monroe's music is truly American and completely original. He created bluegrass from his imagination and named it for the rolling hills where he was born.

With his band, the ''Blue Grass Boys,'' Monroe mixed the music he heard as a child with the blues, Irish fiddle tunes and his own energy to create the sound we know today.

Bill Monroe's bluegrass is high-powered folk music, known for the instrumental mastery it demands, the high-velocity picking, tight harmonies, and the high, lonesome sound of the tenor lead.

Bill Monroe created a wonderful mix of crackling, bright sound with a lightning pace that instantly challenged musicians and listeners alike.

Bluegrass sounds like no other music before or since, and we have Bill Monroe to thank for it.

This musical frontiersman will be sorely missed He was a musical museum of American folk life who regularly entertained in bluegrass clubs and at outdoor festivals until the end of his years.

Though he was born in Kentucky, those of us from Tennessee proudly claim Bill Monroe as one of our own. He was a fixture on the Grand Ole Opry, and he spent much of his time in and around Nashville when he wasn't out on the road, playing for the massive crowds that always came out to hear him.

Bill Monroe didn't talk much, but his feelings came out eloquently when he was behind his mandolin and in front of an audience. Songs like ''Blue Moon of Kentucky,'' ''Uncle Pen,'' and ''Rawhide'' have already stood the test of time to become classics, and Bill Monroe's original gift comes through in each note.

He was born September 13, 1911 in rural western Kentucky into a family where nearly everyone played a musical instrument. The youngest of eight children, he went on to win numerous awards, including a Grammy and the National Medal of Arts for his life's achievement.

Almost no kind of music can be traced to the work of a single person, but bluegrass is different. It will always belong to Bill Monroe. His contribution to music is unequaled, and he will be greatly missed by all of us.●

CURIOUS CASE OF WHITE HOUSE VERSUS UNITED NATIONS

● Mr. SIMON. Mr. President, I have already mentioned to my colleagues that I think we are mishandling the matter of the election of the U.N. Secretary General.

Our inattention to the needs beyond our boarder—as well as to poverty here at home is not something Americans can be proud of.

And our failure to pay U.N. dues, our failure to join other nations in peacekeeping operations too frequently, our reluctance to lead when leadership is essential, and our negative tone toward U.N. Secretary-General Boutros Boutros-Ghali have all been mistakes.

Recently Georgie Anne Geyer had a column in the Chicago Tribune commenting about our handling of the Boutros-Ghali matter.

Georgie Anne Geyer is an experienced observer of the international scene; and when she comments on something like this, we should listen carefully to what she says.

Mr. President, I ask that the article from the Chicago Tribune be printed in the RECORD.

The article follows:

[From the Chicago Tribune]

CURIOUS CASE OF WHITE HOUSE VERSUS THE U.N.

(By Georgie Anne Geyer)

NEW YORK.—The international storm brewing here began May 13, when U.S. Secretary of State Warren Christopher received UN Secretary-General Boutros Boutros-Ghali and told the controversial Egyptian diplomat flatly, ''President Clinton does not want to give you a second mandate.''

According to internal reports at the United Nations here, Boutros-Ghali said, only partly in jest, ''Look, you are a good lawyer: Defend my case,'' To which, Christopher responded, not in jest at all, ''I am the lawyer of the president of the United States and not yours.''

Not only was this curious case of the White House versus the UN Plaza not ''rested,'' but all hell then broke loose on a number of continents and in the corridors of myriad foreign ministries, from Beijing to Budapest.

Christopher followed up the initial shock announcement by putting forward the idea of a ''compromise'' by which Boutros-Ghali would stay one year and then leave. (To which the Egyptian diplomat responded tartly: ''is this some sort of ''tip''? If so, it's not very generous.'')

Next, in Bonn for meeting, Boutros-Ghali received a private phone call from New York warning him that an announcement would come from the State Department in Washington the next day that the United States no longer supported him. (And so, at that point, Boutros-Ghali, who is no slouch when it comes to tactics, peremptorily moved on this unique geopolitical chessboard, announcing his intention to seek re-election for another five-year term.)

On July 8, the drama moved to Africa—to the Organization of African Unity meeting in Yaounde, Cameroon—where Washington sent an unusually large delegation of nine senior diplomats to try to sidetrack any support for the secretary-general.

Instead, Only three of the 54 African member states voted against the Egyptian UN leader, one of those being war-torn Rwanda, which opposed him because of his criticism of the massacres there.

If all of that were not enough, threats began to come out of the American administration that it would use its veto in the Security Council if Boutros-Ghali were backed this fall by a majority in the United Nations. But this presents a still further conundrum, for after the Cold War ended, Security Council members agreed not to use the veto, in order to free the UN from the constricting manner in which the Soviet Union had used it for so many years.

All of this is now at a classic diplomatic impasse. From a day and more of interviewing in the UN, I can say that many, many foreign diplomats are mad as hell at what they perceive as a repetition of historical American arrogance.

Floating around the United Nations now is the idea of a new ''compromise'' by which the secretary-general would accept a face-saving extension of his term. But that would not affect the main problem of this UN very much at all.

The real problem is that this administration tries to assert its power on matters like the choice of a secretary-general but consistently refused to show any leadership on the big issues facing the post-Cold War UN. If the UN has been less than what it could have been in these pivotal years, the primary responsibility for that failure has not been Boutros-Ghali's.●

RETIREMENT OF REAR ADM. THOMAS F. HALL, U.S. NAVY, CHIEF OF NAVAL RESERVE

● Mr. INHOFE. Mr. President, I rise today to recognize the dedication, public service, and patriotism of Rear Adm. Thomas F. Hall, U.S. Navy, Chief of Naval Reserve. Admiral Hall retires from the Navy on October 1, after a distinguished 37-year career of service to our Nation.

A native of Barnsdall, OK, Admiral Hall reported to the U.S. Naval Academy in 1959, graduated in 1963 and was designated a naval aviator in 1964. After earning his Wings of Gold, Admiral Hall chose to join the maritime patrol forces flying the new P–3 Orion. Excelling in flight training, he graduated No. 1 in his class, and was named the outstanding student. Admiral Hall continued to distinguish himself throughout his flying career amassing almost 5,000 pilot hours.

His initial fleet assignment was with Patrol Squadron 8, flying combat missions in Southeast Asia. Subsequent tours included the U.S. Naval Academy, as a Company Officer and Executive Assistant to the Commandant of Midshipmen, Patrol Squadron 23, completion of the command and staff course at the Naval War College, graduating with distinction, and assignment to the Bureau of Naval Personnel, were his billets included aviation staffs placement officer, head of air combat placement, and assistant head of aviation junior officer assignment. Admiral Hall returned to VP–8 as executive officer and then assumed duties as Commanding Officer. Admiral Hall also completed the course of instruction at the National War College, again graduating with distinction, and served on the staff of the Chief of Naval Operations where he served as Head of the Program Objective Memorandum Development section, as Chief of Staff to Commander Fleet Air Keflavik, and as a fellow to the CNO's strategic studies group. In addition to command of VP–8, Admiral Hall has also served in command of Naval Air Station Bermuda, the Icelandic Defense Forces, and most recently, command of the Naval Reserve.

Since September 1992, Admiral Hall has been the Chief of Naval Reserve, leading the Naval Reserve Force through its largest drawdown, while maintaining readiness and significantly increasing reserve contributory support to the fleet. Under Admiral Hall's leadership, the total force policy became a reality—Regular Navy and Naval Reservists working side-by-side, in operations worldwide, meeting the Navy's forward presence requirements.

In August 1989, Admiral Hall was promoted to Rear Admiral—lower half—and in July 1992 to his present rank of Rear Admiral—upper half. Admiral Hall wears the Defense Superior Service Medal, Legion of Merit, Meritorious Service Medal, Meritorious Unit Commendation, and various unit and campaign awards, holds a masters degree in management from George Washington University and attended Harvard University senior executives program. In July 1992, Admiral Hall was awarded the Icelandic Order of the Falcon, Commander's Cross with star, by the President of Iceland.

Our Nation, his wife Barbara, and his son Tom, can be immensely proud of the Admiral's long and distinguished career and his service to our country. I wish Admiral Hall and his family best wishes in his retirement.●

TRIBUTE TO JEROME R. VANMETER

● Mr. ROCKEFELLER. Mr. President, I want to pay tribute to a special West Virginian, Jerome R. ''Coach'' VanMeter. For more than 50 years, he was a high school football and basketball coach from Beckley. He is known throughout southern West Virginia as a man who not only has won many high school sporting events, but also as someone who has touched the lives of many young people. It is in this month of August that Mr. VanMeter celebrates his 96th birthday.

Mr. VanMeter received numerous awards during his long tenure as a coach. He was named Coach of the Year from 1948 until 1951 and was later selected to the West Virginia Sports Hall of Fame in 1963. Being one of the founders of the West Virginia High School Coaches Association is another one of Mr. VanMeter's crowning achievements. He was also proud to serve on many State selections committees responsible for choosing outstanding basketball and football players throughout the State.

Coach VanMeter has achieved much more than just personal awards. He has coached many of his teams to great success. His football teams won three state championships while his basketball teams won six. Four of those six State basketball championships were won consecutively, still a State record for the longest consecutive State basketball tournament wins.

Mr. VanMeter has not only contributed on the field and court, but has also been deeply involved in community endeavors. While living in Beckley, he served as president of the local Kiwanis Club later becoming lieutenant governor of the West Virginia District. In addition, Mr. VanMeter has also contributed some of his precious skills to the Raleigh County Education Association and the Heber Street Methodist Church as chairman of the board of trustees. Furthermore, he volunteered his time to serve on the junior and senior chamber of commerce for several years.

Jerome ''Coach'' VanMeter's numerous accomplishments merit notice and praise. His enthusiasm and concern for the many athletes he coached and his commitment to his community provide a model we should all strive to attain.●

THE MINNESOTA PARALYMPIANS

● Mr. WELLSTONE. Mr. President, I rise today to pay tribute to the Minnesota athletes who competed in the 1996 Paralympic Games in Atlanta. Over 3,500 athletes from more than 100 nations competed in the games, making it one of the world's largest sporting events. Overall the United States won 157 medals, including 46 Gold Medals. I salute each and every one of America's athletes, but I would like to mention a few of the 10 Minnesotans who participated in these important games.

The U.S. Paralympic cycling team won 13 medals in the road and track races during this year's games. Christopher Pyrkosz of Livonia, MN, was among those receiving a team medal for his efforts on the U.S. team.

Susan Hagel of Minneapolis and Josie Johnson of Gary also took home Bronze Medals, as part of the U.S. Paralympic women's basketball team.

The U.S. Paralympic judo team surprised the crowds in Atlanta with their strong showing in this year's competition. Jim Mastro of Fridley earned a Bronze Medal for his individual efforts.

Mitch Siedenfeld of Minneapolis also took home a Bronze Medal for his performance of the U.S. Paralympic table tennis team.

The 1996 Paralympic Games in Atlanta demonstrated the independence and empowerment of individuals with disabilities. Dozens of records were broken at this year's games, and the competition received considerable media attention around the world. The strength and determination of the Paralympic athletes is amazing, and I am sure that my colleagues join me in celebrating the United States' excellent overall showing during this year's games.●

ELIOT H. BANK

● Mr. LEVIN. Mr. President, it is with great pleasure that I recognize and honor Eliot H. Bank for his selection to receive the Association of Reconditioner's [ACR] Morris Hershson Award of Merit.

Eliot H. Bank was born in Chicago, IL, on March 13, 1935, to Sam & Mollie Bank. The family moved to Detroit in 1937. Like me, Eliot still considers himself incredibly lucky to have grown up in Detroit. Through his parents he gained an appreciation for many of the finer things in Michigan, including Hank Greenberg and the Detroit Tigers, fishing in the many lakes with his father—and later his son, Coney Island hot dogs, the Detroit Lions, and Belle Isle. From his parents he also learned the importance of public service and political activism. He was active in the early years of Detroit's public television station channel 56, and remains very active in many charitable organizations. He also ran for local public office in 1972.

Eliot's career in the drum reconditioning business has been long and varied. For the past 15 years, he has been executive vice president of Columbus Steel Drum Co. which operates one of the largest reconditioning plants in the world, and one which many consider to be the standard of the industry.

A member of ACR since 1960, Eliot has held almost every post in the association, including 3 years as chairman, 20 years on the board of directors, 8 years on the executive board, and the chairmanship of nearly every committee. Eliot is proudest of two of his accomplishments during his ACR chairmanship: Establishing new generation and finishing the work of his predecessors in establishing the ACR code of operating practices. New generation was initiated when Eliot decided to improve ACR's educational efforts toward the younger generation working in the industry. He recognized that within this younger generation were the future industry leaders.

In 1981, Eliot established drum management programs at 35 major automotive plants in the Midwest. This program, which continues today, provides the proper disposal and recycling of empty industrial containers that contain residues of hazardous materials.

In 1991, Eliot was part of a team put together by the International Confederation of Drum Reconditioners [ICDR]. They attended the United Nations meeting in Geneva and were successful in implementing the rules and regulations governing reconditioned steel drums in chapter 9 of the U.N. Code. From 1993 to 1996, Eliot served as chairman of the ICDR.

He is very proud of his family—wife, Elizabeth, an art and antiques dealer; daughter, Cindy Bank, Federal relations officer in Washington, DC, for the University of Michigan; son, Michael Bank, general manager of Columbus Steel Drum Co. in Columbus, OH; daughter, Katherine Garland, a designer in Chicago; daughter, Amy Katz, head of human resources, Somerset Collection, in Troy, MI; daughter-in-law, Patty Bank; son-in-law, Larry Garland; four terrific grandchildren—Brock and Shelby Bank and Addie and Ellery Garland; his sister and brother-in-law, Iris and Arnold Kaufman; and soon to be son-in-law, Todd Franklin.

I know that my Senate colleagues will join me in congratulating Eliot H. Bank on being awarded the Morris Hershson Award of Merit.●

HIGHER TUITION, MORE GRADE INFLATION

● Mr. SIMON. Mr. President, recently, Lawrence Gladieux and Robert Reischauer had an op-ed piece in the Washington Post that is a thoughtful and careful analysis of what we ought to be doing in the field of education.

President Clinton deserves praise for being a genuine education President. He was a genuine education Governor, as Governor of Arkansas, also.

President Clinton's support of direct lending in the face of strong opposition from the banks and the guaranty agencies marks him as no flash-in-the-pan gladiator who gives up easily.

But the wisdom of having any kind of tax cuts at this point in our Nation's fiscal history is extremely doubtful.

If we want to put more money into education, as I do, we can do it much

more wisely and prudently than through the proposals that have been announced by the President, popular as they are.

I ask that the Gladieux and Reischauer item be printed in the RECORD.

The material follows:

[From the Washington Post]

HIGHER TUITION, MORE GRADE INFLATION

(By Lawrence E. Gladieux and Robert D. Reischauer)

More than any president since Lyndon Johnson, Bill Clinton has linked his presidency to strengthening and broadening American education. He has argued persuasively that the nation needs to increase its investment in education to spur economic growth, expand opportunity and reduce growing income disparities. He has certainly earned the right to try to make education work for him as an issue in his reelection campaign, and that's clearly what he plans to do.

Unfortunately, one way the president has chosen to pursue his goals for education is by competing with the GOP on tax cuts. The centerpiece of his education agenda—tax breaks for families paying college tuition—would be bad tax policy and worse education policy. While tuition tax relief may be wildly popular with voters and leave Republicans speechless, it won't achieve the president's worthy objectives for education, won't help those most in need and will create more problems than it solves.

Under the president's plan, families could choose to deduct up to $10,000 in tuition from their taxable income or take a tax credit (a direct offset against federal income tax) of $1,500 for the first year of undergraduate education or training. The credit would be available for a second year if the student maintains a B average.

The vast majority of taxpayers who incur tuition expenses—joint filers with incomes up to $100,000 and single filers up to $70,000—would be eligible for these tax breaks. But before the nation invests the $43 billion that the administration says this plan will cost over the next six years, the public should demand that policy makers answer these questions:

Will tuition tax credit and deductions boost postsecondary enrollment? Not significantly. Most of the benefits would go to families of students who would have attended college anyway. For them, it will be a windfall. That won't lift the country's net investment in education or widen opportunities for higher education. For families who don't have quite enough to send their child to college, the tax relief may come too late to make a difference. While those families could adjust their payroll withholding, most won't. Thus any relief would be realized in year-end tax refunds, long after families needed the money to pay the tuition.

Will they help moderate- and low-income students who have the most difficulty meeting tuition costs? A tax deduction would be of no use to those without taxable income. On the other hand, the proposed $1,500 tax credit—because it would be ''refundable''—would benefit even students and families that owe no taxes. But nearly 4 million low-income students would largely be excluded from the tax credit because they receive Pell Grants which, under the Clinton plan, would be subtracted from their tax-credit eligibility.

Will the plan lead to greater federal intrusion into higher education? The Internal Revenue Service would have to certify the amount of tuition students actually paid, the size of their Pell Grants and whether they maintained B averages. This could impose complex regulatory burdens on universities and further complicate the tax code. It's no wonder the Treasury Department has long resisted proposals for tuition tax breaks.

Will the program encourage still higher tuition levels and more grade inflation? While the tuition spiral may be moderating slightly, college price increases have averaged more than twice the rate of inflation during the 1990s. With the vast majority of students receiving tax relief, colleges might have less incentive to hold down their tuition increases. Grades, which have been rising almost as rapidly as tuition, might get an extra boost too if professors hesitate to deny their students the B needed to renew the tax credit.

If more than $40 billion in new resources really can be found to expand access to higher education, is this the best way to invest it? A far better alternative to tuition tax schemes is need-based student financial aid. The existing aid program, imperfect as they may be, are a much more effective way to equalize educational opportunity and increase enrollment rates. More than $40 billion could go a long way toward restoring the purchasing power of Pell Grants and other proven programs, whose benefits inflation has eroded by as much as 50 percent during the past 15 years. Unlike tuition tax cuts, expanded need-based aid would not drag the IRS into the process of delivering educational benefits. Need-based aid also is less likely to increase inflationary pressure on college prices, because such aid goes to only a portion of the college-going population.

Economists have long argued that the tax code shouldn't be used if the same objective can be met through a direct-expenditure program. Tax incentives for college savings might make sense; parents seem to need more encouragement to put money away for their children's education. But tax relief for current tuition expenditures fails the test.

Maybe Clinton's tuition tax-relief plan, like the Republican across-the-board tax-cut proposals, can be chalked up to election-year pandering that will be forgotten after November. But oft-repeated campaign themes sometimes make it into the policy stream. That was the case in 1992, when candidate Clinton promised student-loan reform and community service that, as president, he turned into constructive initiatives. If reelected, Clinton again may stick with his campaign mantra. This time, it's tuition tax breaks. This time, he shouldn't.●

HAD IT NOT BEEN FOR THE VILLAGE . . .

● Mr. SIMON. Mr. President, we are hearing a great deal of talk about whether a family should save a child or whether a village should save a child. Obviously, we all should be doing what we can to save children.

The morning after the Democratic convention, I picked up the Chicago Tribune and read one person's moving story. Her name is Bunnie Reidel. I have never met her, but sometime I hope to have the honor of meeting her.

She tells a story that is important for all Americans to hear.

I ask that her story be printed in the CONGRESSIONAL RECORD.

The article follows:

HAD IT NOT BEEN FOR THE VILLAGE . . .

(By Bunnie Riedel)

These days the word ''village'' makes Republicans hiss and sneer and makes Democrats cheer wildly. Maybe it's because *village* has become the rallying cry for Republican-backed ''parental rights'' laws. Or maybe because the word is Afrocentric, as is the context from which ''It takes a village to raise a child'' is lifted. I don't know. I am sure, however, that parental rights proposals send chills down my spine and if it hadn't been for that much-maligned village, I would not be who I am today. In fact, I'd most likely be dead.

My youth was a living hell at best. I have the distinction of having had not one, but two mothers who were total failures.

My first mother was my biological mother. She became an itinerant farm worker, alcoholic, and finally, murder victim. I was her 12th child and there were three more to follow me. She left the Ozarks of Missouri while she was pregnant with me, with my older sister at her side, stopping just long enough in Tulsa to have me and then move on to California. There she worked the fields, lived off the kindness of loser men and drank her once attractive self into complete ruin. When I was two, she became pregnant again and decided to give me (not my sister or the new baby) up for adoption to her two landlords. I didn't see my older sister, Debra, for another 20 years and I met the original 10 children (left behind in Missouri) 10 years after that.

My second mother, Naomi, thought of herself as being completely antithetical to the first and in many ways she was. She provided a home, clothes, great cooking and regular church attendance. I can count the number of times she hugged me on one hand and count even fewer times she told me she loved me. Our home looked fine from without but was a nightmare within. My father died when I was 8 and Naomi conveniently forgot his admonition that she was not to hit me. So hit me she did. With belts, coat hangers, kicks, hair and ear-pulling, Naomi was determined to beat the hell out of me.

But more than the beatings. I'll never forget the things she said: ''You'll never amount to anything.'' ''You're so stupid.'' ''Sometimes I would like to kill you.'' These verbal tirades were almost worse than the physical beatings because they would last for hours. I'll never forget the time I had a girlfriend spending the night and my mother woke me up at 4 a.m. and railed on me until 7. My friend will never forget it either. Even now, after 25 years, my old friend mentions that episode every time we see each other.

For me, and for so many children like me, the village became our lifesaver. I would leave the house in the morning with swollen, red eyes (from crying myself to sleep the night before) and find haven for a few hours a day with adults who were actually kind, helpful and praised my accomplishments. School was my salvation. It was the teachers I encountered at public school who gave me a glimpse of what life could actually be like. In that glimpse, I saw a world beyond my mother's house, full of wonder and unafraid of inquiry. It was a world where discipline was administered with dignity and self-esteem was valued. Mrs. Nyberg, Mr. Woody, Mrs. Papadakis, Mr. Pessano, Mr. McDonald and Mrs. Edwards were people who broadened my horizons with ideas and information that were unattainable at home. They were people who gave me something to hold onto throughout those dark, ugly days and none of them knew that.

In my neighborhood, there were other examples of caring adults. My Girl Scout leader thought I had a keen, interesting mind and she told me so. The German woman down the street (with the six kids) taught me how to do the twist and offered me graham crackers and hot chocolate. My friend's aunt spent hours with me as I entered my teen years, talking to me like I was really a human being.

I used every excuse I could to go out into the village. I was active in after-school activities and clubs. I began working at 13. I

went away to church camp. I excelled in drama, journalism and forensics. These are the things that kept me from drowning myself in drugs or alcohol. These people and activities kept me from killing myself that one awful night when I was 16 and I had reached the end of my rope. These people and activities gave me the courage to pack a bag and leave home at 17, two weeks before I was ready to start my first semester at the university my mother insisted I could not go to, even though I had a scholarship and grants that completely paid my way. If it hadn't been for that village . . .

Now, many years since Naomi's death and many miles from that home that was not a home, I count on the village as a parent. When my children were little, the village taught me simple things that I had not learned at home; how to breast feed, how to change diapers, how to teach my children to read, how to discipline without violence. As my children have become teenagers and I have become a single parent, the village has become even more critical to my family's health and well-being. There are those loving adults at our church who adore my children, give them new experiences and constant encouragement. There are those caring adults at their school who challenge them to stretch their imaginations and use their intellect. There are those adults in our neighborhood who wave and smile and provide a watchful eye of protection. As a single, custodial parent of children whose father is 3,000 miles away and rarely sees them, I count on the men in the village to provide examples to my son and daughter of what dedicated, responsible men look like.

I know firsthand that not every parent is wise, all-knowing and caretaking. Sometimes it is because they did not receive those things themselves as children; sometimes it is because they are hopelessly lost in their own egos.

Making fun of a promising and true statement, that it does indeed ''take a village to raise a child,'' does not change bad parents into good ones, it only furthers political games at the expense of children. Writing into law that a parent's ''rights'' are absolute and inalienable (and thereby overturning almost 2,000 state child abuse statutes), will not strengthen families but lead to despair for the most vulnerable members of those families.

The village saved my life.●

A CALL TO TONE DOWN THE VIOLENCE

● Mr. SIMON. Mr. President, during our recess Joan Beck, an editorial writer for the Chicago Tribune who also does a column for the Tribune, had a column in which she calls on TV and movie executives to reduce the violence.

It is a subject that I have spent a fair amount of time on, and it is important to creating a more stable society and a brighter future for our children.

This is an area where bi-partisanship should mark our actions. I applaud both Bob Dole and Bill Clinton for being concerned here.

Mr. President, I ask that the article from The Chicago Tribune be printed in the RECORD.

The article follows:

A CALL TO TONE DOWN THE VIOLENCE

(By Joan Beck)

Bob Dole's latest efforts to persuade Hollywood to tone down the amount of violence in the movies got two thumbs down from most of his critics. They ridiculed his taste in films. They fretted about censorship. And they give him only pro forma applause before ignoring what he was saying.

Bill Clinton last week got TV broadcasters to agree to air a minimum of three hours of educational television for children every week. But his critics carped about government over-regulation. They argued about how to define ''educational.'' And they bristled about TV executives being used to further Clinton's re-election campaign.

But both the president and his Republican challenger are right about the dangers of exposing impressionable children to so much violence on TV and in the movies. The points they are making shouldn't be ignored.

Crime statistics may be down slightly in a few urban areas. But bombings, bomb threats and bomb scares are increasing. Drive-by shootings are being committed by kids on bicycles to young to have cars. One in every three black men in their 20s are either in prison or on probation or parole—up from one in four five year ago. Many urban parks and streets are abandoned at night because people fear for their lives.

Violent behavior has multiple—and interlocking—causes, of course. They include poverty, hopelessness, abuse, poor parenting, illegal drugs, mental illness, alcohol, racism, distorted values, gangs, the absence of violence in movies and TV.

Of these, the easiest and quickest to change may be television and movies.

Adults who enjoy violence as entertainment and the media executives who profit from it argue there is no convincing evidence to link violence in mass media to violence in real life. Like tobacco company honchos, they dismiss stacks of studies showing they are wrong.

But at the same time they claim TV does not promote violent behavior, media executives assure advertisers that commercials will influence millions of viewers. Their marketing departments have piles of research to back them up.

It is tricky to pinpoint how big an effect violence on TV and in the movies has on children and young people. Excessive exposure to filmed violence in childhood may not erupt into homicide and crime until adolescence. Other factors certainly make some children more vulnerable than others to media influences.

But the June issue of the Harvard Mental Health Letter sums up persuasive evidence that does link watching violence in mass media and aggressive behavior. The report is written by L. Rowell Huesmann, professor of psychology and communication, University of Michigan at Ann Arbor, and Jessica Moise, a doctoral student at the University of Michigan.

More than 100 laboratory studies done over the last 40 years show that at least some children exposed to films of dramatic violence act more aggressively afterward toward inanimate objects and other youngsters, the newsletter says. It adds, ''These results have been found in many countries among boys and girls of all social classes, races, ages and levels of intelligence.''

In addition, more than 50 field studies made over the last 20 years find that ''children who habitually watch more media violence behave more aggressively and accept aggression more readily as a way to solve problems.'' The connection shows up regardless of age, sex, social class and previous level of aggression, the author say.

Watching violence in the media leads to aggressive behavior in five ways, the Harvard newsletter says. First, children may imitate characters they see in the media, especially if they are admirable and their actions are rewarded. Then they tend to internalize the behavior and use it automatically in their everyday lives.

Second, violence in the media desensitizes children to the effects of violence. ''The more televised violence a child watches, the more acceptable aggressive behavior becomes,'' says the newsletter. It also makes children expect others to act violently and therefore feel they should, too.

Third, seeing violence in the media helps a child justify to himself his own acts of aggression and relieves any guilt he might feel, freeing him to continue to behave aggressively.

Fourth, watching violent acts on TV and in movies may activate aggressive thoughts and feelings a child already has or serve as a cognitive cue for later violent behavior. And fifth, children who watch a lot of violence can become desentized to it and the emotional and physiological responses that might turn them away from it become dulled.

''The studies are conclusive,'' says the Harvard newsletter. ''The evidence leaves no room for doubt that exposure to media violence stimulates aggression.''

The new V chip that lets parents cut off their children's access to violent programs should help. More high quality, ''educational'' shows for children on TV is a positive move. And all of us who fear violence and regret the changes we are making to protect ourselves—airline security checks, gated communities, more police, more prisons, more restrictions on ourselves about walking in the parks and on certain streets—can stop supporting violence as entertainment.

We can cut violence on TV and in movies out of our lives and help make it unprofitable for those who sell it. If enough of us refuse to pay to see violent films, studios will make fewer of them. If enough of us change the channel when a violent TV show comes on, broadcasters will get the message.

Cutting back on violence as entertainment won't solve the problem of violence in the real world. But it should help. It's something we can do now, while we try to figure out how to end poverty and keep fathers in the home and create more effective schools and end drug abuse and deal with all the other factors that contribute to violent crime.●

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRIME MINISTER OF IRELAND

Mr. SHELBY. Mr. President, I ask unanimous consent that the President pro tempore of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency, John Bruton, Prime Minister of Ireland, into the House Chamber for the joint meeting on Wednesday, September 11, 1996.

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

WATER RESOURCES DEVELOPMENT ACT OF 1996

Mr. SHELBY. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 640.

The PRESIDING OFFICER (Mr. SMITH) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 640) entitled ''An Act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Water Resources Development Act of 1996''.

(b) TABLE OF CONTENTS.—

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SEC. 2. DEFINITION.

For purposes of this Act, the term ''Secretary'' means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH CHIEF'S REPORTS.—Except as provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the respective reports designated in this section:

(1) AMERICAN RIVER WATERSHED, CALIFORNIA.—

(A) IN GENERAL.—The project for flood damage reduction, American and Sacramento Rivers, California: Supplemental Information Report for the American River Watershed Project, California, dated March 1996, at a total cost of $57,300,000, with an estimated Federal cost of $42,975,000 and an estimated non-Federal cost of $14,325,000, consisting of the following:

(i) Approximately 24 miles of slurry wall in the existing levees along the lower American River.

(ii) Approximately 12 miles of levee modifications along the east bank of the Sacramento River downstream from the Natomas Cross Canal.

(iii) 3 telemeter streamflow gages upstream from the Folsom Reservoir.

(iv) Modifications to the existing flood warning system along the lower American River.

(B) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal sponsor shall receive credit toward the non-Federal share of the cost of the project for expenses that the sponsor has incurred for design and construction of any of the features authorized pursuant to this paragraph prior to the date on which Federal funds are appropriated for construction of the project. The amount of the credit shall be determined by the Secretary.

(C) OPERATION OF FOLSOM DAM.—The Secretary of the Interior shall continue to operate the Folsom Dam and Reservoir to the variable 400,000/670,000 acre-feet of flood control storage capacity as an interim measure and extend the agreement between the Bureau of Reclamation and the Sacramento Area Flood Control Agency until such date as a comprehensive flood control plan for the American River Watershed has been implemented.

(D) RESPONSIBILITY OF NON-FEDERAL SPONSOR.—The non-Federal sponsor shall be responsible for all operation, maintenance, repair, replacement, and rehabilitation costs associated with the improvements undertaken pursuant to this paragraph, as well as for 25 percent of the costs for the variable flood control operation of the Folsom Dam and Reservoir (including any incremental power and water purchase costs incurred by the Western Area Power Administration or the Bureau of Reclamation and any direction, capital, and operation and maintenance costs borne by either of such agencies). Notwithstanding any contract or other agreement, the remaining 75 percent of the costs for the variable flood control operation of the Folsom Dam and Reservoir shall be the responsibility of the United States and shall be nonreimbursable.

(2) SAN LORENZO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, San Lorenzo River, Santa Cruz, California: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $21,800,000, with an estimated Federal cost of $10,900,000 and an estimated non-Federal cost of $10,900,000.

(3) SANTA BARBARA HARBOR, CALIFORNIA.—The project for navigation, Santa Barbara Harbor, California: Report of the Chief of Engineers, dated April 26, 1994, at a total cost of $5,840,000, with an estimated Federal cost of $4,670,000 and an estimated non-Federal cost of $1,170,000.

(4) SANTA MONICA BREAKWATER, CALIFORNIA.—The project for navigation and storm damage reduction, Santa Monica Breakwater, Santa Monica, California: Report of the Chief of Engineers, dated June 7, 1996, at a total cost of $6,440,000, with an estimated Federal cost of $4,220,000 and an estimated non-Federal cost of $2,220,000.

(5) MARIN COUNTY SHORELINE, SAN RAFAEL, CALIFORNIA.—The project for storm damage reduction, Marin County shoreline, San Rafael, California: Report of the Chief of Engineers, dated January 28, 1994, at a total cost of $28,300,000, with an estimated Federal cost of $18,400,000 and an estimated non-Federal cost of $9,900,000.

(6) HUMBOLDT HARBOR AND BAY, CALIFORNIA.—The project for navigation, Humboldt Harbor and Bay, California: Report of the Chief of Engineers, dated October 30, 1995, at a total cost of $15,180,000, with an estimated Federal cost of $10,000,000 and an estimated non-Federal cost of $5,180,000.

(7) ANACOSTIA RIVER AND TRIBUTARIES, DISTRICT OF COLUMBIA AND MARYLAND.—The project for environmental restoration, Anacostia River and Tributaries, District of Columbia and Maryland: Report of the Chief of Engineers, dated November 15, 1994, at a total cost of $17,144,000, with an estimated Federal cost of $12,858,000 and an estimated non-Federal cost of $4,286,000.

(8) ATLANTIC INTRACOASTAL WATERWAY, ST. JOHNS COUNTY, FLORIDA.—The project for navigation, Atlantic Intracoastal Waterway, St. Johns County, Florida: Report of the Chief of Engineers, dated June 24, 1994, at a total Federal cost of $15,881,000. Operation, maintenance, repair, replacement, and rehabilitation shall be a non-Federal responsibility and the non-Federal interest must assume ownership of the bridge.

(9) LAKE MICHIGAN, ILLINOIS.—The project for storm damage reduction and shoreline erosion protection, Lake Michigan, Illinois, from Wilmette, Illinois, to the Illinois-Indiana State line: Report of the Chief of Engineers, dated April 14, 1994, at a total cost of $204,000,000, with an estimated Federal cost of $110,000,000 and an estimated non-Federal cost of $94,000,000. The project shall include the breakwater near the South Water Filtration Plant described in the report as a separate element of the project, at a total cost of $11,470,000, with an estimated Federal cost of $7,460,000 and an estimated non-Federal cost of $4,010,000. The Secretary shall reimburse the non-Federal interest for the Federal share of any costs incurred by the non-Federal interest—

(A) in reconstructing the revetment structures protecting Solidarity Drive in Chicago, Illinois, if such work is determined by the Secretary to be a component of the project; and

(B) in constructing the breakwater near the South Water Filtration Plant in Chicago, Illinois.

(10) KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KENTUCKY.—The project for navigation, Kentucky Lock and Dam, Tennessee River, Kentucky: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $393,200,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(11) POND CREEK, JEFFERSON COUNTY, KENTUCKY.—The project for flood control, Pond

Creek, Jefferson County, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $16,080,000, with an estimated Federal cost of $10,993,000 and an estimated non-Federal cost of $5,087,000.

(12) WOLF CREEK DAM AND LAKE CUMBERLAND, KENTUCKY.—The project for hydropower, Wolf Creek Dam and Lake Cumberland, Kentucky: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $53,763,000, with an estimated non-Federal cost of $53,763,000. Funds derived by the Tennessee Valley Authority from its power program and funds derived from any private or public entity designated by the Southeastern Power Administration may be used to pay all or part of the costs of the project.

(13) PORT FOURCHON, LAFOURCHE PARISH, LOUISIANA.—A project for navigation, Belle Pass and Bayou Lafourche, Louisiana: Report of the Chief of Engineers, dated April 7, 1995, at a total cost of $4,440,000, with an estimated Federal cost of $2,300,000 and an estimated non-Federal cost of $2,140,000.

(14) WEST BANK OF THE MISSISSIPPI RIVER, NEW ORLEANS (EAST OF HARVEY CANAL), LOUISIANA.—The project for hurricane damage reduction, West Bank of the Mississippi River in the vicinity of New Orleans (East of Harvey Canal), Louisiana: Report of the Chief of Engineers, dated May 1, 1995, at a total cost of $126,000,000, with an estimated Federal cost of $82,200,000 and an estimated non-Federal cost of $43,800,000.

(15) WOOD RIVER, GRAND ISLAND, NEBRASKA.—The project for flood control, Wood River, Grand Island, Nebraska: Report of the Chief of Engineers, dated May 3, 1994, at a total cost of $11,800,000, with an estimated Federal cost of $6,040,000 and an estimated non-Federal cost of $5,760,000.

(16) LAS CRUCES, NEW MEXICO.—The project for flood control, Las Cruces, New Mexico: Report of the Chief of Engineers, dated June 24, 1996, at a total cost of $8,278,000, with an estimated Federal cost of $5,494,000 and an estimated non-Federal cost of $2,784,000.

(17) LONG BEACH ISLAND, NEW YORK.—The project for storm damage reduction, Long Beach Island, New York: Report of the Chief of Engineers, dated April 5, 1996, at a total cost of $72,090,000, with an estimated Federal cost of $46,858,000 and an estimated non-Federal cost of $25,232,000.

(18) WILMINGTON HARBOR, CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Wilmington Harbor, Cape Fear and Northeast Cape Fear Rivers, North Carolina: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $23,953,000, with an estimated Federal cost of $15,032,000 and an estimated non-Federal cost of $8,921,000.

(19) DUCK CREEK, CINCINNATI, OHIO.—The project for flood control, Duck Creek, Cincinnati, Ohio: Report of the Chief of Engineers, dated June 28, 1994, at a total cost of $15,947,000, with an estimated Federal cost of $11,960,000 and an estimated non-Federal cost of $3,987,000.

(20) WILLAMETTE RIVER TEMPERATURE CONTROL, MCKENZIE SUBBASIN, OREGON.—The project for environmental restoration, Willamette River Temperature Control, McKenzie Subbasin, Oregon: Report of the Chief of Engineers, dated February 1, 1996, at a total cost of $38,000,000, with an estimated Federal cost of $38,000,000.

(21) RIO GRANDE DE ARECIBO, PUERTO RICO.—The project for flood control, Rio Grande de Arecibo, Puerto Rico: Report of the Chief of Engineers, dated April 5, 1994, at a total cost of $19,951,000, with an estimated Federal cost of $10,557,000 and an estimated non-Federal cost of $9,394,000.

(22) CHARLESTON HARBOR, SOUTH CAROLINA.—The project for navigation, Charleston Harbor Deepening and Widening, South Carolina: Report of the Chief of Engineers, dated July 18, 1996, at a total cost of $116,639,000, with an estimated Federal cost of $72,798,000 and an estimated non-Federal cost of $43,841,000.

(23) BIG SIOUX RIVER AND SKUNK CREEK, SIOUX FALLS, SOUTH DAKOTA.—The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota: Report of the Chief of Engineers, dated June 30, 1994, at a total cost of $34,600,000, with an estimated Federal cost of $25,900,000 and an estimated non-Federal cost of $8,700,000.

(24) WATERTOWN, SOUTH DAKOTA.—The project for flood control, Watertown and Vicinity, South Dakota: Report of the Chief of Engineers, dated August 31, 1994, at a total cost of $18,000,000, with an estimated Federal cost of $13,200,000 and an estimated non-Federal cost of $4,800,000.

(25) GULF INTRACOASTAL WATERWAY, ARANSAS NATIONAL WILDLIFE REFUGE, TEXAS.—The project for navigation and environmental preservation, Gulf Intracoastal Waterway, Aransas National Wildlife Refuge, Texas: Report of the Chief of Engineers, dated May 28, 1996, at a total cost of $18,283,000, with an estimated Federal cost of $18,283,000.

(26) HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS.—The project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas: Report of the Chief of Engineers, dated May 9, 1996, at a total initial construction cost of $292,797,000, with an estimated Federal cost of $210,891,000 and an estimated non-Federal cost of $81,906,000. The project shall include deferred construction of additional environmental restoration features over the life of the project, at a total average annual cost of $786,000, with an estimated Federal cost of $590,000 and an estimated non-Federal cost of $196,000. The construction of berthing areas and the removal of pipelines and other obstructions that are necessary for the project shall be accomplished at non-Federal expense. Non-Federal interests shall receive credit toward cash contributions required during construction and subsequent to construction for design and construction management work that is performed by non-Federal interests and that the Secretary determines is necessary to implement the project.

(27) MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA.—The project for navigation, Marmet Lock, Kanawha River, West Virginia: Report of the Chief of Engineers, dated June 24, 1994, at a total cost of $229,581,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund. In conducting any real estate acquisition activities with respect to the project, the Secretary shall give priority consideration to those individuals who would be directly affected by any physical displacement due to project design and shall consider the financial circumstances of such individuals. The Secretary shall proceed with real estate acquisition in connection with the project expeditiously.

(b) PROJECTS WITH PENDING CHIEF'S REPORTS.—The following projects are authorized to be carried out by the Secretary substantially in accordance with a final report of the Chief of Engineers if such report is completed not later than December 31, 1996:

(1) CHIGNIK, ALASKA.—The project for navigation, Chignik, Alaska, at a total cost of $10,365,000, with an estimated Federal cost of $4,344,000 and an estimated non-Federal cost of $6,021,000.

(2) COOK INLET, ALASKA.—The project for navigation, Cook Inlet, Alaska, at a total cost of $5,342,000, with an estimated Federal cost of $4,006,000 and an estimated non-Federal cost of $1,336,000.

(3) ST. PAUL ISLAND HARBOR, ST. PAUL, ALASKA.—The project for navigation, St. Paul Harbor, St. Paul, Alaska, with an estimated total cost of $18,981,000, with an estimated Federal cost of $12,188,000 and an estimated non-Federal cost of $6,793,000.

(4) NORCO BLUFFS, RIVERSIDE COUNTY, CALIFORNIA.—A project for bluff stabilization, Norco Bluffs, Riverside County, California, with an estimated total cost of $8,600,000, with an estimated Federal cost of $6,450,000 and an estimated non-Federal cost of $2,150,000.

(5) PORT OF LONG BEACH (DEEPENING), CALIFORNIA.—The project for navigation, Port of Long Beach (Deepening), California, at a total cost of $37,288,000, with an estimated Federal cost of $14,318,000 and an estimated non-Federal cost of $22,970,000.

(6) TERMINUS DAM, KAWEAH RIVER, CALIFORNIA.—The project for flood damage reduction and water supply, Terminus Dam, Kaweah River, California, at a total estimated cost of $34,500,000, with an estimated Federal cost of $20,200,000 and an estimated non-Federal cost of $14,300,000.

(7) REHOBOTH BEACH AND DEWEY BEACH, DELAWARE.—A project for storm damage reduction and shoreline protection, Rehoboth Beach and Dewey Beach, Delaware, at a total cost of $9,423,000, with an estimated first Federal cost of $6,125,000, and an estimated first non-Federal cost of $3,298,000, and an average annual cost of $282,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $183,000 and an estimated annual non-Federal cost of $99,000.

(8) BREVARD COUNTY, FLORIDA.—The project for shoreline protection, Brevard County, Florida, at a total first cost of $76,620,000, with an estimated first Federal cost of $36,006,000, and an estimated first non-Federal cost of $40,614,000, and an average annual cost of $2,341,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,109,000 and an estimated annual non-Federal cost of $1,232,000.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Miami, Florida, with an estimated total cost of $3,221,000, with an estimated Federal cost of $1,800,000 and an estimated non-Federal cost of $1,421,000.

(10) NORTH WORTH INLET, FLORIDA.—The project for navigation and shoreline protection, Lake Worth Inlet, Palm Beach Harbor, Florida, at a total cost of $3,915,000, with an estimated Federal cost of $1,762,000 and an estimated non-Federal cost of $2,153,000.

(11) LOWER SAVANNAH RIVER BASIN, SAVANNAH RIVER, GEORGIA AND SOUTH CAROLINA.—The project for navigation and related purposes, Lower Savannah River Basin, Savannah River, Georgia and South Carolina, at a total cost of $3,419,000, with an estimated Federal cost of $2,551,000, and an estimated non-Federal cost of $868,000.

(12) ABSECON ISLAND, NEW JERSEY.—The project for storm damage reduction and shoreline protection, Brigantine Inlet to Great Egg Harbor Inlet, Absecon Island, New Jersey, at a total cost of $52,000,000, with an estimated Federal cost of $34,000,000 and an estimated non-Federal cost of $18,000,000.

(13) CAPE FEAR RIVER, NORTH CAROLINA.—The project for navigation, Cape Fear River deepening, North Carolina, at a total cost of $210,264,000, with an estimated Federal cost of $130,159,000, and an estimated non-Federal cost of $80,105,000.

SEC. 102. SMALL FLOOD CONTROL PROJECTS.

(a) PROJECT DESCRIPTIONS.—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) SOUTH UPLAND, SAN BERNADINO COUNTY, CALIFORNIA.—Project for flood control, South Upland, San Bernadino County, California.

(2) BIRDS, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Birds, Lawrence County, Illinois.

(3) BRIDGEPORT, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Bridgeport, Lawrence County, Illinois.

(4) EMBARRAS RIVER, VILLA GROVE, ILLINOIS.—Project for flood control, Embarras River, Villa Grove, Illinois.

(5) FRANKFORT, WILL COUNTY, ILLINOIS.—Project for flood control, Frankfort, Will County, Illinois.

(6) SUMNER, LAWRENCE COUNTY, ILLINOIS.—Project for flood control, Sumner, Lawrence County, Illinois.

(7) VERMILLION RIVER, DEMANADE PARK, LAFAYETTE, LOUISIANA.—Project for nonstructural flood control, Vermillion River, Demanade Park, Lafayette, Louisiana. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the Lafayette Parish feasibility study and expedite completion of the study under this paragraph.

(8) VERMILLION RIVER, QUAIL HOLLOW SUBDIVISION, LAFAYETTE, LOUISIANA.—Project for nonstructural flood control, Vermillion River, Quail Hollow Subdivision, Lafayette, Louisiana. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the Lafayette Parish feasibility study and expedite completion of the study under this paragraph.

(9) KAWKAWLIN RIVER, BAY COUNTY, MICHIGAN.—Project for flood control, Kawkawlin River, Bay County, Michigan.

(10) WHITNEY DRAIN, ARENAC COUNTY, MICHIGAN.—Project for flood control, Whitney Drain, Arenac County, Michigan.

(11) FESTUS AND CRYSTAL CITY, MISSOURI.—Project for flood control, Festus and Crystal City, Missouri. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the existing reconnaissance study and shall expedite completion of the study under this paragraph.

(12) KIMMSWICK, MISSOURI.—Project for flood control, Kimmswick, Missouri. In carrying out the study and the project (if any) under this paragraph, the Secretary shall use relevant information from the existing reconnaissance study and shall expedite completion of the study under this paragraph.

(13) RIVER DES PERES, ST. LOUIS COUNTY, MISSOURI.—Project for flood control, River Des Peres, St. Louis County, Missouri. In carrying out the study and the project (if any), the Secretary shall determine the feasibility of potential flood control measures, consider potential storm water runoff and related improvements, and cooperate with the Metropolitan St. Louis Sewer District.

(14) BUFFALO CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Buffalo Creek, Erie County, New York.

(15) CAZENOVIA CREEK, ERIE COUNTY, NEW YORK.—Project for flood control, Cazenovia Creek, Erie County, New York.

(16) CHEEKTOWAGA, ERIE COUNTY, NEW YORK.—Project for flood control, Cheektowaga, Erie County, New York.

(17) FULMER CREEK, VILLAGE OF MOHAWK, NEW YORK.—Project for flood control, Fulmer Creek, Village of Mohawk, New York.

(18) MOYER CREEK, VILLAGE OF FRANKFORT, NEW YORK.—Project for flood control, Moyer Creek, Village of Frankfort, New York.

(19) SAUQUOIT CREEK, WHITESBORO, NEW YORK.—Project for flood control, Sauquoit Creek, Whitesboro, New York.

(20) STEELE CREEK, VILLAGE OF ILION, NEW YORK.—Project for flood control, Steele Creek, Village of Ilion, New York.

(21) WILLAMETTE RIVER, OREGON.—Project for nonstructural flood control, Willamette River, Oregon, including floodplain and ecosystem restoration.

(22) GREENBRIER RIVER BASIN, WEST VIRGINIA.—Project for flood control, consisting of an early flood warning system, Greenbrier River Basin, West Virginia.

(b) COST ALLOCATIONS.—

(1) LAKE ELSINORE, CALIFORNIA.—The maximum amount of Federal funds that may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Lake Elsinore, Riverside County, California, shall be $7,500,000.

(2) LOST CREEK, COLUMBUS, NEBRASKA.—The maximum amount of Federal funds that may be allotted under such section 205 for the project for flood control, Lost Creek, Columbus, Nebraska, shall be $5,500,000.

(3) REVISION OF PROJECT COOPERATION AGREEMENT.—The Secretary shall revise the project cooperation agreement for the projects referred to in paragraphs (1) and (2) in order to take into account the change in the Federal participation in such projects pursuant to such paragraphs.

(4) COST SHARING.—Nothing in this subsection shall be construed to affect any cost-sharing requirement applicable to the project referred to in paragraph (1) under the Water Resources Development Act of 1986.

SEC. 103. SMALL BANK STABILIZATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) ST. JOSEPH RIVER, INDIANA.—Project for bank stabilization, St. Joseph River, South Bend, Indiana, including recreation and pedestrian access features.

(2) ALLEGHENY RIVER AT OIL CITY, PENNSYLVANIA.—Project for bank stabilization to address erosion problems affecting the pipeline crossing the Allegheny River at Oil City, Pennsylvania, including measures to address erosion affecting the pipeline in the bed of the Allegheny River and its adjacent banks.

(3) CUMBERLAND RIVER, NASHVILLE, TENNESSEE.—Project for bank stabilization, Cumberland River, Nashville, Tennessee.

(4) TENNESSEE RIVER, HAMILTON COUNTY, TENNESSEE.—Project for bank stabilization, Tennessee River, Hamilton County, Tennessee; except that the maximum amount of Federal funds that may be allotted for the project shall be $7,500,000.

SEC. 104. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) AKUTAN, ALASKA.—Project for navigation, Akutan, Alaska, consisting of a bulkhead and a wave barrier, including application of innovative technology involving use of a permeable breakwater.

(2) GRAND MARAIS HARBOR BREAKWATER, MICHIGAN.—Project for navigation, Grand Marais Harbor breakwater, Michigan.

(3) DULUTH, MINNESOTA.—Project for navigation, Duluth, Minnesota.

(4) TACONITE, MINNESOTA.—Project for navigation, Taconite, Minnesota.

(5) TWO HARBORS, MINNESOTA.—Project for navigation, Two Harbors, Minnesota.

(6) CARUTHERSVILLE HARBOR, PEMISCOT COUNTY, MISSOURI.—Project for navigation, Caruthersville Harbor, Pemiscot County, Missouri, including enlargement of the existing harbor and bank stabilization measures.

(7) NEW MADRID COUNTY HARBOR, MISSOURI.—Project for navigation, New Madrid County Harbor, Missouri, including enlargement of the existing harbor and bank stabilization measures.

(8) BROOKLYN, NEW YORK.—Project for navigation, Brooklyn, New York, including restoration of the pier and related navigation support structures, at the Sixty-Ninth Street Pier.

(9) BUFFALO INNER HARBOR, BUFFALO, NEW YORK.—Project for navigation, Buffalo Inner Harbor, Buffalo, New York.

(10) GLENN COVE CREEK, NEW YORK.—Project for navigation, Glenn Cove Creek, New York, including bulkheading.

(11) UNION SHIP CANAL, BUFFALO AND LACKAWANNA, NEW YORK.—Project for navigation, Union Ship Canal, Buffalo and Lackawanna, New York.

SEC. 105. SMALL SHORELINE PROTECTION PROJECTS.

(a) PROJECT AUTHORIZATIONS.—The Secretary shall conduct a study for each of the following projects, and if the Secretary determines that the project is feasible, shall carry out the project under section 3 of the Shoreline Protection Act of August 13, 1946 (33 U.S.C. 426g):

(1) FAULKNER'S ISLAND, CONNECTICUT.—Project for shoreline protection, Faulkner's Island, Connecticut; except that the maximum amount of Federal funds that may be allotted for the project shall be $4,500,000.

(2) FORT PIERCE, FLORIDA.—Project for 1 mile of additional shoreline protection, Fort Pierce, Florida.

(3) ORCHARD BEACH, BRONX, NEW YORK.—Project for shoreline protection, Orchard Beach, Bronx, New York, New York; except that the maximum amount of Federal funds that may be allotted for the project shall be $5,200,000.

(4) SYLVAN BEACH BREAKWATER, VERONA, ONEIDA COUNTY, NEW YORK.—Project for shoreline protection, Sylvan Beach breakwater, Verona, Oneida County, New York.

(b) COST SHARING AGREEMENT.—In carrying out the project authorized by subsection (a)(1), the Secretary shall enter into an agreement with the property owner to determine the allocation of the project costs.

SEC. 106. SMALL SNAGGING AND SEDIMENT REMOVAL PROJECT, MISSISSIPPI RIVER, LITTLE FALLS, MINNESOTA.

The Secretary shall conduct a study for a project for clearing, snagging, and sediment removal, East Bank of the Mississippi River, Little Falls, Minnesota, including removal of sediment from culverts. The study shall include a determination of the adequacy of culverts to maintain flows through the channel. If the Secretary determines that the project is feasible, the Secretary shall carry out the project under section 3 of the River and Harbor Act of March 2, 1945 (33 U.S.C. 603a; 59 Stat. 23).

SEC. 107. SMALL PROJECTS FOR IMPROVEMENT OF THE ENVIRONMENT.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is appropriate, shall carry out the project under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309(a)):

(1) UPPER TRUCKEE RIVER, EL DORADO COUNTY, CALIFORNIA.—Project for environmental restoration, Upper Truckee River, El Dorado County, California, including measures for restoration of degraded wetlands and wildlife enhancement.

(2) SAN LORENZO RIVER, CALIFORNIA.—Project for habitat restoration, San Lorenzo River, California.

(3) WHITTIER NARROWS DAM, CALIFORNIA.—Project for environmental restoration and remediation of contaminated water sources, Whittier Narrows Dam, California.

(4) UPPER JORDAN RIVER, SALT LAKE COUNTY, UTAH.—Project for channel restoration and environmental improvement, Upper Jordan River, Salt Lake County, Utah.

SEC. 108. PROJECT TO MITIGATE SHORE DAMAGE.

The Secretary shall expedite the Assateague Island restoration feature of the Ocean City, Maryland, and vicinity study and, if the Secretary determines that the Federal navigation project has contributed to degradation of the shoreline, the Secretary shall carry out the project for shoreline restoration under section 111 of the River and Harbor Act of 1968 (82 Stat. 735); except that the maximum amount of Federal funds that may be allotted by the Secretary for the project shall be $35,000,000. In carrying out the project, the Secretary shall coordinate with affected Federal and State agencies and shall enter into an agreement with the Federal property owner to determine the allocation of the project costs.

TITLE II—GENERALLY APPLICABLE PROVISIONS

SEC. 201. COST SHARING FOR DREDGED MATERIAL DISPOSAL AREAS.

(a) CONSTRUCTION.—Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a); 100 Stat. 4082–4083) is amended—

(1) by striking the last sentence of paragraph (2) and inserting the following: ''The value of lands, easements, rights-of-way, and relocations provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.'';

(2) in paragraph (3)—

(A) by inserting ''and'' after ''rights-of-way,'';

(B) by striking '', and dredged material disposal areas''; and

(C) by inserting '', including any lands, easements, rights-of-way, and relocations (other than utility relocations accomplished under paragraph (4)) that are necessary for dredged material disposal facilities'' before the period at the end of such paragraph; and

(3) by adding at the end the following:

''(5) DREDGED MATERIAL DISPOSAL FACILITIES FOR PROJECT CONSTRUCTION.—For purposes of this subsection, the term 'general navigation features' includes constructed land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for project construction and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph.''.

(b) OPERATION AND MAINTENANCE.—Section 101(b) of such Act (33 U.S.C. 2211(b); 100 Stat. 4083) is amended—

(1) by inserting ''(1) IN GENERAL.—'' before ''The Federal'';

(2) by indenting and moving paragraph (1), as designated by paragraph (1) of this subsection, 2 ems to the right;

(3) by striking ''pursuant to this Act'' and inserting ''by the Secretary pursuant to this Act or any other law approved after the date of the enactment of this Act''; and

(4) by adding at the end thereof the following:

''(2) DREDGED MATERIAL DISPOSAL FACILITIES.—The Federal share of the cost of constructing land-based and aquatic dredged material disposal facilities that are necessary for the disposal of dredged material required for the operation and maintenance of a project and for which a contract for construction has not been awarded on or before the date of the enactment of this paragraph shall be determined in accordance with subsection (a). The Federal share of operating and maintaining such facilities shall be determined in accordance with paragraph (1).''.

(c) AGREEMENT.—Section 101(e)(1) of such Act (33 U.S.C. 2211(e)(1); 100 Stat. 4083) is amended by striking ''and to provide dredged material disposal areas and perform'' and inserting ''including those necessary for dredged material disposal facilities, and to perform''.

(d) CONSIDERATION OF FUNDING REQUIREMENTS AND EQUITABLE APPORTIONMENT.—Section 101 of such Act (33 U.S.C. 2211; 100 Stat. 4082–4084) is further amended by adding at the end the following:

''(f) CONSIDERATION OF FUNDING REQUIREMENTS AND EQUITABLE APPORTIONMENT.—The Secretary shall ensure, to the extent practicable, that—

''(1) funding necessary for operation and maintenance dredging of commercial navigation harbors is provided before Federal funds are obligated for payment of the Federal share of costs associated with construction of dredged material disposal facilities in accordance with subsections (a) and (b);

''(2) funds expended for such construction are equitably apportioned in accordance with regional needs; and

''(3) the Secretary's participation in the construction of dredged material disposal facilities does not result in unfair competition with potential private sector providers of such facilities.''.

(e) ELIGIBLE OPERATIONS AND MAINTENANCE DEFINED.—Section 214(2) of such Act (33 U.S.C. 2241; 100 Stat. 4108) is amended—

(1) in subparagraph (A)—

(A) by inserting ''Federal'' after ''means all'';

(B) by inserting ''(i)'' after ''including''; and

(C) by inserting before the period at the end the following: ''; (ii) the construction of dredged material disposal facilities that are necessary for the operation and maintenance of any harbor or inland harbor; (iii) dredging and disposing of contaminated sediments which are in or which affect the maintenance of Federal navigation channels; (iv) mitigating for impacts resulting from Federal navigation operation and maintenance activities; and (v) operating and maintaining dredged material disposal facilities''; and

(2) in subparagraph (C) by striking ''rights-of-way, or dredged material disposal areas,'' and inserting ''or rights-of-way,''.

(f) AMENDMENT OF COOPERATION AGREEMENT.—If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act to reflect the application of the amendments made by this section to any project for which a contract for construction has not been awarded on or before such date of enactment.

(g) SAVINGS CLAUSE.—Nothing in this section (including the amendments made by this section) shall increase, or result in the increase of, the non-Federal share of the costs of—

(1) any dredged material disposal facility authorized before the date of the enactment of this Act, including any facility authorized by section 123 of the River and Harbor Act of 1970 (84 Stat. 1823); or

(2) any dredged material disposal facility that is necessary for the construction or maintenance of a project authorized before the date of the enactment of this Act.

SEC. 202. FLOOD CONTROL POLICY.

(a) FLOOD CONTROL COST SHARING.—

(1) INCREASED NON-FEDERAL CONTRIBUTIONS.—Subsections (a) and (b) of section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a) and (b)) are each amended by striking ''25 percent'' each place it appears and inserting ''35 percent''.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall apply to any project authorized after the date of the enactment of this Act and to any flood control project which is not specifically authorized by Congress for which a Detailed Project Report is approved after such date of enactment or, in the case of a project for which no Detailed Project Report is prepared, construction is initiated after such date of enactment.

(b) ABILITY TO PAY.—

(1) IN GENERAL.—Section 103(m) of such Act (33 U.S.C. 2213(m)) is amended to read as follows:

''(m) ABILITY TO PAY.—

''(1) IN GENERAL.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay.

''(2) CRITERIA AND PROCEDURES.—The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with criteria and procedures in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; except that such criteria and procedures shall be revised within 6 months after the date of such enactment to reflect the requirements of paragraph (3).

''(3) REVISION OF PROCEDURES.—In revising procedures pursuant to paragraph (1), the Secretary—

''(A) shall consider—

''(i) per capita income data for the county or counties in which the project is to be located; and

''(ii) the per capita non-Federal cost of construction of the project for the county or counties in which the project is to be located;

''(B) shall not consider criteria (other than criteria described in subparagraph (A)) in effect on the day before the date of the enactment of the Water Resources Development Act of 1996; and

''(C) may consider additional criteria relating to the non-Federal interest's financial ability to carry out its cost-sharing responsibilities, to the extent that the application of such criteria does not eliminate areas from eligibility for a reduction in the non-Federal share as determined under subparagraph (A).

''(4) NON-FEDERAL SHARE.—Notwithstanding subsection (a), the Secretary shall reduce or eliminate the requirement that a non-Federal interest make a cash contribution for any project that is determined to be eligible for a reduction in the non-Federal share under procedures in effect under paragraphs (1), (2), and (3).''.

(2) APPLICABILITY.—

(A) GENERALLY.—Subject to subparagraph (C), the amendment made by paragraph (1) shall apply to any project, or separable element thereof, with respect to which the Secretary and the non-Federal interest have not entered into a project cooperation agreement on or before the date of the enactment of this Act.

(B) AMENDMENT OF COOPERATION AGREEMENT.—If requested by the non-Federal interest, the Secretary shall amend a project cooperation agreement executed on or before the date of the enactment of this Act to reflect the application of the amendment made by paragraph (1) to any project for which a contract for construction has not been awarded on or before such date of enactment.

(C) NON-FEDERAL OPTION.—If requested by the non-Federal interest, the Secretary shall apply the criteria and procedures established pursuant to section 103(m) of the Water Resources Development Act of 1986 as in effect on the day before the date of the enactment of this Act for projects that are authorized before the date of the enactment of this Act.

(c) FLOOD PLAIN MANAGEMENT PLANS.—

(1) IN GENERAL.—Section 402 of such Act (33 U.S.C. 701b–12; 100 Stat. 4133) is amended to read as follows:

''SEC. 402. FLOOD PLAIN MANAGEMENT REQUIREMENTS.

''(a) COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.—Before construction of any project for local flood protection or any project for hurricane or storm damage reduction and involving Federal assistance from the Secretary, the non-Federal interest shall agree to participate in and comply with applicable Federal flood plain management and flood insurance programs.

''(b) FLOOD PLAIN MANAGEMENT PLANS.—Within 1 year after the date of signing a project cooperation agreement for construction of a project to which subsection (a) applies, the non-Federal interest shall prepare a flood plain management plan designed to reduce the impacts of future flood events in the project area. Such plan shall be implemented by the non-Federal interest not later than 1 year after completion of construction of the project.

''(c) GUIDELINES.—

''(1) IN GENERAL.—Within 6 months after the date of the enactment of this subsection, the Secretary shall develop guidelines for preparation of flood plain management plans by non-Federal interests under subsection (b). Such guidelines shall address potential measures, practices and policies to reduce loss of life, injuries, damages to property and facilities, public expenditures, and other adverse impacts associated with flooding and to preserve and enhance natural flood plain values.

''(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to confer any regulatory authority upon the Secretary.

''(d) TECHNICAL SUPPORT.—The Secretary is authorized to provide technical support to a non-Federal interest for a project to which subsection (a) applies for the development and implementation of plans prepared under subsection (b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any project or separable element thereof with respect to which the Secretary and the non-Federal interest have not entered into a project cooperation agreement on or before the date of the enactment of this Act.

(d) NON-STRUCTURAL FLOOD CONTROL POLICY.—

(1) REVIEW.—The Secretary shall conduct a review of policies, procedures, and techniques relating to the evaluation and development of flood control measures with a view toward identifying impediments that may exist to justifying non-structural flood control measures as alternatives to structural measures.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the findings on the review conducted under this subsection, together with any recommendations for modifying existing law to remove any impediments identified under such review.

(e) EMERGENCY RESPONSE.—Section 5(a)(1) of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended by inserting before the first semicolon the following: '', or in implementation of nonstructural alternatives to the repair or restoration of such flood control work if requested by the non-Federal sponsor''.

(f) NONSTRUCTURAL ALTERNATIVES.—Section 73 of the Water Resources Development Act of 1974 (33 U.S.C. 701b–11; 88 Stat. 32) is amended by striking subsection (a) and inserting the following:

''(a) In the survey, planning, or design by any Federal agency of any project involving flood protection, such agency, with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages, shall consider and address in adequate detail nonstructural alternatives, including measures that may be implemented by others, to prevent or reduce flood damages. Such alternatives may include watershed management, wetlands restoration, elevation or flood proofing of structures, floodplain regulation, relocation, and acquisition of floodplain lands for recreational, fish and wildlife, and other public purposes.''.

SEC. 203. FEASIBILITY STUDY COST-SHARING.

(a) NON-FEDERAL SHARE.—Section 105(a)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(a)(1)) is amended—

(1) in the first sentence, by striking ''during the period of such study'';

(2) by inserting after the first sentence the following: ''During the period of the study, the non-Federal share of the cost of the study shall be not more than 50 percent of the estimate of the cost of the study as contained in the feasibility cost-sharing agreement. The cost estimate may be amended only by mutual agreement of the Secretary and the non-Federal interests. The non-Federal share of any costs in excess of the cost estimate shall, except as otherwise mutually agreed by the Secretary and the non-Federal interests, be payable after the project has been authorized for construction and on the date on which the Secretary and non-Federal interests enter into an agreement pursuant to section 101(e) or 103(j). In the event the project which is the subject of the study is not authorized within the earlier of 5 years of the date of the final report of the Chief of Engineers concerning such study or 2 years of the date of termination of the study, the non-Federal share of any such excess costs shall be paid to the United States on the last day of such period.''; and

(3) in the second sentence, by striking ''such non-Federal contribution'' and inserting ''the non-Federal share required under this paragraph''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply notwithstanding any feasibility cost-sharing agreement entered into by the Secretary and non-Federal interests. Upon request of the non-Federal interest, the Secretary shall amend any feasibility cost-sharing agreements in effect on the date of enactment of this Act so as to conform the agreements with the amendments.

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section or any amendment made by this section shall require the Secretary to reimburse the non-Federal interests for funds previously contributed for a study.

SEC. 204. RESTORATION OF ENVIRONMENTAL QUALITY.

(a) REVIEW OF PROJECTS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)) is amended—

(1) by striking ''the operation of''; and

(2) by inserting before the period at the end the following: ''and to determine if the operation of such projects has contributed to the degradation of the quality of the environment''.

(b) PROGRAM OF PROJECTS.—Section 1135(b) of such Act is amended by striking the last 2 sentences of subsection (b).

(c) RESTORATION OF ENVIRONMENTAL QUALITY.—Section 1135 of such Act is further amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (e), (f), and (g), respectively;

(2) by inserting after subsection (b) the following new subsections:

''(c) RESTORATION OF ENVIRONMENTAL QUALITY.—If the Secretary determines that construction of a water resource project by the Secretary or operation of a water resources project constructed by the Secretary has contributed to the degradation of the quality of the environment, the Secretary may undertake measures for restoration of environmental quality and measures for enhancement of environmental quality that are associated with the restoration, either through modifications at the project site or at other locations that have been affected by the construction or operation of the project, if such measures do not conflict with the authorized project purposes.

''(d) NON-FEDERAL SHARE; LIMITATION ON MAXIMUM FEDERAL EXPENDITURE.—The non-Federal share of the cost of any modifications or measures carried out or undertaken pursuant to subsection (b) or (c) of this section shall be 25 percent. Not more than 80 percent of the non-Federal share may be in kind, including a facility, supply, or service that is necessary to carry out the modification. No more than $5,000,000 in Federal funds may be expended on any single modification or measure carried out or undertaken pursuant to this section.''; and

(3) in subsection (f), as so redesignated, by striking ''program conducted under subsection (b)'' and inserting ''programs conducted under subsections (b) and (c)''.

(d) DEFINITION.—Section 1135 of such Act is further amended by adding at the end the following:

''(h) DEFINITION.—In this section the term 'water resources project constructed by the Secretary' includes a water resources project constructed or funded jointly by the Secretary and the head of any other Federal agency (including the Natural Resources Conservation Service).''.

SEC. 205. ENVIRONMENTAL DREDGING.

Section 312 of the Water Resources Development Act of 1990 (104 Stat. 4639–4640) is amended—

(1) in each of subsections (a), (b), and (c) by inserting ''and remediate'' after ''remove'' each place it appears;

(2) in subsection (b)(1) by inserting ''and remediation'' after ''removal'' each place it appears;

(3) in subsection (b)(2) by striking ''$10,000,000'' and inserting ''$30,000,000''; and

(4) by striking subsection (f) and inserting the following:

''(f) In carrying out this section, the Secretary shall give priority to work in the following areas:

''(1) Brooklyn Waterfront, New York.

''(2) Buffalo Harbor and River, New York.

''(3) Ashtabula River, Ohio.

''(4) Mahoning River, Ohio.

''(5) Lower Fox River, Wisconsin.''.

SEC. 206. AQUATIC ECOSYSTEM RESTORATION.

(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out aquatic ecosystem restoration and protection projects when the Secretary determines that such projects will improve the quality of the environment and are in the public interest and that the environmental and economic benefits, both monetary and non-monetary, of the project to be undertaken pursuant to this section justify the cost.

(b) COST SHARING.—Non-Federal interests shall provide 50 percent of the cost of construction of any project carried out under this section, including provision of all lands, easements, rights-of-way, and necessary relocations.

(c) AGREEMENTS.—Construction of a project under this section shall be initiated only after a non-Federal interest has entered into a binding agreement with the Secretary to pay the non-Federal share of the costs of construction required by this section and to pay 100 percent of any operation, maintenance, and replacement and rehabilitation costs with respect to the project in accordance with regulations prescribed by the Secretary.

(d) COST LIMITATION.—Not more than $5,000,000 in Federal funds may be allotted under this section for a project at any single locality.

(e) FUNDING.—There is authorized to be appropriated not to exceed $25,000,000 annually to carry out this section.

SEC. 207. BENEFICIAL USES OF DREDGED MATERIAL.

Section 204 of the Water Resources Development Act of 1992 (106 Stat. 4826) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

''(e) SELECTION OF DREDGED MATERIAL DISPOSAL METHOD.—In developing and carrying out a project for navigation involving the disposal of dredged material, the Secretary may select, with the consent of the non-Federal interest, a disposal method that is not the least-cost option if the Secretary determines that the incremental costs of such disposal method are minimal and that the benefits to the aquatic environment to be derived from such disposal method, including the creation of wetlands and control of shoreline erosion, justify its selection. The Federal share of such incremental costs shall be determined in accordance with subsection (c).''.

SEC. 208. RECREATION POLICY AND USER FEES.

(a) RECREATION POLICIES.—

(1) IN GENERAL.—The Secretary shall provide increased emphasis on and opportunities for recreation at water resources projects operated, maintained, or constructed by the Corps of Engineers.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on specific measures taken to implement this subsection.

(b) RECREATION USER FEES.—Section 210(b) of the Flood Control Act of 1968 (16 U.S.C. 460d–3(b)) is amended by adding at the end the following:

''(5) USE OF FEES COLLECTED AT FACILITY.—Subject to advance appropriations, the Secretary of the Army shall ensure that at least an

amount equal to the total amount of fees collected at any project under this subsection in a fiscal year beginning after September 30, 1996, are expended in the succeeding fiscal year at such project for operation and maintenance of recreational facilities at such project.''.

SEC. 209. RECOVERY OF COSTS.

Amounts recovered under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) for any response action taken by the Secretary in support of the Army Civil Works program and any other amounts recovered by the Secretary from a contractor, insurer, surety, or other person to reimburse the Army for any expenditure for environmental response activities in support of the Army civil works program shall be credited to the appropriate trust fund account from which the cost of such response action has been paid or will be charged.

SEC. 210. COST SHARING OF ENVIRONMENTAL PROJECTS.

(a) IN GENERAL.—Section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)) is amended—

(1) by striking ''and'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; and''; and

(3) by inserting after paragraph (6) the following new paragraph:

''(7) subject to section 906 of this Act, environmental protection and restoration: 50 percent.''.

(b) APPLICABILITY.—The amendments made by subsection (a) apply only to projects authorized after the date of the enactment of this Act.

SEC. 211. CONSTRUCTION OF FLOOD CONTROL PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.—Non-Federal interests are authorized to undertake flood control projects in the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) STUDIES AND DESIGN ACTIVITIES.—

(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and design documents for any construction to be undertaken pursuant to subsection (a).

(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and design activities for any construction to be undertaken pursuant to subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and design activities during the period that the studies and design activities will be conducted.

(c) COMPLETION OF STUDIES AND DESIGN ACTIVITIES.—In the case of any study or design documents for a flood control project that were initiated before the date of the enactment of this Act, the Secretary is authorized to complete and transmit to the appropriate non-Federal interests the study or design documents or, upon the request of such non-Federal interests, to terminate the study or design activities and transmit the partially completed study or design documents to such non-Federal interests for completion. Studies and design documents subject to this subsection shall be completed without regard to the requirements of subsection (b).

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—

(1) IN GENERAL.—Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a flood control project or separable element thereof based on the results of completed studies and design documents for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.

(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) MONITORING.—The Secretary shall monitor any project for which a permit is granted under this subsection in order to ensure that such project is constructed, operated, and maintained in accordance with the terms and conditions of such permit.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized flood control project, or separable element thereof, constructed pursuant to this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by the non-Federal interest; and

(B) if the Secretary finds, after a review of studies and design documents prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) SPECIAL RULES.—

(A) REIMBURSEMENT.—For work (including work associated with studies, planning, design, and construction) carried out by a non-Federal interest with respect to a project described in subsection (f), the Secretary shall, subject to amounts being made available in advance in appropriations Acts, reimburse, without interest, the non-Federal interest an amount equal to the estimated Federal share of the cost of such work if such work is later recommended by the Chief of Engineers and approved by the Secretary.

(B) CREDIT.—If the non-Federal interest for a project described in subsection (f) carries out work before completion of a reconnaissance study by the Secretary and if such work is determined by the Secretary to be compatible with the project later recommended by the Secretary, the Secretary shall credit the non-Federal interest for its share of the cost of the project for such work.

(3) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.

(4) MONITORING.—The Secretary shall regularly monitor and audit any project for flood control approved for construction under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(5) LIMITATION ON REIMBURSEMENTS.—No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits and approved plans.

(f) SPECIFIC PROJECTS.—For the purpose of demonstrating the potential advantages and effectiveness of non-Federal implementation of flood control projects, the Secretary shall enter into agreements pursuant to this section with non-Federal interests for development of the following flood control projects by such interests:

(1) BERRYESSA CREEK, CALIFORNIA.—The Berryessa Creek element of the project for flood control, Coyote and Berryessa Creeks, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1990 (104 Stat. 4606); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(2) LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.—The project for flood control, Los Angeles County Drainage Area, California, authorized by section 101(b) of the Water Resources Development Act of 1990 (104 Stat. 4611).

(3) STOCKTON METROPOLITAN AREA, CALIFORNIA.—The project for flood control, Stockton Metropolitan Area, California.

(4) UPPER GUADALUPE RIVER, CALIFORNIA.—The project for flood control, Upper Guadalupe River, California.

(5) BRAYS BAYOU, TEXAS.—Flood control components comprising the Brays Bayou element of the project for flood control, Buffalo Bayou and Tributaries, Texas, authorized by section 101(a)(21) of the Water Resources Development Act of 1990 (104 Stat. 4610); except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to the diversion component of such element.

(6) HUNTING BAYOU, TEXAS.—The Hunting Bayou element of the project for flood control, Buffalo Bayou and Tributaries, Texas, authorized by such section; except that, subject to the approval of the Secretary as provided by this section, the non-Federal interest may design and construct an alternative to such element.

(7) WHITE OAK BAYOU, TEXAS.—The project for flood control, White Oak Bayou watershed, Texas.

(g) TREATMENT OF FLOOD DAMAGE PREVENTION MEASURES.—For the purposes of this section, flood damage prevention measures at or in the vicinity of Morgan City and Berwick, Louisiana, shall be treated as an authorized element of the Atchafalaya Basin feature of the project for flood control, Mississippi River and Tributaries.

SEC. 212. ENGINEERING AND ENVIRONMENTAL INNOVATIONS OF NATIONAL SIGNIFICANCE.

(a) SURVEYS, PLANS, AND STUDIES.—To encourage innovative and environmentally sound engineering solutions and innovative environmental solutions to problems of national significance, the Secretary may undertake surveys, plans, and studies and prepare reports which may lead to work under existing civil works authorities or to recommendations for authorizations.

(b) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for each fiscal year beginning after September 30, 1996.

(2) FUNDING FROM OTHER SOURCES.—The Secretary may accept and expend additional funds from other Federal agencies, States, or non-Federal entities for purposes of carrying out this section.

SEC. 213. LEASE AUTHORITY.

Notwithstanding any other provision of law, the Secretary may lease space available in buildings for which funding for construction or purchase was provided from the revolving fund established by the 1st section of the Civil Functions Appropriations Act, 1954 (33 U.S.C. 576; 67 Stat. 199) under such terms and conditions as are acceptable to the Secretary. The proceeds from such leases shall be credited to the revolving fund for the purposes set forth in such Act.

SEC. 214. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) FUNDING FROM OTHER FEDERAL SOURCES.—Section 7 of the Water Resources Development Act of 1988 (102 Stat. 4022–4023) is amended—

(1) in subsection (a) by inserting ''civil works'' before ''mission''; and

(2) by striking subsection (e) and inserting the following:

''(e) FUNDING FROM OTHER FEDERAL SOURCES.—The Secretary may accept and expend additional funds from other Federal programs, including other Department of Defense programs, to carry out the purposes of this section.''.

(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—Such section 7 is further amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(2) by inserting after subsection (a) the following new subsection:

''(b) PRE-AGREEMENT TEMPORARY PROTECTION OF TECHNOLOGY.—

''(1) IN GENERAL.—If the Secretary determines that information developed as a result of research and development activities conducted by the Corps of Engineers is likely to be subject to a cooperative research and development agreement within 2 years of its development and that such information would be a trade secret or commercial or financial information that would be privileged or confidential if the information had been obtained from a non-Federal party participating in a cooperative research and development agreement under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, the Secretary may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code, until the earlier of the date the Secretary enters into such an agreement with respect to such technology or the last day of the 2-year period beginning on the date of such determination.

''(2) TREATMENT.—Any technology covered by this section which becomes the subject of a cooperative research and development agreement shall be accorded the protection provided under section 12(c)(7)(B) of such Act (15 U.S.C. 3710a(c)(7)(B)) as if such technology had been developed under a cooperative research and development agreement.''; and

(3) in subsection (d), as so redesignated, by striking ''(b)'' and inserting ''(c)''.

SEC. 215. DAM SAFETY PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''National Dam Safety Program Act of 1996''.

(b) FINDINGS.—Congress finds the following:

(1) Dams are an essential part of the national infrastructure. Dams fail from time to time with catastrophic results; thus, dam safety is a vital public concern.

(2) Dam failures have caused, and can cause in the future, enormous loss of life, injury, destruction of property, and economic and social disruption.

(3) Some dams are at or near the end of their structural, useful, or operational life. With respect to future dam failures, the loss, destruction, and disruption can be substantially reduced through the development and implementation of dam safety hazard reduction measures, including—

(A) improved design and construction standards and practices supported by a national dam performance resource bank;

(B) safe operations and maintenance procedures;

(C) early warning systems;

(D) coordinated emergency preparedness plans; and

(E) public awareness and involvement programs.

(4) Dam safety problems persist nationwide. The diversity in Federal and State dam safety programs calls for national leadership in a cooperative effort involving Federal and State governments and the private sector. An expertly staffed and adequately financed dam safety hazard reduction program, based on Federal, State, local, and private research, planning, decisionmaking, and contributions, would reduce the risk of such loss, destruction, and disruption from dam failure by an amount far greater than the cost of such program.

(5) There is a fundamental need for a national dam safety program and the need will continue. An effective national program in dam safety hazards reduction will require input from and review by Federal and non-Federal experts in dams design, construction, operation, and maintenance and in the practical application of dam failure hazards reduction measures. At the present time, there is no national dam safety program.

(6) The coordinating authority for national leadership is provided through the Federal Emergency Management Agency's (hereinafter in this section referred to as ''FEMA'') dam safety program through Executive Order 12148 in coordination with appropriate Federal agencies and the States.

(7) While FEMA's dam safety program shall continue as a proper Federal undertaking and shall provide the foundation for a National Dam Safety Program, statutory authority to meet increasing needs and to discharge Federal responsibilities in national dam safety is needed.

(8) Statutory authority will strengthen FEMA's leadership role, will codify the national dam safety program, and will authorize the Director of FEMA (hereinafter in this section referred to as the ''Director'') to communicate directly with Congress on authorizations and appropriations and to build upon the hazard reduction aspects of national dam safety.

(c) PURPOSE.—It is the purpose of this section to reduce the risks to life and property from dam failure in the United States through the establishment and maintenance of an effective national dam safety program which will bring together the Federal and non-Federal communities' expertise and resources to achieve national dam safety hazard reduction. It is not the intent of this section to preempt any other Federal or State authorities nor is the intent of this section to mandate State participation in the grant assistance program to be established under this section.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) FEDERAL AGENCY.—The term ''Federal agency'' means any Federal agency that designs, finances, constructs, owns, operates, maintains, or regulates the construction, operation, or maintenance of any dam.

(2) NON-FEDERAL AGENCY.—The term ''non-Federal agency'' means any State agency that has regulatory authority over the safety of non-Federal dams.

(3) FEDERAL GUIDELINES FOR DAM SAFETY.—The term ''Federal Guidelines for Dam Safety'' refers to a FEMA publication number 93, dated June 1979, which defines management practices for dam safety at all Federal agencies.

(4) PROGRAM.—The term ''program'' means the national dam safety program established under subsection (e).

(5) DAM.—The term ''dam'' means any artificial barrier with the ability to impound water, wastewater, or liquid-borne materials for the purpose of storage or control of water which is—

(A) 25 feet or more in height from (i) the natural bed of the stream or watercourse measured at the downstream toe of the barrier, or (ii) from the lowest elevation of the outside limit of the barrier if the barrier is not across a stream channel or watercourse, to the maximum water storage elevation; or

(B) has an impounding capacity for maximum storage elevation of 50 acre-feet or more.

Such term does not include any such barrier which is not greater than 6 feet in height regardless of storage capacity or which has a storage capacity at maximum water storage elevation not greater than 15 acre-feet regardless of height, unless such barrier, due to its location or other physical characteristics, is likely to pose a significant threat to human life or property in the event of its failure. Such term does not include a levee.

(6) HAZARD REDUCTION.—The term ''hazard reduction'' means those efforts utilized to reduce the potential consequences of dam failure to life and property.

(7) STATE.—The term ''State'' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(8) PARTICIPATING STATE.—The term ''participating State'' means any State that elects to participate in the grant assistance program established under this Act.

(9) UNITED STATES.—The term ''United States'' means, when used in a geographical sense, all of the States.

(10) MODEL STATE DAM SAFETY PROGRAM.—The term ''Model State Dam Safety Program'' refers to a document, published by FEMA (No. 123, dated April 1987) and its amendments, developed by State dam safety officials, which acts as a guideline to State dam safety agencies for establishing a dam safety regulatory program or improving an already-established program.

(e) NATIONAL DAM SAFETY PROGRAM.—

(1) AUTHORITY.—The Director, in consultation with appropriate Federal agencies, State dam safety agencies, and the National Dam Safety Review Board established by paragraph (5)(C), shall establish and maintain, in accordance with the provisions and policies of this Act, a coordinated national dam safety program. This program shall—

(A) be administered by FEMA to achieve the objectives set forth in paragraph (3);

(B) involve, where appropriate, the Departments of Agriculture, Defense, Energy, Interior, and Labor, the Federal Energy Regulatory Commission, the Nuclear Regulatory Commission, the International Boundaries Commission (United States section), the Tennessee Valley Authority, and FEMA; and

(C) include each of the components described in paragraph (4), the implementation plan described in paragraph (5), and the assistance for State dam safety programs to be provided under this section.

(2) DUTIES.—The Director—

(A) within 270 days after the date of the enactment of this Act, shall develop the implementation plan described in paragraph (5);

(B) within 300 days after such date of enactment, shall submit to the appropriate authorizing committees of Congress the implementation plan described in paragraph (5); and

(C) by rule within 360 days after such date of enactment—

(i) shall develop and implement the national dam safety program under this section;

(ii) shall establish goals, priorities, and target dates for implementation of the program; and

(iii) shall provide a method for cooperation and coordination with, and assistance to (as feasible), interested governmental entities in all States.

(3) OBJECTIVES.—The objectives of the national dam safety program are as follows:

(A) To ensure that new and existing dams are safe through the development of technologically and economically feasible programs and procedures for national dam safety hazard reduction.

(B) To encourage acceptable engineering policies and procedures used for dam site investigation, design, construction, operation and maintenance, and emergency preparedness.

(C) To encourage establishment and implementation of effective dam safety programs in each participating State based on State standards.

(D) To develop and encourage public awareness projects to increase public acceptance and support of State dam safety programs.

(E) To develop technical assistance materials for Federal and non-Federal dam safety programs.

(F) To develop mechanisms with which to provide Federal technical assistance for dam safety to the non-Federal sector.

(4) COMPONENTS.—

(A) IN GENERAL.—The national dam safety program shall consist of a Federal element and a non-Federal element and 3 functional activities: leadership, technical assistance, and public awareness.

(B) ELEMENTS.—

(i) FEDERAL ELEMENT.—The Federal element of the program incorporates all the activities and practices undertaken by Federal agencies to implement the Federal Guidelines for Dam Safety.

(ii) NON-FEDERAL ELEMENT.—The non-Federal element of the program involves the activities and practices undertaken by participating States, local governments, and the private sector to safely build, regulate, operate, and maintain dams and Federal activities which foster State efforts to develop and implement effective programs for the safety of dams.

(C) ACTIVITIES.—

(i) LEADERSHIP ACTIVITY.—The leadership activity of the program shall be the responsibility of FEMA. FEMA shall coordinate Federal efforts in cooperation with appropriate Federal agencies and State dam safety agencies.

(ii) TECHNICAL ASSISTANCE ACTIVITY.—The technical assistance activity of the program involves the transfer of knowledge and technical information among the Federal and non-Federal elements.

(iii) PUBLIC AWARENESS ACTIVITY.—The public awareness activity provides for the education of the public, including State and local officials, to the hazards of dam failure and ways to reduce the adverse consequences of dam failure and related matters.

(5) GRANT ASSISTANCE PROGRAM.—The Director shall develop an implementation plan which shall demonstrate dam safety improvements through fiscal year 2001 and shall recommend appropriate roles for Federal agencies and for State and local units of government, individuals, and private organizations. The implementation plan shall provide, at a minimum, for the following:

(A) ASSISTANCE PROGRAM.—In order to encourage the establishment and maintenance of effective programs intended to ensure dam safety to protect human life and property and to improve such existing programs, the Director shall provide, from amounts made available under subsection (g) of this section, assistance to participating States to establish and maintain dam safety programs, first, according to the basic provisions for a dam safety program listed below and, second, according to more advanced requirements and standards authorized by the review board under subparagraph (C) and the Director with the assistance of established criteria such as the Model State Dam Safety Program. Participating State dam safety programs must be working toward meeting the following primary criteria to be eligible for primary assistance or must meet the following primary criteria prior to working toward advanced assistance:

(i) STATE LEGISLATION.—A dam safety program must be authorized by State legislation to include, at a minimum, the following:

(I) PLAN REVIEW AND APPROVAL.—Authority to review and approve plans and specifications to construct, enlarge, modify, remove, or abandon dams.

(II) PERIODIC INSPECTIONS DURING CONSTRUCTION.—Authority to perform periodic inspections during construction for the purpose of ensuring compliance with approved plans and specifications.

(III) STATE APPROVAL.—Upon completion of construction, a requirement that, before operation of the structure, State approval is received.

(IV) SAFETY INSPECTIONS.—Authority to require or perform the inspection of all dams and reservoirs that pose a significant threat to human life and property in the event of failure at least every 5 years to determine their continued safety and a procedure for more detailed and frequent safety inspections.

(V) PROFESSIONAL ENGINEER.—A requirement that all inspections be performed under the supervision of a registered professional engineer with related experience in dam design and construction.

(VI) ORDERS.—Authority to issue orders, when appropriate, to require owners of dams to perform necessary maintenance or remedial work, revise operating procedures, or take other actions, including breaching dams when deemed necessary.

(VII) REGULATIONS.—Rules and regulations for carrying out the provisions of the State's legislative authority.

(VIII) EMERGENCY FUNDS.—Necessary emergency funds to assure timely repairs or other changes to, or removal of, a dam in order to protect human life and property and, if the owner does not take action, to take appropriate action as expeditiously as possible.

(IX) EMERGENCY PROCEDURES.—A system of emergency procedures that would be utilized in the event a dam fails or in the event a dam's failure is imminent, together with an identification of those dams where failure could be reasonably expected to endanger human life and of the maximum area that could be inundated in the event of a failure of the dam, as well as identification of those necessary public facilities that would be affected by such inundation.

(ii) STATE APPROPRIATIONS.—State appropriations must be budgeted to carry out the provisions of the State legislation.

(B) WORK PLAN CONTRACTS.—The Director shall enter into contracts with each participating State to determine a work plan necessary for a particular State dam safety program to reach a level of program performance previously agreed upon in the contract. Federal assistance under this section shall be provided to aid the State dam safety program in achieving its goal.

(C) NATIONAL DAM SAFETY REVIEW BOARD.—

(i) IN GENERAL.—There is authorized to be established a National Dam Safety Review Board (hereinafter in this section referred to as the ''Board''), which shall be responsible for monitoring participating State implementation of the requirements of the assistance program. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements of this section. The Board shall consist of 11 members selected for their expertise in dam safety as follows:

(I) 5 to represent FEMA, the Federal Energy Regulatory Commission, and the Departments of Agriculture, Defense, and Interior.

(II) 5 members selected by the Director who are dam safety officials of States.

(III) 1 member selected by the Director to represent the United States Committee on Large Dams.

(ii) NO COMPENSATION OF MEMBERS.—Each member of the Board who is an officer or employee of the United States shall serve without compensation in addition to compensation received for the services of the member as an officer or employee of the United States. Each member of the Board who is not an officer or employee of the United States shall serve without compensation.

(iii) TRAVEL EXPENSES.—Each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular place of business of the member in the performance of services for the Board.

(iv) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(D) MAINTENANCE OF EFFORT.—No grant may be made to a participating State under this subsection in any fiscal year unless the State enters into such agreement with the Director as the Director may require to ensure that the participating State will maintain its aggregate expenditures from all other sources for programs to assure dam safety for the protection of human life and property at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this Act.

(E) PROCEDURE FOR APPROVAL OF STATE PARTICIPATION.—Any program which is submitted to the Director for participation in the assistance program under this subsection shall be deemed approved 120 days following its receipt by the Director unless the Director determines within such 120-day period that the submitted program fails to reasonably meet the requirements of subparagraphs (A) and (B). If the Director determines the submitted program cannot be approved for participation, the Director shall immediately notify the State in writing, together with his or her reasons and those changes needed to enable the submitted program to be approved.

(F) REVIEW OF STATE PROGRAMS.—Utilizing the expertise of the Board, the Director shall periodically review the approved State dam safety programs. In the event the Board finds that a program of a participating State has proven inadequate to reasonably protect human life and property and the Director agrees, the Director shall revoke approval of the State's participation in the assistance program and withhold assistance under this section, until the State program has been reapproved.

(G) COOPERATION OF FEDERAL AGENCIES.—The head of any Federal agency, when requested by any State dam safety agency, shall provide information on the construction, operation, or maintenance of any dam or allow officials of the State agency to participate in any Federal inspection of any dam.

(H) DAM INSURANCE REPORT.—Within 180 days after the date of the enactment of this Act, the Director shall report to the Congress on the availability of dam insurance and make recommendations.

(f) BIENNIAL REPORT.—Within 90 days after the last day of each odd-numbered fiscal year, the Director shall submit a biennial report to Congress describing the status of the program being implemented under this section and describing the progress achieved by the Federal agencies during the 2 previous years in implementing the Federal Guidelines for Dam Safety. Each such report shall include any recommendations for legislative and other action deemed necessary and appropriate. The report shall also include a summary of the progress being made in improving dam safety by participating States.

(g) AUTHORIZING OF APPROPRIATIONS.—

(1) GENERAL PROGRAM.—

(A) FUNDING.—There are authorized to be appropriated to the Director to carry out the provisions of subsections (e) and (f) (in addition to any authorizations for similar purposes included in other Acts and the authorizations set forth in paragraphs (2) through (5) of this subsection)—

(i) $1,000,000 for fiscal year 1997;

(ii) $2,000,000 for fiscal year 1998;

(iii) $4,000,000 for fiscal year 1999;

(iv) $4,000,000 for fiscal year 2000; and

(v) $4,000,000 for fiscal year 2001.

(B) APPORTIONMENT FORMULA.—

(i) IN GENERAL.—Subject to clause (ii), sums appropriated under this paragraph shall be distributed annually among participating States on the following basis: One-third among those States determined in subsection (e) as qualifying for funding, and two-thirds in proportion to the number of dams and appearing as State-regulated dams on the National Dam Inventory in each participating State that has been determined in subsection (e)(5)(A) as qualifying for funding, to the number of dams in all participating States.

(ii) LIMITATION TO 50 PERCENT OF COST.—In no event shall funds distributed to any State under this paragraph exceed 50 percent of the reasonable cost of implementing an approved dam safety program in such State.

(iii) ALLOCATION BETWEEN PRIMARY AND ADVANCED ASSISTANCE PROGRAMS.— The Director and Review Board shall determine how much of

funds appropriated under this paragraph is allotted to participating States needing primary funding and those needing advanced funding.

(2) TRAINING.—

(A) IN GENERAL.—The Director shall, at the request of any State that has or intends to develop a dam safety program under subsection (e)(5)(A), provide training for State dam safety staff and inspectors.

(B) FUNDING.—There is authorized to be appropriated to carry out this paragraph $500,000 for each of fiscal years 1997 through 2001.

(3) RESEARCH.—

(A) IN GENERAL.—The Director shall undertake a program of technical and archival research in order to develop improved techniques, historical experience, and equipment for rapid and effective dam construction, rehabilitation, and inspection, together with devices for the continued monitoring, of dams for safety purposes.

(B) STATE PARTICIPATION; REPORTS.—The Director shall provide for State participation in the research under this paragraph and periodically advise all States and Congress of the results of such research.

(C) FUNDING.—There is authorized to be appropriated to carry out this paragraph $1,000,000 for each of fiscal years 1997 through 2001.

(4) DAM INVENTORY.—

(A) MAINTENANCE AND PUBLICATION.—The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams.

(B) FUNDING.—There is authorized to be appropriated to carry out this paragraph $500,000 for each of fiscal years 1997 through 2001.

(5) PERSONNEL.—

(A) EMPLOYMENT.—The Director is authorized to employ additional staff personnel in numbers sufficient to carry out the provisions of this section.

(B) FUNDING.—There is authorized to be appropriated to carry out this paragraph $400,000 for each of fiscal years 1997 through 2001.

(6) LIMITATION.—No funds authorized by this section shall be used to construct or repair any Federal or non-Federal dams.

(h) CONFORMING AMENDMENTS.—The Act entitled ''An Act to authorize the Secretary of the Army to undertake a national program of inspection of dams'', approved August 8, 1972 (33 U.S.C 467–467m; Public Law 92–367), is amended—

(1) in the first section by striking ''means any artificial barrier'' and all that follows through the period at the end and inserting ''has the meaning such term has under subsection (d) of the National Dam Safety Program Act of 1996.'';

(2) by striking the 2d sentence of section 3;

(3) by striking section 5 and sections 7 through 14; and

(4) by redesignating section 6 as section 5.

SEC. 216. MAINTENANCE, REHABILITATION, AND MODERNIZATION OF FACILITIES.

In accomplishing the maintenance, rehabilitation, and modernization of hydroelectric power generating facilities at water resources projects under the jurisdiction of the Department of the Army, the Secretary is authorized to increase the efficiency of energy production and the capacity of these facilities if, after consulting with other appropriate Federal and State agencies, the Secretary determines that such uprating—

(1) is economically justified and financially feasible;

(2) will not result in significant adverse effects on the other purposes for which the project is authorized;

(3) will not result in significant adverse environmental impacts; and

(4) will not involve major structural or operation changes in the project.

SEC. 217. LONG-TERM SEDIMENT MANAGEMENT STRATEGIES.

(a) DEVELOPMENT.—The Secretary shall enter into cooperative agreements with non-Federal sponsors of navigation projects for development of long-term management strategies for controlling sediments in such projects.

(b) CONTENTS OF STRATEGIES.—Each strategy developed under this section for a navigation project—

(1) shall include assessments of the following with respect to the project: sediment rates and composition, sediment reduction options, dredging practices, long-term management of any dredged material disposal facilities, remediation of such facilities, and alternative disposal and reuse options;

(2) shall include a timetable for implementation of the strategy; and

(3) shall incorporate, as much as possible, relevant ongoing planning efforts, including remedial action planning, dredged material management planning, harbor and waterfront development planning, and watershed management planning.

(c) CONSULTATION.—In developing strategies under this section, the Secretary shall consult with interested Federal agencies, States, and Indian tribes and provide an opportunity for public comment.

SEC. 218. DREDGED MATERIAL DISPOSAL FACILITY PARTNERSHIPS.

(a) ADDITIONAL CAPACITY.—

(1) PROVIDED BY SECRETARY.—At the request of a non-Federal project sponsor, the Secretary may provide additional capacity at a dredged material disposal facility constructed by the Secretary beyond that which would be required for project purposes if the non-Federal project sponsor agrees to pay, during the period of construction, all costs associated with the construction of the additional capacity.

(2) COST RECOVERY AUTHORITY.—The non-Federal project sponsor may recover the costs assigned to the additional capacity through fees assessed on 3rd parties whose dredged material is deposited in the facility and who enter into agreements with the non-Federal sponsor for the use of such facility. The amount of such fees may be determined by the non-Federal sponsor.

(b) NON-FEDERAL USE OF DISPOSAL FACILITIES.—

(1) IN GENERAL.—The Secretary—

(A) may permit the use of any dredged material disposal facility under the jurisdiction of, or managed by, the Secretary by a non-Federal interest if the Secretary determines that such use will not reduce the availability of the facility for project purposes; and

(B) may impose fees to recover capital, operation, and maintenance costs associated with such use.

(2) USE OF FEES.—Notwithstanding section 401(c) of the Federal Water Pollution Control Act but subject to advance appropriations, any monies received through collection of fees under this subsection shall be available to the Secretary, and shall be used by the Secretary, for the operation and maintenance of the disposal facility from which they were collected.

(c) PUBLIC-PRIVATE PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may carry out a program to evaluate and implement opportunities for public-private partnerships in the design, construction, management, or operation of dredged material disposal facilties in connection with construction or maintenance of Federal navigation projects.

(2) PRIVATE FINANCING.—

(A) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into an agreement with a project sponsor, a private entity, or both for the acquisition, design, construction, management, or operation of a dredged material disposal facility (including any facility used to demonstrate potential beneficial uses of dredged material) using funds provided in whole or in part by the private entity.

(B) REIMBURSEMENT.—If any funds provided by a private entity are used to carry out a project under this subsection, the Secretary may reimburse the private entity over a period of time agreed to by the parties to the agreement through the payment of subsequent user fees. Such fees may include the payment of a disposal or tipping fee for placement of suitable dredged material at the facility.

(C) AMOUNT OF FEES.—User fees paid pursuant to subparagraph (B) shall be sufficient to repay funds contributed by the private entity plus a reasonable return on investment approved by the Secretary in cooperation with the project sponsor and the private entity.

(D) FEDERAL SHARE.—The Federal share of such fee shall be equal to the percentage of the total cost which would otherwise be borne by the Federal Government as required pursuant to existing cost sharing requirements, including section 103 of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2325).

(E) BUDGET ACT COMPLIANCE.—Any spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)) authorized by this section shall be effective only to such extent and in such amounts as are provided in appropriation Acts.

SEC. 219. OBSTRUCTION REMOVAL REQUIREMENT.

(a) PENALTY.—Section 16 of the Act of March 3, 1899 (33 U.S.C. 411; 30 Stat. 1153), is amended—

(1) by striking ''thirteen, fourteen, and fifteen'' each place it appears and inserting ''13, 14, 15, 19, and 20''; and

(2) by striking ''not exceeding twenty-five hundred dollars nor less than five hundred dollars'' and inserting ''of up to $25,000 per day''.

(b) GENERAL AUTHORITY.—Section 20 of the Act of March 3, 1899 (33 U.S.C. 415; 30 Stat. 1154), is amended—

(1) by striking ''expense'' the first place it appears in subsection (a) and inserting ''actual expense, including administrative expenses,'';

(2) in subsection (b) by striking ''cost'' and inserting ''actual cost, including administrative costs,'';

(3) by redesignating subsection (b) as subsection (c); and

(4) by inserting after subsection (a) the following new subsection:

''(b) REMOVAL REQUIREMENT.—Within 24 hours after the Secretary of the Department in which the Coast Guard is operating issues an order to stop or delay navigation in any navigable waters of the United States because of conditions related to the sinking or grounding of a vessel, the owner or operator of the vessel, with the approval of the Secretary of the Army, shall begin removal of the vessel using the most expeditious removal method available or, if appropriate, secure the vessel pending removal to allow navigation to resume. If the owner or operator fails to begin removal or to secure the vessel pending removal or fails to complete removal as soon as possible, the Secretary of the Army shall remove or destroy the vessel using the summary removal procedures under subsection (a) of this section.''.

SEC. 220. SMALL PROJECT AUTHORIZATIONS.

Section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r) is amended—

(1) by striking ''$12,500,000'' and inserting ''$15,000,000''; and

(2) by striking ''$500,000'' and inserting ''$1,500,000''.

SEC. 221. UNECONOMICAL COST-SHARING REQUIREMENTS.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) is amended by striking the period at the end of the first sentence and inserting the following: ''; except that no such agreement shall be required if the Secretary determines that the administrative costs associated with negotiating, executing, or administering the agreement would exceed the amount of the contribution required from the non-Federal interest and are less than $25,000.''.

SEC. 222. PLANNING ASSISTANCE TO STATES.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (a) by inserting ", watersheds, or ecosystems" after "basins";

(2) in subsection (b)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(3) in subsection (c)—

(A) by striking "$6,000,000" and inserting "$10,000,000"; and

(B) by striking "$300,000" and inserting "$500,000".

SEC. 223. CORPS OF ENGINEERS EXPENSES.

Section 211 of the Flood Control Act of 1950 (33 U.S.C. 701u; 64 Stat. 183) is amended—

(1) by striking "continental limits of the"; and

(2) by striking the 2d colon and all that follows through "for this purpose".

SEC. 224. STATE AND FEDERAL AGENCY REVIEW PERIOD.

The 1st section of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and other purposes", approved December 22, 1944 (33 U.S.C. 701–1(a); 58 Stat. 888), is amended—

(1) by striking "Within ninety" and inserting "Within 30"; and

(2) by striking "ninety-day period." and inserting "30-day period.".

SEC. 225. LIMITATION ON REIMBURSEMENT OF NON-FEDERAL COSTS PER PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5a(a)) is amended—

(1) by striking "$3,000,000" and inserting "$5,000,000"; and

(2) by striking the final period.

SEC. 226. AQUATIC PLANT CONTROL.

(a) ADDITIONAL CONTROLLED PLANTS.—Section 104(a) of the River and Harbor Act of 1958 (33 U.S.C. 610(a)) is amended by inserting after "alligatorweed," the following: "melaleuca,".

(b) AUTHORIZATION.—Section 104(b) of such Act (33 U.S.C. 610(b)) is amended by striking "$12,000,000" and inserting "$15,000,000".

SEC. 227. SEDIMENTS DECONTAMINATION TECHNOLOGY.

(a) PROJECT PURPOSE.—Section 405(a) of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; 106 Stat. 4863) is amended by adding at the end the following:

"(3) PROJECT PURPOSE.—The purpose of the project to be carried out under this section is to provide for the development of 1 or more sediment decontamination technologies on a pilot scale demonstrating a capacity of at least 500,000 cubic yards per year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 405(c) of such Act is amended to read as follows: "There is authorized to be appropriated to carry out this section $10,000,000 for fiscal years beginning after September 30, 1996.".

(c) REPORTS.—Section 405 of such Act is amended by adding at the end the following:

"(d) REPORTS.—Not later than September 30, 1998, and periodically thereafter, the Administrator and the Secretary shall transmit to Congress a report on the results of the project to be carried out under this section, including an assessment of the progress made in achieving the intent of the program set forth in subsection (a)(3).".

SEC. 228. SHORE PROTECTION.

(a) DECLARATION OF POLICY.—Subsection (a) of the first section of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426e; 60 Stat. 1056), is amended—

(1) by striking "damage to the shores" and inserting "damage to the shores and beaches"; and

(2) by striking "the following provisions" and all that follows through the period at the end of subsection (a) and inserting the following: "this Act, to promote shore protection projects and related research that encourage the protection, restoration, and enhancement of sandy beaches, including beach restoration and periodic beach nourishment, on a comprehensive and coordinated basis by the Federal Government, States, localities, and private enterprises. In carrying out this policy, preference shall be given to areas in which there has been a Federal investment of funds and areas with respect to which the need for prevention or mitigation of damage to shores and beaches is attributable to Federal navigation projects or other Federal activities.".

(b) NONPUBLIC SHORES.—Subsection (d) of such section is amended by striking "or from the protection of nearby public property or" and inserting ", if there are sufficient benefits, including benefits to local and regional economic development and to the local and regional ecology (as determined under subsection (e)(2)(B)), or"; and

(c) AUTHORIZATION OF PROJECTS.—Subsection (e) of such section is amended—

(1) by striking "(e) No" and inserting the following:

"(e) AUTHORIZATION OF PROJECTS.—

"(1) IN GENERAL.—No";

(2) by moving the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) 2 ems to the right; and

(3) by adding at the end the following:

"(2) STUDIES.—

"(A) IN GENERAL.—The Secretary shall—

"(i) recommend to Congress studies concerning shore protection projects that meet the criteria established under this Act (including subparagraph (B)(iii)) and other applicable law;

"(ii) conduct such studies as Congress requires under applicable laws; and

"(iii) report the results of the studies to the appropriate committees of Congress.

"(B) RECOMMENDATIONS FOR SHORE PROTECTION PROJECTS.—

"(i) IN GENERAL.—The Secretary shall recommend to Congress the authorization or reauthorization of shore protection projects based on the studies conducted under subparagraph (A).

"(ii) CONSIDERATIONS.—In making recommendations, the Secretary shall consider the economic and ecological benefits of a shore protection project and the ability of the non-Federal interest to participate in the project.

"(iii) CONSIDERATION OF LOCAL AND REGIONAL BENEFITS.—In analyzing the economic and ecological benefits of a shore protection project, or a flood control or other water resource project the purpose of which includes shore protection, the Secretary shall consider benefits to local and regional economic development, and to the local and regional ecology, in calculating the full economic and ecological justifications for the project.

"(C) COORDINATION OF PROJECTS.—In conducting studies and making recommendations for a shore protection project under this paragraph, the Secretary shall—

"(i) determine whether there is any other project being carried out by the Secretary or the head of another Federal agency that may be complementary to the shore protection project; and

"(ii) if there is such a complementary project, describe the efforts that will be made to coordinate the projects.

"(3) SHORE PROTECTION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall construct, or cause to be constructed, any shore protection project authorized by Congress, or separable element of such a project, for which funds have been appropriated by Congress.

"(B) AGREEMENTS.—

"(i) REQUIREMENT.—After authorization by Congress, and before commencement of construction, of a shore protection project or separable element, the Secretary shall enter into a written agreement with a non-Federal interest with respect to the project or separable element.

"(ii) TERMS.—The agreement shall—

"(I) specify the life of the project; and

"(II) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.

"(C) COORDINATION OF PROJECTS.—In constructing a shore protection project or separable element under this paragraph, the Secretary shall, to the extent practicable, coordinate the project or element with any complementary project identified under paragraph (2)(C).

"(4) REPORT TO CONGRESS.—The Secretary shall report biennially to the appropriate committees of Congress on the status of all ongoing shore protection studies and shore protection projects carried out under the jurisdiction of the Secretary.".

(d) REQUIREMENT OF AGREEMENTS PRIOR TO REIMBURSEMENTS.—

(1) SMALL SHORE PROTECTION PROJECTS.—Section 2 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426f; 60 Stat. 1056), is amended—

(A) by striking "SEC. 2. The Secretary of the Army" and inserting the following:

"SEC. 2. REIMBURSEMENTS.

"(a) IN GENERAL.—The Secretary";

(B) in subsection (a) (as so designated)—

(i) by striking "local interests" and inserting "non-Federal interests";

(ii) by inserting "or separable element of the project" after "project"; and

(iii) by inserting "or separable elements" after "projects" each place it appears; and

(C) by adding at the end the following:

"(b) AGREEMENTS.—

"(1) REQUIREMENT.—After authorization of reimbursement by the Secretary under this section, and before commencement of construction, of a shore protection project, the Secretary shall enter into a written agreement with the non-Federal interest with respect to the project or separable element.

"(2) TERMS.—The agreement shall—

"(A) specify the life of the project; and

"(B) ensure that the Federal Government and the non-Federal interest will cooperate in carrying out the project or separable element.".

(2) OTHER SHORELINE PROTECTION PROJECTS.—Section 206(e)(1)(A) of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1(e)(1)(A); 106 Stat. 4829) is amended by inserting before the semicolon the following: "and enters into a written agreement with the non-Federal interest with respect to the project or separable element (including the terms of cooperation)".

(e) STATE AND REGIONAL PLANS.—The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, is further amended—

(1) by redesignating section 4 (33 U.S.C. 426h) as section 5; and

(2) by inserting after section 3 (33 U.S.C. 426g) the following:

"SEC. 4. STATE AND REGIONAL PLANS.

"The Secretary may—

"(1) cooperate with any State in the preparation of a comprehensive State or regional plan for the conservation of coastal resources located within the boundaries of the State;

"(2) encourage State participation in the implementation of the plan; and

"(3) submit to Congress reports and recommendations with respect to appropriate Federal participation in carrying out the plan.".

(f) DEFINITIONS.—

(1) IN GENERAL.—Section 5 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946 (33 U.S.C. 426h), (as redesignated by subsection (e)(1)) is amended to read as follows:

"SEC. 5. DEFINITIONS.

"In this Act, the following definitions apply:

''(1) SECRETARY.—The term 'Secretary' means the Secretary of the Army, acting through the Chief of Engineers.

''(2) SEPARABLE ELEMENT.—The term 'separable element' has the meaning provided by section 103(f) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(f)).

''(3) SHORE.—The term 'shore' includes each shoreline of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great Lakes, and lakes, estuaries, and bays directly connected therewith.

''(4) SHORE PROTECTION PROJECT.—The term 'shore protection project' includes a project for beach nourishment, including the replacement of sand.''.

(2) CONFORMING AMENDMENTS.—The Act entitled ''An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property'', approved August 13, 1946, is amended—

(A) in subsection (b)(3) of the first section (33 U.S.C. 426e(b)(3)) by striking ''of the Army, acting through the Chief of Engineers,'' and by striking the final period; and

(B) in section 3 (33 U.S.C. 426g) by striking ''Secretary of the Army'' and inserting ''Secretary''.

(g) OBJECTIVES OF PROJECTS.—Section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2; 84 Stat. 1829) is amended by inserting ''(including shore protection projects such as projects for beach nourishment, including the replacement of sand)'' after ''water resource projects''.

SEC. 229. PROJECT DEAUTHORIZATIONS.

(a) IN GENERAL.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended—

(1) by striking ''Before'' at the beginning of the second sentence and inserting ''Upon''; and

(2) by inserting ''planning, designing, or'' before ''construction'' in the last sentence.

(b) TECHNICAL AMENDMENT.—Section 52 of the Water Resources Development Act of 1988 (33 U.S.C. 579a note; 102 Stat. 4044) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively.

SEC. 230. SUPPORT OF ARMY CIVIL WORKS PROGRAM.

(a) GENERAL AUTHORITY.—In carrying out research and development in support of the civil works program of the Department of the Army, the Secretary may utilize contracts, cooperative research and development agreements, cooperative agreements, and grants with non-Federal entities, including State and local governments, colleges and universities, consortia, professional and technical societies, public and private scientific and technical foundations, research institutions, educational organizations, and nonprofit organizations.

(b) SPECIAL RULES.—With respect to contracts for research and development, the Secretary may include requirements that have potential commercial application and may also use such potential application as an evaluation factor where appropriate.

SEC. 231. BENEFITS TO NAVIGATION.

In evaluating potential improvements to navigation and the maintenance of navigation projects, the Secretary shall consider, and include for purposes of project justification, economic benefits generated by cruise ships as commercial navigation benefits.

SEC. 232. LOSS OF LIFE PREVENTION.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting ''including the loss of life which may be associated with flooding and coastal storm events,'' after ''costs,''.

SEC. 233. SCENIC AND AESTHETIC CONSIDERATIONS.

In conducting studies of potential water resources projects, the Secretary shall consider measures to preserve and enhance scenic and aesthetic qualities in the vicinity of such projects.

SEC. 234. REMOVAL OF STUDY PROHIBITIONS.

Nothing in section 208 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749), section 505 of the Energy and Water Development Appropriations Act, 1993 (106 Stat. 1343), or any other provision of law shall be deemed to limit the authority of the Secretary to undertake studies for the purpose of investigating alternative modes of financing hydroelectric power facilities under the jurisdiction of the Department of the Army with funds appropriated after the date of the enactment of this Act.

SEC. 235. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

SEC. 236. RESERVOIR MANAGEMENT TECHNICAL ADVISORY COMMITTEE.

Section 310 of the Water Resources Development Act of 1990 (33 U.S.C. 2319; 104 Stat. 4639) is amended—

(1) by striking subsection (a); and

(2) by striking ''(b) PUBLIC PARTICIPATION.—''.

SEC. 237. TECHNICAL CORRECTIONS.

(a) SECTION 203 OF 1992 ACT.—Section 203(b) of the Water Resources Development Act of 1992 (106 Stat. 4826) is amended by striking ''(8662)'' and inserting ''(8862)''.

(b) SECTION 225 OF 1992 ACT.—Section 225(c) of the Water Resources Development Act of 1992 (106 Stat. 4838) is amended by striking ''(8662)'' in the second sentence and inserting ''(8862)''.

TITLE III—PROJECT MODIFICATIONS

SEC. 301. MOBILE HARBOR, ALABAMA.

The undesignated paragraph under the heading ''MOBILE HARBOR, ALABAMA'' in section 201(a) of the Water Resources Development Act of 1986 (100 Stat. 4090) is amended by striking the first semicolon and all that follows and inserting a period and the following: ''In disposing of dredged material from such project, the Secretary, after compliance with applicable laws and after opportunity for public review and comment, may consider alternatives to disposal of such material in the Gulf of Mexico, including environmentally acceptable alternatives for beneficial uses of dredged material and environmental restoration.''.

SEC. 302. ALAMO DAM, ARIZONA.

The project for flood control and other purposes, Alamo Dam and Lake, Arizona, authorized by section 10 of the River and Harbor Act of December 22, 1944, (58 Stat. 900), is modified to authorize the Secretary to operate the Alamo Dam to provide fish and wildlife benefits both upstream and downstream of the Dam. Such operation shall not reduce flood control and recreation benefits provided by the project.

SEC. 303. NOGALES WASH AND TRIBUTARIES, ARIZONA.

The project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to direct the Secretary to permit the non-Federal contribution for the project to be determined in accordance with sections 103(k) and 103(m) of the Water Resources Development Act of 1986 and to direct the Secretary to enter into negotiations with non-Federal interests pursuant to section 103(l) of such Act concerning the timing of the initial payment of the non-Federal contribution.

SEC. 304. PHOENIX, ARIZONA.

Section 321 of the Water Resources Development Act of 1992 (106 Stat. 4848) is amended—

(1) by striking ''control'' and inserting ''control, ecosystem restoration,''; and

(2) by striking ''$6,500,000.'' and inserting ''$17,500,000.''.

SEC. 305. SAN FRANCISCO RIVER AT CLIFTON, ARIZONA.

The project for flood control, San Francisco River, Clifton, Arizona, authorized by section 101(a)(3) of the Water Resources Development Act of 1990 (104 Stat. 4606), is modified to authorize the Secretary to construct the project at a total cost of $21,100,000, with an estimated Federal cost of $13,800,000 and an estimated non-Federal cost of $7,300,000.

SEC. 306. CHANNEL ISLANDS HARBOR, CALIFORNIA.

The project for navigation, Channel Islands Harbor, Port of Hueneme, California, authorized by section 101 of the River and Harbor Act of 1954 (68 Stat. 1252) is modified to direct the Secretary to pay 100 percent of the costs of dredging the Channel Islands Harbor sand trap.

SEC. 307. GLENN-COLUSA, CALIFORNIA.

The project for flood control, Sacramento River, California, authorized by section 2 of the Act entitled ''An Act to provide for the control of the floods of the Mississippi River and the Sacramento River, California, and for other purposes'', approved March 1, 1917 (39 Stat. 948), and as modified by section 102 of the Energy and Water Development Appropriations Act, 1990 (103 Stat. 649), is further modified to authorize the Secretary to carry out the portion of the project at Glenn-Colusa, California, at a total cost of $14,200,000.

SEC. 308. LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.

The navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201(b) of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, notwithstanding section 101(a)(4) of such Act, the cost of the relocation of the sewer outfall by the Port of Los Angeles shall be credited toward the payment required from the non-Federal interest by section 101(a)(2) of such Act.

SEC. 309. OAKLAND HARBOR, CALIFORNIA.

The projects for navigation, Oakland Outer Harbor, California, and Oakland Inner Harbor, California, authorized by section 202 of the Water Resources Development Act of 1986 (100 Stat. 4092), are modified by combining the 2 projects into 1 project, to be designated as the Oakland Harbor, California, project. The Oakland Harbor, California, project shall be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the reports designated in such section 202, at a total cost of $90,850,000, with an estimated Federal cost of $59,150,000 and an estimated non-Federal cost of $31,700,000. The non-Federal share of project costs and any available credits toward the non-Federal share shall be calculated on the basis of the total cost of the combined project.

SEC. 310. QUEENSWAY BAY, CALIFORNIA.

Section 4(e) of the Water Resources Development Act of 1988 (102 Stat. 4016) is amended by adding at the end the following sentence: ''In addition, the Secretary shall perform advance maintenance dredging in the Queensway Bay Channel, California, at a total cost of $5,000,000.''.

SEC. 311. SAN LUIS REY, CALIFORNIA.

The project for flood control of the San Luis Rey River, California, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d–5; 79 Stat. 1073–1074), is modified to authorize the Secretary to construct the project at a total cost not to exceed $81,600,000 with an estimated Federal cost of $61,100,000 and an estimated non-Federal cost of $20,500,000.

SEC. 312. THAMES RIVER, CONNECTICUT.

(a) RECONFIGURATION OF TURNING BASIN.—The project for navigation, Thames River, Connecticut, authorized by the first section of the

Act entitled ''An Act authorizing construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved August 30, 1935 (49 Stat. 1029), is modified to make the turning basin have the following alignment: Starting at a point on the eastern limit of the existing project, N251052.93, E783934.59, thence running north 5 degrees 25 minutes 21.3 seconds east 341.06 feet to a point, N251392.46, E783966.82, thence running north 47 degrees 24 minutes 14.0 seconds west 268.72 feet to a point, N251574.34, E783769.00, thence running north 88 degrees 41 minutes 52.2 seconds west 249.06 feet to a point, N251580.00, E783520.00, thence running south 46 degrees 16 minutes 22.9 seconds west 318.28 feet to a point, N251360.00, E783290.00, thence running south 19 degrees 01 minute 32.2 seconds east 306.76 feet to a point, N251070.00, E783390.00, thence running south 45 degrees 00 minutes 00 seconds east 155.56 feet to a point, N250960.00, E783500.00 on the existing western limit.

(b) NON-FEDERAL RESPONSIBILITY FOR INITIAL DREDGING.—Any required initial dredging of the widened portions of the turning basin identified in subsection (a) shall be accomplished at non-Federal expense.

(c) CONFORMING DEAUTHORIZATION.—Those portions of the existing turning basin which are not included in the reconfigured turning basin as described in subsection (a) shall no longer be authorized after the date of the enactment of this Act.

SEC. 313. POTOMAC RIVER, WASHINGTON, DISTRICT OF COLUMBIA.

The project for flood protection, Potomac River, Washington, District of Columbia, authorized by section 5 of the Flood Control Act of June 22, 1936 (74 Stat. 1574), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated May 1992 at a Federal cost of $1,800,000; except that a temporary closure may be used instead of a permanent structure at 17th Street. Operation and maintenance of the project shall be a Federal responsibility.

SEC. 314. CANAVERAL HARBOR, FLORIDA.

The project for navigation, Canaveral Harbor, Florida, authorized by section 101(7) of the Water Resources Development Act of 1992 (106 Stat. 4802), is modified to authorize the Secretary to reclassify the removal and replacement of stone protection on both sides of the channel as general navigation features. The Secretary shall reimburse any costs that are incurred by the non-Federal sponsor in connection with the reclassified work and that the Secretary determines to be in excess of the non-Federal share of costs for general navigation features. The Federal and non-Federal shares of the cost of the reclassified work shall be determined in accordance with section 101 of the Water Resources Development Act of 1986.

SEC. 315. CAPTIVA ISLAND, FLORIDA.

The project for shoreline protection, Captiva Island, Lee County, Florida, authorized pursuant to section 201 of the Flood Control Act of 1965 (79 Stat. 1073), is modified to direct the Secretary to reimburse the non-Federal interest for beach renourishment work accomplished by such interest as if such work occurred after execution of the agreement entered into pursuant to section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5) with respect to such project.

SEC. 316. CENTRAL AND SOUTHERN FLORIDA, CANAL 51.

The project for flood protection of West Palm Beach, Florida (C–51), authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1183), is modified to provide for the construction of an enlarged stormwater detention area, Storm Water Treatment Area 1 East, generally in accordance with the plan of improvements described in the February 15, 1994, report entitled ''Everglades Protection Project, Palm Beach County, Florida, Conceptual Design'', with such modifications as are approved by the Secretary. The additional work authorized by this subsection shall be accomplished at Federal expense. Operation and maintenance of the stormwater detention area shall be consistent with regulations prescribed by the Secretary for the Central and Southern Florida project, and all costs of such operation and maintenance shall be provided by non-Federal interests.

SEC. 317. CENTRAL AND SOUTHERN FLORIDA, CANAL 111 (C–111).

(a) IN GENERAL.—The project for Central and Southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176) and modified by section 203 of the Flood Control Act of 1968 (82 Stat. 740–741), is modified to authorize the Secretary to implement the recommended plan of improvement contained in a report entitled ''Central and Southern Florida Project, Final Integrated General Reevaluation Report and Environmental Impact Statement, Canal 111 (C–111), South Dade County, Florida'', dated May 1994, including acquisition by non-Federal interests of such portions of the Frog Pond and Rocky Glades areas as are needed for the project.

(b) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of implementing the plan of improvement shall be 50 percent.

(2) DEPARTMENT OF INTERIOR RESPONSIBILITY.—The Department of the Interior shall pay 25 percent of the cost of acquiring such portions of the Frog Pond and Rocky Glades areas as are needed for the project. The amount paid by the Department of the Interior shall be included as part of the Federal share of the cost of implementing the plan.

(3) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs of the improvements undertaken pursuant to this subsection shall be 100 percent; except that the Federal Government shall reimburse the non-Federal project sponsor 60 percent of the costs of operating and maintaining pump stations that pump water into Taylor Slough in the Everglades National Park.

SEC. 318. JACKSONVILLE HARBOR (MILL COVE), FLORIDA.

The project for navigation, Jacksonville Harbor (Mill Cove), Florida, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139–4140), is modified to direct the Secretary to carry out a project for flow and circulation improvement within Mill Cove, at a total cost of $2,000,000, with an estimated Federal cost of $2,000,000.

SEC. 319. PANAMA CITY BEACHES, FLORIDA.

(a) IN GENERAL.—The project for shoreline protection, Panama City Beaches, Florida, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4133), is modified to direct the Secretary to enter into an agreement with the non-Federal interest for carrying out such project in accordance with section 206 of the Water Resources Development Act of 1992 (106 Stat. 4828).

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the progress made in carrying out this section.

SEC. 320. TYBEE ISLAND, GEORGIA.

The project for beach erosion control, Tybee Island, Georgia, authorized pursuant to section 201 of the Flood Control Act of 1968 (42 U.S.C. 1962d–5), is modified to include as an integral part of the project the portion of the ocean shore of Tybee Island located south of the existing south terminal groin between 18th and 19th Streets.

SEC. 321. WHITE RIVER, INDIANA.

The project for flood control, Indianapolis on West Fork of the White River, Indiana, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1586), is modified to authorize the Secretary to undertake riverfront alterations as described in the Central Indianapolis Waterfront Concept Master Plan, dated February 1994, at a total cost of $85,975,000, with an estimated first Federal cost of $39,975,000 and an estimated first non-Federal cost of $46,000,000. The cost of work, including relocations undertaken by the non-Federal interest after February 15, 1994, on features identified in the Master Plan shall be credited toward the non-Federal share of project costs.

SEC. 322. CHICAGO, ILLINOIS.

The project for flood control, Chicagoland Underflow Plan, Illinois, authorized by section 3(a)(5) of the Water Resources Development Act of 1988 (102 Stat. 4013), is modified to limit the capacity of the reservoir project not to exceed 11,000,000,000 gallons or 32,000 acre-feet, to provide that the reservoir project may not be located north of 55th Street or west of East Avenue in the vicinity of McCook, Illinois, and to provide that the reservoir project may only be constructed on the basis of a specific plan that has been evaluated by the Secretary under the provisions of the National Environmental Policy Act of 1969.

SEC. 323. CHICAGO LOCK AND THOMAS J. O'BRIEN LOCK, ILLINOIS.

The project for navigation, Chicago Harbor, Lake Michigan, Illinois, for which operation and maintenance responsibility was transferred to the Secretary under chapter IV of title I of the Supplemental Appropriations Act, 1983 (97 Stat. 311) and section 107 of the Energy and Water Development Appropriation Act, 1982 (95 Stat. 1137) is modified to direct the Secretary to conduct a study to determine the feasibility of making such structural repairs as are necessary to prevent leakage through the Chicago Lock and the Thomas J. O'Brien Lock, Illinois, and to determine the need for installing permanent flow measurement equipment at such locks to measure any leakage. The Secretary is authorized to carry out such repairs and installations as are necessary following completion of the study.

SEC. 324. KASKASKIA RIVER, ILLINOIS.

The project for navigation, Kaskaskia River, Illinois, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1175), is modified to add fish and wildlife and habitat restoration as project purposes.

SEC. 325. LOCKS AND DAM 26, ALTON, ILLINOIS AND MISSOURI.

Section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613) is amended—

(1) by striking '', that requires no separable project lands and'' and inserting ''on project lands and other contiguous nonproject lands, including those lands referred to as the Alton Commons. The recreational development'';

(2) by inserting ''shall be'' before ''at a Federal construction''; and

(3) by striking ''. The recreational development'' and inserting '', and''.

SEC. 326. NORTH BRANCH OF CHICAGO RIVER, ILLINOIS.

The project for flood protection, North Branch of the Chicago River, Illinois, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary to carry out the project in accordance with the report of the Corps of Engineers dated March 1994, at a total cost of $34,228,000, with an estimated Federal cost of $20,905,000 and an estimated non-Federal cost of $13,323,000.

SEC. 327. ILLINOIS AND MICHIGAN CANAL.

Section 314(a) of the Water Resources Development Act of 1992 (106 Stat. 4847) is amended by adding at the end the following: ''Such improvements shall include marina development at Lock 14, to be carried out in consultation with the Illinois Department of Natural Resources, at a total cost of $6,374,000.''.

SEC. 328. HALSTEAD, KANSAS.

The project for flood control, Halstead, Kansas, authorized by section 401(a) of the Water

Resources Development Act of 1986 (100 Stat. 4116), is modified to authorize the Secretary to carry out the project in accordance with the report of the Corps of Engineers dated March 19, 1993, at a total cost of $11,100,000, with an estimated Federal cost of $8,325,000 and an estimated non-Federal cost of $2,775,000.

SEC. 329. LEVISA AND TUG FORKS OF THE BIG SANDY RIVER AND CUMBERLAND RIVER, KENTUCKY, WEST VIRGINIA, AND VIRGINIA.

The project for flood control, Levisa and Tug Forks of the Big Sandy River and Cumberland River, Kentucky, West Virginia, and Virginia, authorized by section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified to provide that the minimum level of flood protection to be afforded by the project shall be the level required to provide protection from a 100-year flood or from the flood of April 1977, whichever level of protection is greater.

SEC. 330. PRESTONBURG, KENTUCKY.

Section 109(a) of Public Law 104–46 (109 Stat. 408) is amended by striking ''Modification No. 2'' and inserting ''Modification No. 3''.

SEC. 331. COMITE RIVER, LOUISIANA.

The Comite River Diversion project for flood control, authorized as part of the project for flood control, Amite River and Tributaries, Louisiana, by section 101(11) of the Water Resource Development Act of 1992 (106 Stat. 4802–4803), is modified to authorize the Secretary to construct the project at a total cost of $121,600,000, with an estimated Federal cost of $70,577,000 and an estimated non-Federal cost of $51,023,000.

SEC. 332. GRAND ISLE AND VICINITY, LOUISIANA.

The project for hurricane damage prevention, flood control, and beach erosion along Grand Isle and Vicinity, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to authorize the Secretary to construct a permanent breakwater and levee system at a total cost of $17,000,000.

SEC. 333. LAKE PONTCHARTRAIN, LOUISIANA.

The project for hurricane damage prevention and flood control, Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to provide that St. Bernard Parish, Louisiana, and the Lake Borgne Basin Levee District, Louisiana, shall not be required to pay the unpaid balance, including interest, of the non-Federal cost-share of the project.

SEC. 334. MISSISSIPPI DELTA REGION, LOUISIANA.

The Mississippi Delta Region project, Louisiana, authorized as part of the project for hurricane-flood protection project on Lake Pontchartrain, Louisiana, by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified to direct the Secretary to provide a credit to the State of Louisiana toward its non-Federal share of the cost of the project. The credit shall be for the cost incurred by the State in developing and relocating oyster beds to offset the adverse impacts on active and productive oyster beds in the Davis Pond project area but shall not exceed $7,500,000.

SEC. 335. MISSISSIPPI RIVER OUTLETS, VENICE, LOUISIANA.

The project for navigation, Mississippi River Outlets, Venice, Louisiana, authorized by section 101 of the River and Harbor Act of 1968 (82 Stat. 731), is modified to provide for the extension of the 16-foot deep by 250-foot wide Baptiste Collette Bayou entrance channel to approximately Mile 8 of the Mississippi River-Gulf Outlet navigation channel, at a total estimated Federal cost of $80,000.

SEC. 336. RED RIVER WATERWAY, LOUISIANA.

The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources and Development Act of 1986 (100 Stat. 4142) and modified by section 102(p) of the Water Resources and Development Act of 1990 (104 Stat. 4613), is further modified—

(1) to authorize the Secretary to carry out the project at a total cost of $10,500,000; and

(2) to provide that lands that are purchased adjacent to the Loggy Bayou Wildlife Management Area may be located in Caddo Parish or Red River Parish.

SEC. 337. WESTWEGO TO HARVEY CANAL, LOUISIANA.

The project West Bank Hurricane Protection Levee, Jefferson Parish, Louisiana, authorized by section 401(f) of the Water Resources Development Act of 1986 (100 Stat. 4128), is modified to include the Lake Cataouatche Area Levee as part of the authorized project, at a total cost of $14,375,000, with an estimated Federal cost of $9,344,000 and an estimated non-Federal cost of $5,031,000.

SEC. 338. TOLCHESTER CHANNEL, MARYLAND.

The project for navigation, Baltimore Harbor and Channels, Maryland, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297) is modified to direct the Secretary—

(1) to expedite review of potential straightening of the channel at the Tolchester Channel S-Turn; and

(2) if determined to be feasible and necessary for safe and efficient navigation, to implement such straightening as part of project maintenance.

SEC. 339. SAGINAW RIVER, MICHIGAN.

The project for flood protection, Saginaw River, Michigan, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 311) is modified to include as part of the project the design and construction of an inflatable dam on the Flint River, Michigan, at a total cost of $500,000.

SEC. 340. SAULT SAINTE MARIE, CHIPPEWA COUNTY, MICHIGAN.

(a) IN GENERAL.—The project for navigation, Sault Sainte Marie, Chippewa County, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254–4255), is modified as provided by this subsection.

(b) PAYMENT OF NON-FEDERAL SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be paid as follows:

(1) That portion of the non-Federal share which the Secretary determines is attributable to use of the lock by vessels calling at Canadian ports shall be paid by the United States.

(2) The remaining portion of the non-Federal share shall be paid by the Great Lakes States pursuant to an agreement entered into by such States.

(c) PAYMENT TERM OF ADDITIONAL PERCENTAGE.—The amount to be paid by non-Federal interests pursuant to section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) and this subsection with respect to the project referred to in subsection (a) may be paid over a period of 50 years or the expected life of the project, whichever is shorter.

(d) GREAT LAKES STATES DEFINED.—For the purposes of this section, the term ''Great Lakes States'' means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin.

SEC. 341. STILLWATER, MINNESOTA.

Section 363 of the Water Resources Development Act of 1992 (106 Stat. 4861–4862) is amended—

(1) by inserting after ''riverfront,'' the following: ''and expansion of such system if the Secretary determines that the expansion is feasible,'';

(2) by striking ''$3,200,000'' and inserting ''$11,600,000'';

(3) by striking ''$2,400,000'' and inserting ''$8,700,000''; and

(4) by striking ''$800,000'' and inserting ''$2,900,000''.

SEC. 342. CAPE GIRARDEAU, MISSOURI.

The project for flood control, Cape Girardeau, Jackson Metropolitan Area, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118–4119), is modified to authorize the Secretary to construct the project, including implementation of nonstructural measures, at a total cost of $45,414,000, with an estimated Federal cost of $33,030,000 and an estimated non-Federal cost of $12,384,000.

SEC. 343. NEW MADRID HARBOR, MISSOURI.

The project for navigation, New Madrid Harbor, Missouri, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577) and modified by section 102(n) of the Water Resources Development Act of 1992 (106 Stat. 4807), is further modified to direct the Secretary to assume responsibility for maintenance of the existing Federal channel referred to in such section 102(n) in addition to maintaining New Madrid County Harbor.

SEC. 344. ST. JOHN'S BAYOU—NEW MADRID FLOODWAY, MISSOURI.

Notwithstanding any other provision of law, Federal assistance made available under the rural enterprise zone program of the Department of Agriculture may be used toward payment of the non-Federal share of the costs of the project for flood control, St. John's Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

SEC. 345. JOSEPH G. MINISH PASSAIC RIVER PARK, NEW JERSEY.

Section 101(a)(18)(B) of the Water Resources Development Act of 1990 (104 Stat. 4608) is amended by striking ''$25,000,000'' and inserting ''$75,000,000''.

SEC. 346. MOLLY ANN'S BROOK, NEW JERSEY.

The project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified to authorize the Secretary to carry out the project in accordance with the report of the Corps of Engineers dated April 3, 1996, at a total cost of $40,100,000, with an estimated Federal cost of $22,600,000 and an estimated non-Federal cost of $17,500,000.

SEC. 347. PASSAIC RIVER, NEW JERSEY.

Section 1148 of the Water Resources Development Act of 1986 (100 Stat. 4254) is amended to read as follows:

''SEC. 1148. PASSAIC RIVER BASIN.

''(a) ACQUISITION OF LANDS.—The Secretary is authorized to acquire from willing sellers lands on which residential structures are located and which are subject to frequent and recurring flood damage, as identified in the supplemental floodway report of the Corps of Engineers, Passaic River Buyout Study, September 1995, at an estimated total cost of $194,000,000.

''(b) RETENTION OF LANDS FOR FLOOD PROTECTION.—Lands acquired by the Secretary under this section shall be retained by the Secretary for future use in conjunction with flood protection and flood management in the Passaic River Basin.

''(c) COST SHARING.—The non-Federal share of the cost of carrying out this section shall be 25 percent plus any amount that might result from application of the requirements of subsection (d).

''(d) APPLICABILITY OF BENEFIT-COST RATIO WAIVER AUTHORITY.—In evaluating and implementing the project under this section, the Secretary shall allow the non-Federal interest to participate in the financing of the project in accordance with section 903(c) of this Act, to the extent that the Secretary's evaluation indicates that applying such section is necessary to implement the project.''.

SEC. 348. RAMAPO RIVER AT OAKLAND, NEW JERSEY AND NEW YORK.

The project for flood control, Ramapo River at Oakland, New Jersey and New York, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), is modified to authorize the Secretary to carry out the

project in accordance with the report of the Corps of Engineers dated May 1994, at a total cost of $11,300,000, with an estimated Federal cost of $8,500,000 and an estimated non-Federal cost of $2,800,000.

SEC. 349. RARITAN BAY AND SANDY HOOK BAY, NEW JERSEY.

Section 102(q) of the Water Resources Development Act of 1992 (106 Stat. 4808) is amended by striking ''for Cliffwood Beach''.

SEC. 350. ARTHUR KILL, NEW YORK AND NEW JERSEY.

The project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098), is modified to authorize the Secretary to carry out the project to a depth of not to exceed 45 feet if determined to be feasible by the Secretary at a total cost of $83,000,000.

SEC. 351. JONES INLET, NEW YORK.

The project for navigation, Jones Inlet, New York, authorized by section 2 of the Act entitled ''An Act authorizing construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 (59 Stat. 13), is modified to direct the Secretary to place uncontaminated dredged material on beach areas downdrift from the federally maintained channel for the purpose of mitigating the interruption of littoral system natural processes caused by the jetty and continued dredging of the federally maintained channel.

SEC. 352. KILL VAN KULL, NEW YORK AND NEW JERSEY.

The project for navigation, Kill Van Kull, New York and New Jersey, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to carry out the project at a total cost of $750,000,000.

SEC. 353. WILMINGTON HARBOR-NORTHEAST CAPE FEAR RIVER, NORTH CAROLINA.

The project for navigation, Wilmington Harbor-Northeast Cape Fear River, North Carolina, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum dated April 1990 and the General Design Memorandum Supplement dated February 1994, at a total cost of $52,041,000, with an estimated Federal cost of $25,729,000 and an estimated non-Federal cost of $26,312,000.

SEC. 354. GARRISON DAM, NORTH DAKOTA.

The project for flood control, Garrison Dam, North Dakota, authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 891), is modified to authorize the Secretary to acquire permanent flowage and saturation easements over the lands in Williams County, North Dakota, extending from the riverward margin of the Buford-Trenton Irrigation District main canal to the north bank of the Missouri River, beginning at the Buford-Trenton Irrigation District pumping station located in the northeast quarter of section 17, township 152 north, range 104 west, and continuing northeasterly downstream to the land referred to as the East Bottom, and any other lands outside of the boundaries of the Buford-Trenton Irrigation District which have been adversely affected by rising ground water and surface flooding. Any easement acquired by the Secretary pursuant to this subsection shall include the right, power, and privilege of the Government to submerge, overflow, percolate, and saturate the surface and subsurface of the land. The cost of acquiring such easements shall not exceed 90 percent, or be less than 75 percent, of the unaffected fee value of the lands. The project is further modified to authorize the Secretary to provide a lump sum payment of $60,000 to the Buford-Trenton Irrigation District for power requirements associated with operation of the drainage pumps and to relinquish all right, title, and interest of the United States to the drainage pumps located within the boundaries of the Irrigation District.

SEC. 355. RENO BEACH-HOWARDS FARM, OHIO.

The project for flood protection, Reno Beach-Howards Farm, Ohio, authorized by section 203 of the Flood Control Act, 1948 (62 Stat. 1178), is modified to provide that the value of lands, easements, rights-of-way, and disposal areas that are necessary to carry out the project and are provided by the non-Federal interest shall be determined on the basis of the appraisal performed by the Corps of Engineers and dated April 4, 1985.

SEC. 356. WISTER LAKE, OKLAHOMA.

The flood control project for Wister Lake, LeFlore County, Oklahoma, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1218), is modified to increase the elevation of the conservation pool to 478 feet and to adjust the seasonal pool operation to accommodate the change in the conservation pool elevation.

SEC. 357. BONNEVILLE LOCK AND DAM, COLUMBIA RIVER, OREGON AND WASHINGTON.

(a) IN GENERAL.—The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by section 83 of the Water Resources Development Act of 1974 (88 Stat. 35), is further modified to authorize the Secretary to convey to the city of North Bonneville, Washington, at no further cost to the city, all right, title and interest of the United States in and to the following:

(1) Any municipal facilities, utilities fixtures, and equipment for the relocated city, and any remaining lands designated as open spaces or municipal lots not previously conveyed to the city, specifically, Lots M1 through M15, M16 (the ''community center lot''), M18, M19, M22, M24, S42 through S45, and S52 through S60.

(2) The ''school lot'' described as Lot 2, block 5, on the plat of relocated North Bonneville.

(3) Parcels 2 and C, but only upon the completion of any environmental response actions required under applicable law.

(4) That portion of Parcel B lying south of the existing city boundary, west of the sewage treatment plant, and north of the drainage ditch that is located adjacent to the northerly limit of the Hamilton Island landfill, provided the Secretary determines, at the time of the proposed conveyance, that the Army has taken all action necessary to protect human health and the environment.

(5) Such portions of Parcel H which can be conveyed without a requirement for further investigation, inventory or other action by the Department of the Army under the provisions of the National Historic Preservation Act.

(6) Such easements as the Secretary deems necessary for—

(A) sewer and water line crossings of relocated Washington State Highway 14; and

(B) reasonable public access to the Columbia River across those portions of Hamilton Island that remain under the ownership of the United States.

(b) TIME PERIOD FOR CONVEYANCES.—The conveyances referred to in subsections (a)(1), (a)(2), (a)(5), and (a)(6)(A) shall be completed within 180 days after the United States receives the release referred to in subsection (d). All other conveyances shall be completed expeditiously, subject to any conditions specified in the applicable subsection.

(c) PURPOSE.—The purpose of the conveyances authorized by subsection (a) is to resolve all outstanding issues between the United States and the city of North Bonneville.

(d) ACKNOWLEDGEMENT OF PAYMENT; RELEASE OF CLAIMS RELATING TO RELOCATION OF CITY.—As a prerequisite to the conveyances authorized by subsection (a), the city of North Bonneville shall execute an acknowledgement of payment of just compensation and shall execute a release of any and all claims for relief of any kind against the United States growing out of the relocation of the city of North Bonneville, or any prior Federal legislation relating thereto, and shall dismiss, with prejudice, any pending litigation, if any, involving such matters.

(e) RELEASE BY ATTORNEY GENERAL.—Upon receipt of the city's acknowledgment and release referred to in subsection (d), the Attorney General of the United States shall dismiss any pending litigation, if any, arising out of the relocation of the city of North Bonneville, and execute a release of any and all rights to damages of any kind under the February 20, 1987, judgment of the United States Claims Court, including any interest thereon.

(f) ACKNOWLEDGMENT OF ENTITLEMENTS; RELEASE BY CITY OF CLAIMS.—Within 60 days after the conveyances authorized by subsection (a) (other than paragraph (6)(B)) have been completed, the city shall execute an acknowledgement that all entitlements under such paragraph have been completed and shall execute a release of any and all claims for relief of any kind against the United States arising out of this subsection.

(g) EFFECTS ON CITY.—Beginning on the date of the enactment of this Act, the city of North Bonneville, or any successor in interest thereto, shall—

(1) be precluded from exercising any jurisdiction over any lands owned in whole or in part by the United States and administered by the United States Army Corps of Engineers in connection with the Bonneville project; and

(2) be authorized to change the zoning designations of, sell, or resell Parcels S35 and S56, which are presently designated as open spaces.

SEC. 358. COLUMBIA RIVER DREDGING, OREGON AND WASHINGTON.

The project for navigation, Lower Willamette and Columbia Rivers below Vancouver, Washington and Portland, Oregon, authorized by the first section of the River and Harbor Appropriations Act of June 18, 1878 (20 Stat. 152), is modified to direct the Secretary—

(1) to conduct channel simulation and to carry out improvements to the existing deep draft channel between the mouth of the river and river mile 34 at a cost not to exceed $2,400,000; and

(2) to conduct overdepth and advance maintenance dredging that is necessary to maintain authorized channel dimensions.

SEC. 359. GRAYS LANDING LOCK AND DAM, MONONGAHELA RIVER, PENNSYLVANIA.

The project for navigation Grays Landing Lock and Dam, Monongahela River, Pennsylvania, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), is modified to authorize the Secretary to construct the project at a total cost of $181,000,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

SEC. 360. LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA.

The project for flood control, Lackawanna River at Scranton, Pennsylvania, authorized by section 101(16) of the Water Resources Development Act of 1992 (106 Stat. 4803), is modified to direct the Secretary to carry out the project for flood control for the Plot and Green Ridge sections of the project.

SEC. 361. MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA.

Section 209(e)(5) of the Water Resources Development Act of 1992 (106 Stat. 4830) is amended by striking ''$3,000,000'' and inserting ''$5,000,000''.

SEC. 362. SAW MILL RUN, PENNSYLVANIA.

The project for flood control, Saw Mill Run, Pittsburgh, Pennsylvania, authorized by section

401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary to carry out the project in accordance with the report of the Corps of Engineers dated April 8, 1994, at a total cost of $12,780,000, with an estimated Federal cost of $9,585,000 and an estimated non-Federal cost of $3,195,000.

SEC. 363. SCHUYLKILL RIVER, PENNSYLVANIA.

The navigation project for the Schuylkill River, Pennsylvania, authorized by the first section of the River and Harbor Appropriations Act of August 8, 1917 (40 Stat. 252), is modified to provide for the periodic removal and disposal of sediment to a depth of 6 feet detained within portions of the Fairmount pool between the Fairmount Dam and the Columbia Bridge, generally within the limits of the channel alignments referred to as the Schuylkill River Racecourse and return lane, and the Belmont Water Works intakes and Boathouse Row.

SEC. 364. SOUTH CENTRAL PENNSYLVANIA.

(a) COST SHARING.—Section 313(d)(3)(A) of the Water Resources Development Act of 1992 (106 Stat. 4846; 109 Stat. 407) is amended to read as follows:

''(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for design and construction services and other in-kind work, whether occurring subsequent to, or within 6 years prior to, entering into an agreement with the Secretary. The Federal share may be provided in the form of grants or reimbursements of project costs. Non-Federal interests shall also receive credit for grants and the value of work performed on behalf of such interests by State and local agencies.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 313(g)(1) of such Act (106 Stat. 4846; 109 Stat. 407) is amended by striking ''$50,000,000'' and inserting ''$90,000,000''.

SEC. 365. WYOMING VALLEY, PENNSYLVANIA.

The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified to authorize the Secretary to undertake as part of the construction of the project mechanical and electrical upgrades to existing stormwater pumping stations in the Wyoming Valley and to undertake mitigation measures.

SEC. 366. SAN JUAN HARBOR, PUERTO RICO.

The project for navigation, San Juan Harbor, Puerto Rico, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4097), is modified to authorize the Secretary to deepen the bar channel to depths varying from 49 feet to 56 feet below mean low water with other modifications to authorized interior channels as generally described in the General Reevaluation Report and Environmental Assessment, dated March 1994, at a total cost of $43,993,000, with an estimated Federal cost of $27,341,000 and an estimated non-Federal cost of $16,652,000.

SEC. 367. NARRAGANSETT, RHODE ISLAND.

Section 361(a) of the Water Resources Development Act of 1992 (106 Stat. 4861) is amended—

(1) by striking ''$200,000'' and inserting ''$1,900,000'';

(2) by striking ''$150,000'' and inserting ''$1,425,000''; and

(3) by striking ''$50,000'' and inserting ''$475,000''.

SEC. 368. CHARLESTON HARBOR, SOUTH CAROLINA.

The project for navigation, Charleston Harbor, South Carolina, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4096), is modified to direct the Secretary to undertake ditching, clearing, spillway replacement, and dike reconstruction of the Clouter Creek Disposal Area, as a part of the operation and maintenance of the Charleston Harbor project.

SEC. 369. DALLAS FLOODWAY EXTENSION, DALLAS, TEXAS.

(a) IN GENERAL.—The project for flood control, Dallas Floodway Extension, Dallas, Texas, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1091), is modified to provide that flood protection works constructed by the non-Federal interests along the Trinity River in Dallas, Texas, for Rochester Park and the Central Wastewater Treatment Plant shall be included as a part of the project and the cost of such works shall be credited against the non-Federal share of project costs but shall not be included in calculating benefits of the project.

(b) DETERMINATION OF AMOUNT.—The amount to be credited under subsection (a) shall be determined by the Secretary. In determining such amount, the Secretary may permit crediting only for that portion of the work performed by the non-Federal interests which is compatible with the project referred to in subsection (a), including any modification thereof, and which is required for construction of such project.

(c) CASH CONTRIBUTION.—Nothing in this section shall be construed to limit the applicability of the requirement contained in section 103(a)(1)(A) of the Water Resources Development Act of 1986 to the project referred to in subsection (a).

SEC. 370. UPPER JORDAN RIVER, UTAH.

The project for flood control, Upper Jordan River, Utah, authorized by section 101(a)(23) of the Water Resources Development Act of 1990 (104 Stat. 4610), is modified to authorize the Secretary to construct the project at a total cost of $12,870,000, with an estimated Federal cost of $8,580,000 and an estimated non-Federal cost of $4,290,000.

SEC. 371. HAYSI LAKE, VIRGINIA.

The Haysi Lake, Virginia, feature of the project for flood control, Tug Fork of the Big Sandy River, Kentucky, West Virginia, and Virginia, authorized by section 202(a) of the Energy and Water Development Appropriation Act, 1981 (94 Stat. 1339), is modified—

(1) to add recreation and fish and wildlife enhancement as project purposes;

(2) to direct the Secretary to construct the Haysi Dam feature of the project substantially in accordance with Plan A as set forth in the Draft General Plan Supplement Report for the Levisa Fork Basin, Virginia and Kentucky, dated May 1995;

(3) to direct the Secretary to apply section 103(m) of the Water Resources Development Act of 1986 (100 Stat. 4087) to the construction of such feature in the same manner as that section is applied to other projects or project features construed pursuant to such section 202(a); and

(4) to provide for operation and maintenance of recreational facilities on a reimbursable basis.

SEC. 372. RUDEE INLET, VIRGINIA BEACH, VIRGINIA.

The project for navigation and shoreline protection, Rudee Inlet, Virginia Beach, Virginia, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4148), is modified to authorize the Secretary to continue maintenance of the project for 50 years beginning on the date of initial construction of the project. The Federal share of the cost of such maintenance shall be determined in accordance with title I of the Water Resources Development Act of 1986.

SEC. 373. VIRGINIA BEACH, VIRGINIA.

The non-Federal share of the costs of the project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), shall be reduced by $3,120,803, or by such amount as is determined by an audit carried out by the Secretary to be due to the city of Virginia Beach as reimbursement for the Federal share of beach nourishment activities carried out by the city between October 1, 1986, and September 30, 1993, if the Federal Government has not reimbursed the city for the activities prior to the date on which a project cooperative agreement is executed for the project.

SEC. 374. EAST WATERWAY, WASHINGTON.

The project for navigation, East and West waterways, Seattle Harbor, Washington, authorized by the first section of the River and Harbor Appropriations Act of March 2, 1919 (40 Stat. 1275), is modified to direct the Secretary—

(1) to expedite review of potential deepening of the channel in the East waterway from Elliott Bay to Terminal 25 to a depth of up to 51 feet; and

(2) if determined to be feasible, to implement such deepening as part of project maintenance.

In carrying out work authorized by this section, the Secretary shall coordinate with the Port of Seattle regarding use of Slip 27 as a dredged material disposal area.

SEC. 375. BLUESTONE LAKE, WEST VIRGINIA.

Section 102(ff) of the Water Resources Development Act of 1992 (106 Stat. 4810) is amended by inserting ''except for that organic matter necessary to maintain and enhance the biological resources of such waters and such nonobtrusive items of debris as may not be economically feasible to prevent being released through such project,'' after ''project,'' the first place it appears.

SEC. 376. MOOREFIELD, WEST VIRGINIA.

The project for flood control, Moorefield, West Virginia, authorized by section 101(a)(25) of the Water Resources Development Act of 1990 (104 Stat. 4610–4611), is modified to authorize the Secretary to construct the project at a total cost of $22,000,000, with an estimated Federal cost of $17,100,000 and an estimated non-Federal cost of $4,900,000.

SEC. 377. SOUTHERN WEST VIRGINIA.

(a) COST SHARING.—Section 340(c)(3) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended to read as follows:

''(3) COST SHARING.—

''(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project. The Federal share may be in the form of grants or reimbursements of project costs.

''(B) INTEREST.—In the event of delays in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

''(C) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands, but not to exceed 25 percent of total project costs.

''(D) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.''.

(b) FUNDING.—Section 340(g) of the Water Resources Development Act of 1992 (106 Stat. 4856) is amended by striking ''$5,000,000'' and inserting ''$25,000,000''.

SEC. 378. WEST VIRGINIA TRAIL HEAD FACILITIES.

Section 306 of the Water Resources Development Act of 1992 (106 Stat. 4840–4841) is amended by adding at the end the following:

''The Secretary shall enter into an interagency agreement with the Federal entity which provided assistance in the preparation of the study

for the purposes of providing ongoing technical assistance and oversight for the trail facilities envisioned by the master plan developed under this section. The Federal entity shall provide such assistance and oversight.''.

SEC. 379. KICKAPOO RIVER, WISCONSIN.

(a) IN GENERAL.—The project for flood control and allied purposes, Kickapoo River, Wisconsin, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1190) and modified by section 814 of the Water Resources Development Act of 1986 (100 Stat. 4169), is further modified as provided by this section.

(b) TRANSFER OF PROPERTY.—

(1) IN GENERAL.—Subject to the requirements of this subsection, the Secretary shall transfer to the State of Wisconsin, without consideration, all right, title, and interest of the United States to the lands described in paragraph (3), including all works, structures, and other improvements to such lands.

(2) TRANSFER TO SECRETARY OF THE INTERIOR.—Subject to the requirements of this subsection, on the date of the transfer under paragraph (1), the Secretary shall transfer to the Secretary of the Interior, without consideration, all right, title, and interest of the United States in and to lands that are culturally and religiously significant sites of the Ho-Chunk Nation (a federally recognized Indian tribe) and are located within the lands described in paragraph (3). Such lands shall be specified in accordance with paragraph (4)(C) and may not exceed a total of 1,200 acres.

(3) LAND DESCRIPTION.—The lands to be transferred pursuant to paragraphs (1) and (2) are the approximately 8,569 acres of land associated with the LaFarge Dam and Lake portion of the project referred to in subsection (a) in Vernon County, Wisconsin, in the following sections:

(A) Section 31, Township 14 North, Range 1 West of the 4th Principal Meridian.

(B) Sections 2 through 11, and 16, 17, 20, and 21, Township 13 North, Range 2 West of the 4th Principal Meridian.

(C) Sections 15, 16, 21 through 24, 26, 27, 31, and 33 through 36, Township 14 North, Range 2 West of the 4th Principal Meridian.

(4) TERMS AND CONDITIONS.—

(A) HOLD HARMLESS; REIMBURSEMENT OF UNITED STATES.—The transfer under paragraph (1) shall be made on the condition that the State of Wisconsin enters into a written agreement with the Secretary to hold the United States harmless from all claims arising from or through the operation of the lands and improvements subject to the transfer. If title to the lands described in paragraph (3) is sold or transferred by the State, then the State shall reimburse the United States for the price originally paid by the United States for purchasing such lands.

(B) IN GENERAL.—The Secretary shall make the transfers under paragraphs (1) and (2) only if on or before October 31, 1997, the State of Wisconsin enters into and submits to the Secretary a memorandum of understanding, as specified in subparagraph (C), with the tribal organization (as defined by section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))) of the Ho-Chunk Nation.

(C) MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding referred to in subparagraph (B) shall contain, at a minimum, the following:

(i) A description of sites and associated lands to be transferred to the Secretary of the Interior under paragraph (2).

(ii) An agreement specifying that the lands transferred under paragraphs (1) and (2) shall be preserved in a natural state and developed only to the extent necessary to enhance outdoor recreational and educational opportunities.

(iii) An agreement specifying the terms and conditions of a plan for the management of the lands to be transferred under paragraphs (1) and (2).

(iv) A provision requiring a review of the plan referred to in clause (iii) to be conducted every 10 years under which the State of Wisconsin, acting through the Kickapoo Valley Governing Board, and the Ho-Chunk Nation may agree to revisions of the plan in order to address changed circumstances on the lands transferred under paragraph (2). Such provision may include a plan for the transfer by the State to the Secretary of the Interior of any additional site discovered to be culturally and religiously significant to the Ho-Chunk Nation.

(5) ADMINISTRATION OF LANDS.—The lands transferred to the Secretary of the Interior under paragraph (2), and any lands transferred to the Secretary of the Interior pursuant to the memorandum of understanding entered into under paragraph (3), shall be held in trust for, and added to and administered as part of the reservation of, the Ho-Chunk Nation.

(6) TRANSFER OF FLOWAGE EASEMENTS.—The Secretary shall transfer to the owner of the servient estate, without consideration, all right, title, and interest of the United States in and to each flowage easement acquired as part of the project referred to in subsection (a) within Township 14 North, Range 2 West of the 4th Principal Meridian, Vernon County, Wisconsin.

(7) DEAUTHORIZATION.—Except as provided in subsection (c), the LaFarge Dam and Lake portion of the project referred to in subsection (a) is not authorized after the date of the transfer under this subsection.

(8) INTERIM MANAGEMENT AND MAINTENANCE.—The Secretary shall continue to manage and maintain the LaFarge Dam and Lake portion of the project referred to in subsection (a) until the date of the transfer under this section.

(c) COMPLETION OF PROJECT FEATURES.—

(1) REQUIREMENT.—The Secretary shall undertake the completion of the following features of the project referred to in subsection (a):

(A) The continued relocation of State highway route 131 and county highway routes P and F substantially in accordance with plans contained in Design Memorandum No. 6, Relocation-LaFarge Reservoir, dated June 1970; except that the relocation shall generally follow the existing road rights-of-way through the Kickapoo Valley.

(B) Environmental cleanup and site restoration of abandoned wells, farm sites, and safety modifications to the water control structures.

(C) Cultural resource activities to meet the requirements of Federal law.

(2) PARTICIPATION BY STATE OF WISCONSIN.—In undertaking the completion of the features described in paragraph (1), the Secretary shall determine the requirements of the State of Wisconsin on the location and design of each such feature.

(d) FUNDING.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1996, $17,000,000.

SEC. 380. TETON COUNTY, WYOMING.

Section 840 of the Water Resources Development Act of 1986 (100 Stat. 4176) is amended—

(1) by striking ''; Provided, That'' and inserting ''; except that'';

(2) by striking ''in cash or materials'' and inserting '', through providing in-kind services or cash or materials,''; and

(3) by adding at the end the following: ''In carrying out this section, the Secretary may enter into agreements with the non-Federal sponsor permitting the non-Federal sponsor to perform operation and maintenance for the project on a cost-reimbursable basis.''.

TITLE IV—STUDIES

SEC. 401. CORPS CAPABILITY STUDY, ALASKA.

The Secretary shall review the capability of the Corps of Engineers to plan, design, construct, operate, and maintain rural sanitation projects for rural and Native villages in Alaska. Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit findings and recommendations on the agency's capability, together with recommendations on the advisability of assuming such a mission.

SEC. 402. MCDOWELL MOUNTAIN, ARIZONA.

The Secretary shall credit the non-Federal share of the cost of the feasibility study on the McDowell Mountain project an amount equivalent to the cost of work performed by the city of Scottsdale, Arizona, and accomplished prior to the city's entering into an agreement with the Secretary if the Secretary determines that the work is necessary for the study.

SEC. 403. NOGALES WASH AND TRIBUTARIES, ARIZONA.

(a) STUDY.—The Secretary shall conduct a study of the relationship of flooding in Nogales, Arizona, and floodflows emanating from Mexico.

(b) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations concerning the appropriate level of non-Federal participation in the project for flood control, Nogales Wash and tributaries, Arizona, authorized by section 101(a)(4) of the Water Resources Development Act of 1990 (104 Stat. 4606).

SEC. 404. GARDEN GROVE, CALIFORNIA.

The Secretary shall conduct a study to assess the feasibility of implementing improvements in the regional flood control system within Garden Grove, California.

SEC. 405. MUGU LAGOON, CALIFORNIA.

(a) STUDY.—The Secretary shall conduct a study of the environmental impacts associated with sediment transport, flood flows, and upstream watershed land use practices on Mugu Lagoon, California. The study shall include an evaluation of alternatives for the restoration of the estuarine ecosystem functions and values associated with Mugu Lagoon and the endangered and threatened species inhabiting the area.

(b) CONSULTATION AND COORDINATION.—In conducting the study, the Secretary shall consult with the Secretary of the Navy and shall coordinate with State and local resource agencies to assure that the study is compatible with restoration efforts for the Calleguas Creek watershed.

(c) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study.

SEC. 406. SANTA YNEZ, CALIFORNIA.

(a) PLANNING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall prepare a comprehensive river basin management plan addressing the long term ecological, economic, and flood control needs of the Santa Ynez River basin, California. In preparing such plan, the Secretary shall consult the Santa Barbara Flood Control District and other affected local governmental entities.

(b) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the Santa Barbara Flood Control District with respect to implementation of the plan to be prepared under subsection (a).

SEC. 407. SOUTHERN CALIFORNIA INFRASTRUCTURE.

(a) ASSISTANCE.—Section 116(d)(1) of the Water Resources Development Act of 1990 (104 Stat. 4624) is amended—

(1) in the heading of paragraph (1) by inserting ''AND ASSISTANCE'' after ''STUDY''; and

(2) by adding at the end the following: ''In addition, the Secretary shall provide technical, design, and planning assistance to non-Federal interests in developing potential infrastructure projects.''.

(b) FUNDING.—Section 116(d)(3) of such Act is amended by striking ''$1,500,000'' and inserting ''$7,500,000''.

SEC. 408. YOLO BYPASS, SACRAMENTO-SAN JOAQUIN DELTA, CALIFORNIA.

The Secretary shall study the advisability of acquiring land in the vicinity of the Yolo Bypass in the Sacramento-San Joaquin Delta, California, for the purpose of environmental

mitigation for the flood control project for Sacramento, California, and other water resources projects in the area.

SEC. 409. CHAIN OF ROCKS CANAL, ILLINOIS.

The Secretary shall complete a limited reevaluation of the authorized St. Louis Harbor Project in the vicinity of the Chain of Rocks Canal, Illinois, and consistent with the authorized purposes of that project, to include evacuation of waters interior to the Chain of Rocks Canal East Levee.

SEC. 410. QUINCY, ILLINOIS.

(a) STUDY.—The Secretary shall study and evaluate the critical infrastructure of the Fabius River Drainage District, the South Quincy Drainage and Levee District, the Sny Island Levee Drainage District, and the city of Quincy, Illinois—

(1) to determine if additional flood protection needs of such infrastructure should be identified or implemented;

(2) to produce a definition of critical infrastructure;

(3) to develop evaluation criteria; and

(4) to enhance existing geographic information system databases to encompass relevant data that identify critical infrastructure for use in emergencies and in routine operation and maintenance activities.

(b) CONSIDERATION OF OTHER STUDIES.—In conducting the study under this section, the Secretary shall consider the recommendations of the Interagency Floodplain Management Committee Report, the findings of the Floodplain Management Assessment of the Upper Mississippi River and Lower Missouri Rivers and Tributaries, and other relevant studies and findings.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, together with recommendations regarding each of the purposes of the study described in paragraphs (1) through (4) of subsection (a).

SEC. 411. SPRINGFIELD, ILLINOIS.

The Secretary shall provide technical, planning, and design assistance to the city of Springfield, Illinois, in developing—

(1) an environmental impact statement for the proposed development of a water supply reservoir, including the preparation of necessary documentation in support of the environmental impact statement; and

(2) an evaluation of technical, economic, and environmental impacts of such development.

SEC. 412. BEAUTY CREEK WATERSHED, VALPARAISO CITY, PORTER COUNTY, INDIANA.

The Secretary shall conduct a study to assess the feasibility of implementing streambank erosion control measures and flood control measures within the Beauty Creek watershed, Valparaiso City, Porter County, Indiana.

SEC. 413. GRAND CALUMET RIVER, HAMMOND, INDIANA.

(a) STUDY.—The Secretary shall conduct a study to establish a methodology and schedule to restore the wetlands at Wolf Lake and George Lake in Hammond, Indiana.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 414. INDIANA HARBOR CANAL, EAST CHICAGO, LAKE COUNTY, INDIANA.

The Secretary shall conduct a study of the feasibility of including environmental and recreational features, including a vegetation buffer, as part of the project for navigation, Indiana Harbor Canal, East Chicago, Lake County, Indiana, authorized by the first section of the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 657).

SEC. 415. KOONTZ LAKE, INDIANA.

The Secretary shall conduct a study of the feasibility of implementing measures to restore Koontz Lake, Indiana, including measures to remove silt, sediment, nutrients, aquatic growth, and other noxious materials from Koontz Lake, measures to improve public access facilities to Koontz Lake, and measures to prevent or abate the deposit of sediments and nutrients in Koontz Lake.

SEC. 416. LITTLE CALUMET RIVER, INDIANA.

(a) STUDY.—The Secretary shall conduct a study of the impact of the project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115), on flooding and water quality in the vicinity of the Black Oak area of Gary, Indiana.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for cost-effective remediation of impacts described in subsection (a).

(c) FEDERAL SHARE.—The Federal share of the cost of the study to be conducted under subsection (a) shall be 100 percent.

SEC. 417. TIPPECANOE RIVER WATERSHED, INDIANA.

(a) STUDY.—The Secretary shall conduct a study of water quality and environmental restoration needs in the Tippecanoe River watershed, Indiana, including measures necessary to reduce siltation in Lake Shafer and Lake Freeman.

(b) ASSISTANCE.—The Secretary shall provide technical, planning, and design assistance to the Shafer Freeman Lakes Environmental Conservation Corporation in addressing potential environmental restoration activities determined as a result of the study conducted under subsection (a).

SEC. 418. CALCASIEU SHIP CHANNEL, HACKBERRY, LOUISIANA.

The Secretary shall conduct a study to determine the need for improved navigation and related support service structures in the vicinity of the Calcasieu Ship Channel, Hackberry, Louisiana.

SEC. 419. HURON RIVER, MICHIGAN.

The Secretary shall conduct a study to determine the need for channel improvements and associated modifications for the purpose of providing a harbor of refuge at Huron River, Michigan.

SEC. 420. SACO RIVER, NEW HAMPSHIRE.

The Secretary shall conduct a study of flood control problems along the Saco River in Hart's Location, New Hampshire, for the purpose of evaluating retaining walls, berms, and other structures with a view to potential solutions involving repair or replacement of existing structures and shall consider other alternatives for flood damage reduction.

SEC. 421. BUFFALO RIVER GREENWAY, NEW YORK.

The Secretary shall conduct a study of a potential greenway trail project along the Buffalo River between the park system of the city of Buffalo, New York, and Lake Erie. Such study shall include preparation of an integrated plan of development that takes into consideration the adjacent parks, nature preserves, bikeways, and related recreational facilities.

SEC. 422. PORT OF NEWBURGH, NEW YORK.

The Secretary shall conduct a study of the feasibility of carrying out improvements for navigation at the port of Newburgh, New York.

SEC. 423. PORT OF NEW YORK-NEW JERSEY SEDIMENT STUDY.

(a) STUDY OF MEASURES TO REDUCE SEDIMENT DEPOSITION.—The Secretary shall conduct a study of measures that could reduce sediment deposition in the vicinity of the Port of New York-New Jersey for the purpose of reducing the volumes to be dredged for navigation projects in the Port.

(b) DREDGED MATERIAL DISPOSAL STUDY.—The Secretary shall conduct a study to determine the feasibility of constructing and operating an underwater confined dredged material disposal site in the Port of New York-New Jersey which could accommodate as much as 250,000 cubic yards of dredged materials for the purpose of demonstrating the feasibility of an underwater confined disposal pit as an environmentally suitable method of containing certain sediments.

(c) REPORT.—The Secretary shall transmit to Congress a report on the results of the studies conducted under this section, together with any recommendations of the Secretary concerning reduction of sediment deposition referred to in subsection (a).

SEC. 424. PORT OF NEW YORK-NEW JERSEY NAVIGATION STUDY.

The Secretary shall conduct a comprehensive study of navigation needs at the Port of New York-New Jersey (including the South Brooklyn Marine and Red Hook Container Terminals, Staten Island, and adjacent areas) to address improvements, including deepening of existing channels to depths of 50 feet or greater, that are required to provide economically efficient and environmentally sound navigation to meet current and future requirements.

SEC. 425. CHAGRIN RIVER, OHIO.

The Secretary shall conduct a study of flooding problems along the Chagrin River in Eastlake, Ohio. In conducting such study, the Secretary shall evaluate potential solutions to flooding from all sources, including that resulting from ice jams, and shall evaluate the feasibility of a sedimentation collection pit and other potential measures to reduce flooding.

SEC. 426. CUYAHOGA RIVER, OHIO.

The Secretary shall conduct a study to evaluate the integrity of the bulkhead system located on the Federal channel along the Cuyahoga River in the vicinity of Cleveland, Ohio, and shall provide to the non-Federal interest an analysis of costs and repairs of the bulkhead system.

SEC. 427. CHARLESTON, SOUTH CAROLINA, ESTUARY.

The Secretary is authorized to conduct a study of the Charleston estuary area located in Charleston, Berkeley, and Dorchester Counties, South Carolina, for the purpose of evaluating environmental conditions in the tidal reaches of the Ashley, Cooper, Stono, and Wando Rivers and the lower portions of Charleston Harbor.

SEC. 428. MUSTANG ISLAND, CORPUS CHRISTI, TEXAS.

The Secretary shall conduct a study of navigation along the south-central coast of Texas near Corpus Christi for the purpose of determining the feasibility of constructing and maintaining the Packery Channel on the southern portion of Mustang Island.

SEC. 429. PRINCE WILLIAM COUNTY, VIRGINIA.

The Secretary shall conduct a study of flooding, erosion, and other water resources problems in Prince William County, Virginia, including an assessment of wetlands protection, erosion control, and flood damage reduction needs of the County.

SEC. 430. PACIFIC REGION.

(a) STUDY.—The Secretary is authorized to conduct studies in the interest of navigation in that part of the Pacific region that includes American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) COST SHARING.—The cost sharing provisions of section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215; 100 Stat. 4088–4089) shall apply to studies under this section.

SEC. 431. FINANCING OF INFRASTRUCTURE NEEDS OF SMALL AND MEDIUM PORTS.

(a) STUDY.—The Secretary shall conduct a study of alternative financing mechanisms for ensuring adequate funding for the infrastructure needs of small and medium ports.

(b) MECHANISMS TO BE STUDIED.—Mechanisms to be studied under subsection (a) shall include the establishment of revolving loan funds.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a).

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BRANFORD HARBOR, CONNECTICUT.—The following portion of the project for navigation, Branford River, Connecticut, authorized by the first section of the Rivers and Harbors Appropriations Act of June 13, 1902 (32 Stat. 333): Starting at a point on the Federal channel line whose coordinates are N156181.32, E581572.38, running south 70 degrees 11 minutes 8 seconds west a distance of 171.58 feet to another point on the Federal channel line whose coordinates are N156123.18, E581410.96.

(2) BRIDGEPORT HARBOR, CONNECTICUT.—The following portion of the project for navigation, Bridgeport Harbor, Connecticut, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 297): A 2.4-acre anchorage area, 9 feet deep, and an adjacent 0.6-acre anchorage, 6 feet deep, located on the west side of Johnsons River.

(3) GUILFORD HARBOR, CONNECTICUT.—The following portion of the project for navigation, Guilford Harbor, Connecticut, authorized by section 2 of the Act entitled ''An Act authorizing construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 (50 Stat. 13): Starting at a point where the Sluice Creek Channel intersects with the main entrance channel, N159194.63, E623201.07, thence running north 24 degrees 58 minutes 15.2 seconds west 478.40 feet to a point N159628.31, E622999.11, thence running north 20 degrees 18 minutes 31.7 seconds west 351.53 feet to a point N159957.99, E622877.10, thence running north 69 degrees 41 minutes 37.9 seconds east 55.000 feet to a point N159977.08, E622928.69, thence turning and running south 20 degrees 18 minutes 31.0 seconds east 349.35 feet to a point N159649.45, E623049.94, thence turning and running south 24 degrees 58 minutes 11.1 seconds east 341.36 feet to a point N159340.00, E623194.04, thence turning and running south 90 degrees 0 minutes 0 seconds east 78.86 feet to a point N159340.00, E623272.90.

(4) JOHNSONS RIVER CHANNEL, BRIDGEPORT HARBOR, CONNECTICUT.—The following portion of the project for navigation, Johnsons River Channel, Bridgeport Harbor, Connecticut, authorized by the first section of the Rivers and Harbors Act of July 24, 1946 (60 Stat. 634): Northerly of a line across the Federal channel. The coordinates of such line are N 123318.35, E 486301.68 and N 123257.15, E 486380.77.

(5) MYSTIC RIVER, CONNECTICUT.—The following portion of the project for improving the Mystic River, Connecticut, authorized by the River and Harbor Act approved March 4, 1913 (37 Stat. 802):

Beginning in the 15-foot deep channel at coordinates north 190860.82, east 814416.20, thence running southeast about 52.01 feet to the coordinates north 190809.47, east 814424.49, thence running southwest about 34.02 feet to coordinates north 190780.46, east 814406.70, thence running north about 80.91 feet to the point of beginning.

(6) NORWALK HARBOR, CONNECTICUT.—

(A) DEAUTHORIZATION.—The portion of the project for navigation, Norwalk Harbor, Connecticut, authorized by the River and Harbor Act of March 2, 1919 (40 Stat. 1276), that lies northerly of a line across the Federal channel having coordinates N104199.72, E417774.12 and N104155.59, E417628.96, and those portions of the 6-foot deep East Norwalk Channel and Anchorage, authorized by section 2 of the Act entitled ''An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 2, 1945 (59 Stat. 13), not included in the description of the realignment of the project contained in subparagraph (B).

(B) REALIGNMENT DESCRIPTION.—The realigned 6-foot deep East Norwalk Channel and Anchorage is described as follows: starting at a point on the East Norwalk Channel, N95743.02, E419581.37, thence running northwesterly about 463.96 feet to a point N96197.93, E419490.18, thence running northwesterly about 549.32 feet to a point N96608.49, E419125.23, thence running northwesterly about 384.06 feet to a point N96965.94, E418984.75, thence running northwesterly about 407.26 feet to a point N97353.87, E418860.78, thence running westerly about 58.26 feet to a point N97336.26, E418805.24, thence running northwesterly about 70.99 feet to a point N97390.30, E418759.21, thence running westerly about 71.78 feet to a point on the anchorage limit N97405.26, E418689.01, thence running southerly along the western limits of the existing Federal anchorage until reaching a point N95893.74, E419449.17, thence running in a southwesterly direction about 78.74 feet to a point on the East Norwalk Channel N95815.62, E419439.33.

(C) REDESIGNATION.—All of the realigned channel shall be redesignated as anchorage, with the exception of that portion of the channel which narrows to a width of 100 feet and terminates at a line whose coordinates are N96456.81, E419260.06, and N96390.37, E419185.32, which shall remain as a channel.

(7) SOUTHPORT HARBOR, CONNECTICUT.—

(A) DEAUTHORIZATION PORTION OF PROJECT.—The following portions of the project for navigation, Southport Harbor, Connecticut, authorized by the first section of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1029):

(i) The 6-foot deep anchorage located at the head of the project.

(ii) The portion of the 9-foot deep channel beginning at a bend in the channel whose coordinates are north 109131.16, east 452653.32 running thence in a northeasterly direction about 943.01 feet to a point whose coordinates are north 109635.22, east 453450.31 running thence in a southeasterly direction about 22.66 feet to a point whose coordinates are north 109617.15, east 453463.98 running thence in a southwesterly direction about 945.18 feet to the point of beginning.

(B) REMAINDER.—The remaining portion of the project referred to in subparagraph (A) northerly of a line whose coordinates are north 108699.15, east 452768.36 and north 108655.66, east 452858.73 shall be redesignated as an anchorage.

(8) STONY CREEK, BRANFORD, CONNECTICUT.—The following portion of the project for navigation, Stony Creek, Connecticut, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577): The 6-foot maneuvering basin starting at a point N157031.91, E599030.79, thence running northeasterly about 221.16 feet to a point N157191.06, E599184.37, thence running northerly about 162.60 feet to a point N157353.56, E599189.99, thence running southwesterly about 358.90 feet to the point of origin.

(9) KENNEBUNK RIVER, MAINE.—That portion of the project for navigation, Kennebunk River, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and consisting of a 6-foot deep channel that lies northerly of a line whose coordinates are N191412.53, E417265.28 and N191445.83, E417332.48.

(10) YORK HARBOR, MAINE.—That portion of the project for navigation, York Harbor, Maine, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 480), located in the 8-foot deep anchorage area beginning at coordinates N 109340.19, E 372066.93, thence running north 65 degrees 12 minutes 10.5 seconds E 423.27 feet to a point N 109517.71, E372451.17, thence running north 28 degrees 42 minutes 58.3 seconds west 11.68 feet to a point N 109527.95, E 372445.56, thence running south 63 degrees 37 minutes 24.6 seconds west 422.63 feet returning to the point of beginning and that portion in the 8-foot deep anchorage area beginning at coordinates N 108557.24, E 371645.88, thence running south 60 degrees 41 minutes 17.2 seconds east 484.51 feet to a point N 108320.04, E 372068.36, thence running north 29 degrees 12 minutes 53.3 seconds east 15.28 feet to a point N 108333.38, E 372075.82, thence running north 62 degrees 29 minutes 42.1 seconds west 484.73 feet returning to the point of beginning.

(11) CHELSEA RIVER, BOSTON HARBOR, MASSACHUSETTS.—The following portion of the project for navigation, Boston Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173), consisting of a 35-foot deep channel in the Chelsea River: Beginning at a point on the northern limit of the existing project N505357.84, E724519.19, thence running northeasterly about 384.19 feet along the northern limit of the existing project to a bend on the northern limit of the existing project N505526.87, E724864.20, thence running southeasterly about 368.00 feet along the northern limit of the existing project to another point N505404.77, E725211.35, thence running westerly about 594.53 feet to a point N505376.12, E724617.51, thence running southwesterly about 100.00 feet to the point of origin.

(12) COHASSET HARBOR, COHASSET, MASSACHUSETTS.—The following portions of the project for navigation, Cohasset Harbor, Massachusetts, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(A) The portion starting at a point N453510.15, E792664.63, thence running south 53 degrees 07 minutes 05.4 seconds west 307.00 feet to a point N453325.90, E792419.07, thence running north 57 degrees 56 minutes 36.8 seconds west 201.00 feet to a point N453432.58, E792248.72, thence running south 88 degrees 57 minutes 25.6 seconds west 50.00 feet to a point N453431.67, E792198.73, thence running north 01 degree 02 minutes 52.3 seconds west 66.71 feet to a point N453498.37, E792197.51, thence running north 69 degrees 12 minutes 52.3 seconds east 332.32 feet to a point N453616.30, E792508.20, thence running south 55 degrees 50 minutes 24.1 seconds east 189.05 feet to the point of origin.

(B) The portion starting at a point N452886.64, E791287.83, thence running south 00 degrees 00 minutes 00.0 seconds west 56.04 feet to a point N452830.60, E791287.83, thence running north 90 degrees 00 minutes 00.0 seconds west 101.92 feet to a point, N452830.60, E791185.91, thence running north 52 degrees 12 minutes 49.7 seconds east 89.42 feet to a point, N452885.39, E791256.58, thence running north 87 degrees 42 minutes 33.8 seconds east 31.28 feet to the point of origin.

(C) The portion starting at a point, N452261.08, E792040.24, thence running north 89 degrees 07 minutes 19.5 seconds east 118.78 feet to a point, N452262.90, E792159.01, thence running south 43 degrees 39 minutes 06.8 seconds west 40.27 feet to a point, N452233.76, E792131.21, thence running north 74 degrees 33 minutes 29.1 seconds west 94.42 feet to a point, N452258.90, E792040.20, thence running north 01 degree 03 minutes 04.3 seconds east 2.18 feet to the point of origin.

(13) FALMOUTH, MASSACHUSETTS.—

(A) DEAUTHORIZATIONS.—The following portions of the project for navigation, Falmouth Harbor, Massachusetts, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1172):

(i) The portion commencing at a point north 199286.37 east 844394.81 a line running north 73 degrees 09 minutes 29 seconds east 440.34 feet to a point north 199413.99 east 844816.36, thence turning and running north 43 degrees 09 minutes 34.5 seconds east 119.99 feet to a point north 199501.52 east 844898.44, thence turning and running south 66 degrees 52 minutes 03.5 seconds

east 547.66 feet returning to a point north 199286.41 east 844394.91.

(ii) The portion commencing at a point north 199647.41 east 845035.25 a line running north 43 degrees 09 minutes 33.1 seconds east 767.15 feet to a point north 200207.01 east 845560.00, thence turning and running north 11 degrees 04 minutes 24.3 seconds west 380.08 feet to a point north 200580.01 east 845487.00, thence turning and running north 22 degrees 05 minutes 50.8 seconds east 1332.36 feet to a point north 201814.50 east 845988.21, thence turning and running north 02 degrees 54 minutes 15.7 seconds east 15.0 feet to a point north 201829.48 east 845988.97, thence turning and running south 24 degrees 56 minutes 42.3 seconds west 1410.29 feet returning to the point north 200550.75 east 845394.18.

(B) REDESIGNATION.—The portion of the project for navigation Falmouth, Massachusetts, referred to in subparagraph (A) upstream of a line designated by the 2 points north 199463.18 east 844496.40 and north 199350.36 east 844544.60 is redesignated as an anchorage area.

(14) MYSTIC RIVER, MASSACHUSETTS.—The following portion of the project for navigation, Mystic River, Massachusetts, authorized by section 101 of the River and Harbor Act of 1950 (64 Stat. 164): The 35–foot deep channel beginning at a point on the northern limit of the existing project, N506243.78, E717600.27, thence running easterly about 1000.00 feet along the northern limit of the existing project to a point, N506083.42, E718587.33, thence running southerly about 40.00 feet to a point, N506043.94, E718580.91, thence running westerly about 1000.00 feet to a point, N506204.29, E717593.85, thence running northerly about 40.00 feet to the point of origin.

(15) RESERVED CHANNEL, BOSTON, MASSACHUSETTS.—That portion of the project for navigation, Reserved Channel, Boston, Massachusetts, authorized by section 101(a)(12) of the Water Resources Development Act of 1990 (104 Stat. 4607), that consists of a 40-foot deep channel beginning at a point along the southern limit of the authorized project, N489391.22, E728246.54, thence running northerly about 54 feet to a point, N489445.53, E728244.97, thence running easterly about 2,926 feet to a point, N489527.38, E731170.41, thence running southeasterly about 81 feet to a point, N489474.87, E731232.55, thence running westerly about 2,987 feet to the point of origin.

(16) WEYMOUTH-FORE AND TOWN RIVERS, MASSACHUSETTS.—The following portions of the project for navigation, Weymouth-Fore and Town Rivers, Boston Harbor, Massachusetts, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1089):

(A) The 35–foot deep channel beginning at a bend on the southern limit of the existing project, N457394.01, E741109.74, thence running westerly about 405.25 feet to a point, N457334.64, E740708.86, thence running southwesterly about 462.60 feet to another bend in the southern limit of the existing project, N457132.00, E740293.00, thence running northeasterly about 857.74 feet along the southern limit of the existing project to the point of origin.

(B) The 15 and 35-foot deep channels beginning at a point on the southern limit of the existing project, N457163.41, E739903.49, thence running northerly about 111.99 feet to a point, N457275.37, E739900.76, thence running westerly about 692.37 feet to a point N457303.40, E739208.96, thence running southwesterly about 190.01 feet to another point on the southern limit of the existing project, N457233.17, E739032.41, thence running easterly about 873.87 feet along the southern limit of the existing project to the point of origin.

(17) COCHECO RIVER, NEW HAMPSHIRE.—The portion of the project for navigation, Cocheco River, New Hampshire, authorized by the first section of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved September 19, 1890 (26 Stat. 436), that consists of a 7-foot deep channel that lies northerly of a line the coordinates of which are N255292.31, E713095.36, and N255334.51, E713138.01.

(18) MORRISTOWN HARBOR, NEW YORK.—The following portion of the project for navigation, Morristown Harbor, New York, authorized by the first section of the Rivers and Harbors Act of January 21, 1927 (44 Stat. 1011): The portion that lies north of the north boundary of Morris Street extended.

(19) OSWEGATCHIE RIVER, OGDENSBURG NEW YORK.—The portion of the Federal channel of the project for navigation, Ogdensburg Harbor, New York, authorized by the first section of the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 635), as modified by the first section of the Rivers and Harbors Act of August 30, 1935 (49 Stat. 1037), that is in the Oswegatchie River in Ogdensburg, New York, from the southernmost alignment of the Route 68 bridge upstream to the northernmost alignment of the Lake Street bridge.

(20) CONNEAUT HARBOR, OHIO.—The most southerly 300 feet of the 1,670-foot long Shore Arm of the project for navigation, Conneaut Harbor, Ohio, authorized by the first section of the Rivers and Harbors Appropriation Act of June 25, 1910 (36 Stat. 653).

(21) LORAIN SMALL BOAT BASIN, LAKE ERIE, OHIO.—The portion of the Federal navigation channel, Lorain Small Boat Basin, Lake Erie, Ohio, authorized pursuant to section 107 of the River and Harbor Act of 1960 (74 Stat. 486) that is situated in the State of Ohio, County of Lorain, Township of Black River and is a part of Original Black River Township Lot Number 1, Tract Number 1, further known as being submerged lands of Lake Erie owned by the State of Ohio and that is more definitely described as follows:

Commencing at a drill hole found on the centerline of Lakeside Avenue (60 feet in width) at the intersection of the centerline of the East Shorearm of Lorain Harbor, said point is known as United States Army Corps of Engineers Monument No. 203 (N658012.20, E208953.88).

Thence, in a line north 75 degrees 26 minutes 12 seconds west, a distance of 387.87 feet to a point (N658109.73, E2089163.47). This point is hereinafter in this paragraph referred to as the ''principal point of beginning''.

Thence, north 58 degrees 14 minutes 11 seconds west, a distance of 50.00 feet to a point (N658136.05, E2089120.96).

Thence, south 67 degrees 49 minutes 32 seconds west, a distance of 665.16 feet to a point (N657885.00, E2088505.00).

Thence, north 88 degrees 13 minutes 52 seconds west, a distance of 551.38 feet to a point (N657902.02, E2087953.88).

Thence, north 29 degrees 17 minutes 42 seconds east, a distance of 114.18 feet to point (N658001.60, E2088009.75).

Thence, south 88 degrees 11 minutes 40 seconds east, a distance of 477.00 feet to a point (N657986.57, E2088486.51).

Thence, north 68 degrees 11 minutes 06 seconds east, a distance of 601.95 feet to a point (N658210.26, E2089045.35).

Thence, north 35 degrees 11 minutes 34 seconds east, a distance of 89.58 feet to a point (N658283.47, E2089096.98).

Thence, south 20 degrees 56 minutes 30 seconds east, a distance of 186.03 feet to the principal point of beginning (N658109.73, E2089163.47) and containing within such bounds 2.81 acres, more or less, of submerged land.

(22) APPONAUG COVE, WARWICK, RHODE ISLAND.—The following portion of the project for navigation, Apponaug Cove, Rhode Island, authorized under section 101 of the River and Harbor Act of 1960 (74 Stat. 480): The 6-foot channel bounded by coordinates N223269.93, E513089.12; N223348.31, E512799.54; N223251.78, E512773.41; and N223178.0, E513046.0.

(23) PORT WASHINGTON HARBOR, WISCONSIN.—The following portion of the navigation project for Port Washington Harbor, Wisconsin, authorized by the Rivers and Harbors Appropriations Act of July 11, 1870 (16 Stat. 223): Beginning at the northwest corner of project at Channel Pt. No. 36, of the Federal Navigation Project, Port Washington Harbor, Ozaukee County, Wisconsin, at coordinates N513529.68, E2535215.64, thence 188 degrees 31 minutes 59 seconds, a distance of 178.32 feet, thence 196 degrees 47 minutes 17 seconds, a distance of 574.80 feet, thence 270 degrees 58 minutes 25 seconds, a distance of 465.50 feet, thence 178 degrees 56 minutes 17 seconds, a distance of 130.05 feet, thence 87 degrees 17 minutes 05 seconds, a distance of 510.22 feet, thence 104 degrees 58 minutes 31 seconds, a distance of 178.33 feet, thence 115 degrees 47 minutes 55 seconds, a distance of 244.15 feet, thence 25 degrees 12 minutes 08 seconds, a distance of 310.00 feet, thence 294 degrees 46 minutes 50 seconds, a distance of 390.20 feet, thence 16 degrees 56 minutes 16 seconds, a distance of 570.90 feet, thence 266 degrees 01 minutes 25 seconds, a distance of 190.78 feet to Channel Pt. No. 36, point of beginning.

SEC. 502. PROJECT REAUTHORIZATIONS.

(a) GRAND PRAIRIE REGION AND BAYOU METO BASIN, ARKANSAS.—The project for flood control, Grand Prairie Region and Bayou Meto Basin, Arkansas, authorized by section 204 of the Flood Control Act of 1950 (64 Stat. 174) and deauthorized pursuant to section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1)), is authorized to be carried out by the Secretary; except that the scope of the project includes ground water protection and conservation, agricultural water supply, and waterfowl management.

(b) WHITE RIVER, ARKANSAS.—The project for navigation, White River Navigation to Batesville, Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139) and deauthorized by section 52(b) of the Water Resources Development Act of 1988 (102 Stat. 4045), is authorized to be carried out by the Secretary.

(c) DES PLAINES RIVER, ILLINOIS.—The project for wetlands research, Des Plaines River, Illinois, authorized by section 45 of the Water Resources Development Act of 1988 (102 Stat. 4041) and deauthorized pursuant to section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(d) ALPENA HARBOR, MICHIGAN.—The project for navigation, Alpena Harbor, Michigan, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090) and deauthorized pursuant to section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(e) ONTONAGON HARBOR, ONTONAGON COUNTY, MICHIGAN.—The project for navigation, Ontonagon Harbor, Ontonagon County, Michigan, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176) and deauthorized pursuant to section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(f) KNIFE RIVER HARBOR, MINNESOTA.—The project for navigation, Knife River Harbor, Minnesota, authorized by section 100 of the Water Resources Development Act of 1974 (88 Stat. 41) and deauthorized pursuant to section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

(g) CLIFFWOOD BEACH, NEW JERSEY.—The project for hurricane-flood protection and beach erosion control on Raritan Bay and Sandy Hook Bay, New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 118) and deauthorized pursuant to section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)), is authorized to be carried out by the Secretary.

SEC. 503. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a), the following projects shall remain authorized to be carried out by the Secretary:

(1) CEDAR RIVER HARBOR, MICHIGAN.—The project for navigation, Cedar River Harbor, Michigan, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(2) CROSS VILLAGE HARBOR, MICHIGAN.—The project for navigation, Cross Village Harbor, Michigan, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 504. LAND CONVEYANCES.

(a) OAKLAND INNER HARBOR TIDAL CANAL PROPERTY, CALIFORNIA.—Section 205 of the Water Resources Development Act of 1990 (104 Stat. 4633) is amended—

(1) by inserting after paragraph (2) the following new paragraph:

''(3) To adjacent land owners, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city in which such land rests. Such conveyance shall be at fair market value.'';

(2) by inserting after ''right-of-way'' the following: ''or other rights deemed necessary by the Secretary''; and

(3) by adding at the end the following: ''The conveyances and processes involved will be at no cost to the United States.''.

(b) MARIEMONT, OHIO.—

(1) IN GENERAL.—The Secretary shall convey to the village of Mariemont, Ohio, for a sum of $85,000 all right, title, and interest of the United States in and to a parcel of land (including improvements thereto) under the jurisdiction of the Corps of Engineers and known as the ''Ohio River Division Laboratory'', as such parcel is described in paragraph (4).

(2) TERMS AND CONDITIONS.—The conveyance under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(3) PROCEEDS.—All proceeds from the conveyance under paragraph (1) shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts.

(4) PROPERTY DESCRIPTION.—The parcel of land referred to in paragraph (1) is the parcel situated in the State of Ohio, County of Hamilton, Township 4, Fractional Range 2, Miami Purchase, Columbia Township, Section 15, being parts of Lots 5 and 6 of the subdivision of the dower tract of the estate of Joseph Ferris as recorded in Plat Book 4, Page 112, of the Plat Records of Hamilton County, Ohio, Recorder's Office, and more particularly described as follows:

Beginning at an iron pin set to mark the intersection of the easterly line of Lot 5 of said subdivision of said dower tract with the northerly line of the right-of-way of the Norfolk and Western Railway Company as shown in Plat Book 27, Page 182, Hamilton County, Ohio, Surveyor's Office, thence with said northerly right-of-way line;

South 70 degrees 10 minutes 13 seconds west 258.52 feet to a point; thence leaving the northerly right-of-way of the Norfolk and Western Railway Company;

North 18 degrees 22 minutes 02 seconds west 302.31 feet to a point in the south line of Mariemont Avenue; thence along said south line;

North 72 degrees 34 minutes 35 seconds east 167.50 feet to a point; thence leaving the south line of Mariemont Avenue;

North 17 degrees 25 minutes 25 seconds west 49.00 feet to a point; thence

North 72 degrees 34 minutes 35 seconds east 100.00 feet to a point; thence

South 17 degrees 25 minutes 25 seconds east 49.00 feet to a point; thence

North 72 degrees 34 minutes 35 seconds east 238.90 feet to a point; thence

South 00 degrees 52 minutes 07 seconds east 297.02 feet to a point in the northerly line of the Norfolk and Western Railway Company; thence with said northerly right-of-way;

South 70 degrees 10 minutes 13 seconds west 159.63 feet to a point of beginning, containing 3.22 acres, more or less.

(c) EUFAULA LAKE, OKLAHOMA.—

(1) IN GENERAL.—The Secretary shall convey to the city of Eufaula, Oklahoma, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 12.5 acres located at the Eufaula Lake project.

(2) CONSIDERATION.—Consideration for the conveyance under paragraph (1) shall be the fair market value of the parcel (as determined by the Secretary) and payment of all costs of the United States in making the conveyance, including the costs of—

(A) the survey required under paragraph (4);

(B) any other necessary survey or survey monumentation;

(C) compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(D) any coordination necessary with respect to requirements relating to endangered species, cultural resources, and clean air (including the costs of agency consultation and public hearings).

(3) LAND SURVEYS.—The exact acreage and description of the parcel to be conveyed under paragraph (1) shall be determined by such surveys as the Secretary considers necessary, which shall be carried out to the satisfaction of the Secretary.

(4) ENVIRONMENTAL BASELINE SURVEY.—Prior to making the conveyance under paragraph (1), the Secretary shall conduct an environmental baseline survey to determine the levels of any contamination (as of the date of the survey) for which the United States would be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and any other applicable law.

(5) CONDITIONS CONCERNING RIGHTS AND EASEMENT.—The conveyance under paragraph (1) shall be subject to existing rights and to retention by the United States of a flowage easement over all portions of the parcel that lie at or below the flowage easement contour for the Eufaula Lake project.

(6) OTHER TERMS AND CONDITIONS.—The conveyance under paragraph (1) shall be subject to such other terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(d) BOARDMAN, OREGON.—

(1) IN GENERAL.—The Secretary shall convey to the city of Boardman, Oregon, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 141 acres acquired as part of the John Day Lock and Dam project in the vicinity of such city currently under lease to the Boardman Park and Recreation District.

(2) CONSIDERATION.—

(A) PARK AND RECREATION PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, then title to such property shall revert to the Secretary.

(B) OTHER PROPERTIES.—Properties to be conveyed under this subsection and not described in subparagraph (A) shall be conveyed at fair market value.

(3) CONDITIONS CONCERNING RIGHTS AND EASEMENT.—The conveyance of properties under this subsection shall be subject to existing first rights of refusal regarding acquisition of such properties and to retention of a flowage easement over portions of the properties that the Secretary determines to be necessary for operation of the project.

(4) OTHER TERMS AND CONDITIONS.—The conveyance of properties under this subsection shall be subject to such other terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(e) TRI-CITIES AREA, WASHINGTON.—

(1) GENERAL AUTHORITY.—As soon as practicable after the date of the enactment of this Act, the Secretary shall make the conveyances to the local governments referred to in paragraph (2) of all right, title, and interest of the United States in and to the property described in paragraph (2).

(2) PROPERTY DESCRIPTIONS.—

(A) BENTON COUNTY.—The property to be conveyed pursuant to paragraph (1) to Benton County, Washington, is the property in such county which is designated ''Area D'' on Exhibit A to Army Lease No. DACW–68–1–81–43.

(B) FRANKLIN COUNTY, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to Franklin County, Washington, is—

(i) the 105.01 acres of property leased pursuant to Army Lease No. DACW–68–1–77–20 as executed by Franklin County, Washington, on April 7, 1977;

(ii) the 35 acres of property leased pursuant to Supplemental Agreement No. 1 to Army Lease No. DACW–68–1–77–20;

(iii) the 20 acres of property commonly known as ''Richland Bend'' which is designated by the shaded portion of Lot 1, Section 11, and the shaded portion of Lot 1, Section 12, Township 9 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20;

(iv) the 7.05 acres of property commonly known as ''Taylor Flat'' which is designated by the shaded portion of Lot 1, Section 13, Township 11 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20;

(v) the 14.69 acres of property commonly known as ''Byers Landing'' which is designated by the shaded portion of Lots 2 and 3, Section 2, Township 10 North, Range 28 East, W.M. on Exhibit D to Supplemental Agreement No. 2 to Army Lease No. DACW–68–1–77–20; and

(vi) all levees within Franklin County, Washington, as of the date of the enactment of this Act, and the property upon which the levees are situated.

(C) CITY OF KENNEWICK, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the city of Kennewick, Washington, is the property within the city which is subject to the Municipal Sublease Agreement entered into on April 6, 1989, between Benton County, Washington, and the cities of Kennewick and Richland, Washington.

(D) CITY OF RICHLAND, WASHINGTON.—The property to be conveyed pursuant to paragraph (1), to the city of Richland, Washington, is the property within the city which is subject to the Municipal Sublease Agreement entered into on April 6, 1989, between Benton County, Washington, and the Cities of Kennewick and Richland, Washington.

(E) CITY OF PASCO, WASHINGTON.—The property to be conveyed pursuant to paragraph (1), to the city of Pasco, Washington, is—

(i) the property within the city of Pasco, Washington, which is leased pursuant to Army Lease No. DACW–68–1–77–10; and

(ii) all levees within such city, as of the date of the enactment of this Act, and the property upon which the levees are situated.

(F) PORT OF PASCO, WASHINGTON.—The property to be conveyed pursuant to paragraph (1) to the Port of Pasco, Washington, is—

(i) the property owned by the United States which is south of the Burlington Northern Railroad tracks in Lots 1 and 2, Section 20, Township 9 North, Range 31 East, W.M.; and

(ii) the property owned by the United States which is south of the Burlington Northern Railroad tracks in Lots 1, 2, 3, and 4, in each of Sections 21, 22, and 23, Township 9 North, Range 31 East, W.M.

(G) ADDITIONAL PROPERTIES.—In addition to properties described in subparagraphs (A) through (F), the Secretary may convey to a local government referred to in subparagraphs (A) through (F) such properties under the jurisdiction of the Secretary in the Tri-Cities area as the Secretary and the local government agree are appropriate for conveyance.

(3) TERMS AND CONDITIONS.—

(A) IN GENERAL.—The conveyances under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary and appropriate to protect the interests of the United States.

(B) SPECIAL RULES FOR FRANKLIN COUNTY.—The property described in paragraph (2)(B)(vi) shall be conveyed only after Franklin County, Washington, has entered into a written agreement with the Secretary which provides that the United States shall continue to operate and maintain the flood control drainage areas and pump stations on the property conveyed and that the United States shall be provided all easements and rights necessary to carry out that agreement.

(C) SPECIAL RULE FOR CITY OF PASCO.—The property described in paragraph (2)(E)(ii) shall be conveyed only after the city of Pasco, Washington, has entered into a written agreement with the Secretary which provides that the United States shall continue to operate and maintain the flood control drainage areas and pump stations on the property conveyed and that the United States shall be provided all easements and rights necessary to carry out that agreement.

(D) CONSIDERATION.—

(i) PARK AND RECREATION PROPERTIES.—Properties to be conveyed under this subsection that will be retained in public ownership and used for public park and recreation purposes shall be conveyed without consideration. If any such property is no longer used for public park and recreation purposes, then title to such property shall revert to the Secretary.

(ii) OTHER PROPERTIES.—Properties to be conveyed under this subsection and not described in clause (i) shall be conveyed at fair market value.

(4) LAKE WALLULA LEVEES.—

(A) DETERMINATION OF MINIMUM SAFE HEIGHT.—

(i) CONTRACT.—Within 30 days after the date of the enactment of this Act, the Secretary shall contract with a private entity agreed to under clause (ii) to determine, within 6 months after such date of enactment, the minimum safe height for the levees of the project for flood control, Lake Wallula, Washington. The Secretary shall have final approval of the minimum safe height.

(ii) AGREEMENT OF LOCAL OFFICIALS.—A contract shall be entered into under clause (i) only with a private entity agreed to by the Secretary, appropriate representatives of Franklin County, Washington, and appropriate representatives of the city of Pasco, Washington.

(B) AUTHORITY.—A local government may reduce, at its cost, the height of any levee of the project for flood control, Lake Wallula, Washington, within the boundaries of such local government to a height not lower than the minimum safe height determined pursuant to subparagraph (A).

(f) APPLICABILITY OF OTHER LAWS.—Any contract for sale, deed, or other transfer of real property under this section shall be carried out in compliance with all applicable provisions of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act and other environmental laws.

SEC. 505. NAMINGS.

(a) MILT BRANDT VISITORS CENTER, CALIFORNIA.—

(1) DESIGNATION.—The visitors center at Warm Springs Dam, California, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1192), shall be known and designated as the ''Milt Brandt Visitors Center''.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the ''Milt Brandt Visitors Center''.

(b) CARR CREEK LAKE, KENTUCKY.—

(1) DESIGNATION.—Carr Fork Lake in Knott County, Kentucky, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188), shall be known and designated as the ''Carr Creek Lake''.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the ''Carr Creek Lake''.

(c) WILLIAM H. NATCHER BRIDGE, MACEO, KENTUCKY, AND ROCKPORT, INDIANA.—

(1) DESIGNATION.—The bridge on United States Route 231 which crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, shall be known and designated as the ''William H. Natcher Bridge''.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the bridge referred to in paragraph (1) shall be deemed to be a reference to the ''William H. Natcher Bridge''.

(d) JOHN T. MYERS LOCK AND DAM, INDIANA AND KENTUCKY.—

(1) DESIGNATION.—Uniontown Lock and Dam, on the Ohio River, Indiana and Kentucky, shall be known and designated as the ''John T. Myers Lock and Dam''.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the ''John T. Myers Lock and Dam''.

(e) J. EDWARD ROUSH LAKE, INDIANA.—

(1) REDESIGNATION.—The lake on the Wabash River in Huntington and Wells Counties, Indiana, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 312), and known as Huntington Lake, shall be known and designated as the ''J. Edward Roush Lake''.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the ''J. Edward Roush Lake''.

(f) RUSSELL B. LONG LOCK AND DAM, RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—Lock and Dam 4 of the Red River Waterway, Louisiana, shall be known and designated as the ''Russell B. Long Lock and Dam''.

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the ''Russell B. Long Lock and Dam''.

(g) WILLIAM L. JESS DAM AND INTAKE STRUCTURE, OREGON.—

(1) DESIGNATION.—The dam located at mile 153.6 on the Rogue River in Jackson County, Oregon, and commonly known as the Lost Creek Dam Lake Project, shall be known and designated as the ''William L. Jess Dam and Intake Structure''.

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the dam referred to in section 1 shall be deemed to be a reference to the ''William L. Jess Dam and Intake Structure''.

(h) ABERDEEN LOCK AND DAM, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATION.—The lock and dam at Mile 358 of the Tennessee-Tombigbee Waterway is designated as the ''Aberdeen Lock and Dam''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) is deemed to be a reference to the ''Aberdeen Lock and Dam''.

(i) AMORY LOCK, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATION.—Lock A at Mile 371 of the Tennessee-Tombigbee Waterway is designated as the ''Amory Lock''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock referred to in paragraph (1) is deemed to be a reference to the ''Amory Lock''.

(j) FULTON LOCK, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATION.—Lock C at Mile 391 of the Tennessee-Tombigbee Waterway is designated as the ''Fulton Lock''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock referred to in paragraph (1) is deemed to be a reference to the ''Fulton Lock''.

(k) HOWELL HEFLIN LOCK AND DAM, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) REDESIGNATION.—The lock and dam at Mile 266 of the Tennessee-Tombigbee Waterway, known as the Gainesville Lock and Dam, is redesignated as the ''Howell Heflin Lock and Dam''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) is deemed to be a reference to the ''Howell Heflin Lock and Dam''.

(l) G.V. ''SONNY'' MONTGOMERY LOCK, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATION.—Lock E at Mile 407 of the Tennessee-Tombigbee Waterway is designated as the ''G.V. 'Sonny' Montgomery Lock''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock referred to in paragraph (1) is deemed to be a reference to the ''G.V. 'Sonny' Montgomery Lock''.

(m) JOHN RANKIN LOCK, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATION.—Lock D at Mile 398 of the Tennessee-Tombigbee Waterway is designated as the ''John Rankin Lock''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock referred to in paragraph (1) is deemed to be a reference to the ''John Rankin Lock''.

(n) JOHN C. STENNIS LOCK AND DAM, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) REDESIGNATION.—The lock and dam at Mile 335 of the Tennessee-Tombigbee Waterway, known as the Columbus Lock and Dam, is redesignated as the ''John C. Stennis Lock and Dam''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) is deemed to be a reference to the ''John C. Stennis Lock and Dam''.

(o) JAMIE WHITTEN LOCK AND DAM, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) REDESIGNATION.—The lock and dam at Mile 412 of the Tennessee-Tombigbee Waterway, known as the Bay Springs Lock and Dam, is redesignated as the ''Jamie Whitten Lock and Dam''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the lock and dam referred to in paragraph (1) is deemed to be a

reference to the ''Jamie Whitten Lock and Dam''.

(p) GLOVER WILKINS LOCK, TENNESSEE-TOMBIGBEE WATERWAY.—

(1) DESIGNATION.—Lock B at Mile 376 of the Tennessee-Tombigbee Waterway is designated as the ''Glover Wilkins Lock''.

(2) LEGAL REFERENCE.—Any reference in a law, map, regulation, document, paper, or other record to the lock referred to in paragraph (1) is deemed to be a reference to the ''Glover Wilkins Lock''.

SEC. 506. WATERSHED MANAGEMENT, RESTORATION, AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary is authorized to provide technical, planning, and design assistance to non-Federal interests for carrying out watershed management, restoration, and development projects at the locations described in subsection (d).

(b) SPECIFIC MEASURES.—Assistance provided pursuant to subsection (a) may be in support of non-Federal projects for the following purposes:

(1) Management and restoration of water quality.

(2) Control and remediation of toxic sediments.

(3) Restoration of degraded streams, rivers, wetlands, and other waterbodies to their natural condition as a means to control flooding, excessive erosion, and sedimentation.

(4) Protection and restoration of watersheds, including urban watersheds.

(5) Demonstration of technologies for nonstructural measures to reduce destructive impact of flooding.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of assistance provided under this section shall be 50 percent.

(d) PROJECT LOCATIONS.—The Secretary may provide assistance under subsection (a) for projects at the following locations:

(1) Gila River and Tributaries, Santa Cruz River, Arizona.

(2) Rio Salado, Salt River, Phoenix and Tempe, Arizona.

(3) Colusa basin, California.

(4) Los Angeles River watershed, California.

(5) Russian River watershed, California.

(6) Sacramento River watershed, California.

(7) San Pablo Bay watershed, California.

(8) Nancy Creek, Utoy Creek, and North Peachtree Creek and South Peachtree Creek basin, Georgia.

(9) Lower Platte River watershed, Nebraska.

(10) Juniata River watershed, Pennsylvania, including Raystown Lake.

(11) Upper Potomac River watershed, Grant and Mineral Counties, West Virginia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal years beginning after September 30, 1996.

SEC. 507. LAKES PROGRAM.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148–4149) is amended—

(1) by striking ''and'' at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting a semicolon; and

(3) by adding at the end the following:

''(12) Goodyear Lake, Otsego County, New York, removal of silt and aquatic growth;

''(13) Otsego Lake, Otsego County, New York, removal of silt and aquatic growth and measures to address high nutrient concentration;

''(14) Oneida Lake, Oneida County, New York, removal of silt and aquatic growth;

''(15) Skaneateles and Owasco Lakes, New York, removal of silt and aquatic growth and prevention of sediment deposit; and

''(16) Twin Lakes, Paris, Illinois, removal of silt and excess aquatic vegetation, including measures to address excessive sedimentation, high nutrient concentration, and shoreline erosion.''.

SEC. 508. MAINTENANCE OF NAVIGATION CHANNELS.

(a) IN GENERAL.—Upon request of the non-Federal interest, the Secretary shall be responsible for maintenance of the following navigation channels constructed or improved by non-Federal interests if the Secretary determines that such maintenance is economically justified and environmentally acceptable and that the channel was constructed in accordance with applicable permits and appropriate engineering and design standards:

(1) Humboldt Harbor and Bay, Fields Landing Channel, California.

(2) Mare Island Strait, California; except that, for purposes of this section, the navigation channel shall be deemed to have been constructed or improved by non-Federal interests.

(3) Mississippi River Ship Channel, Chalmette Slip, Louisiana.

(4) Greenville Inner Harbor Channel, Mississippi.

(5) Providence Harbor Shipping Channel, Rhode Island.

(6) Matagorda Ship Channel, Point Comfort Turning Basin, Texas.

(7) Corpus Christi Ship Channel, Rincon Canal System, Texas.

(8) Brazos Island Harbor, Texas, connecting channel to Mexico.

(9) Blair Waterway, Tacoma Harbor, Washington.

(b) COMPLETION OF ASSESSMENT.—Within 6 months of receipt of a request from the non-Federal interest for Federal assumption of maintenance of a channel listed in subsection (a), the Secretary shall make a determination as provided in subsection (a) and advise the non-Federal interest of the Secretary's determination.

SEC. 509. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

Section 401 of the Water Resources Development Act of 1990 (104 Stat. 4644) is amended to read as follows:

''SEC. 401. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

''(a) GREAT LAKES REMEDIAL ACTION PLANS.—

''(1) IN GENERAL.—The Secretary is authorized to provide technical, planning, and engineering assistance to State and local governments and nongovernmental entities designated by the State or local government in the development and implementation of remedial action plans for areas of concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978.

''(2) NON-FEDERAL SHARE.—Non-Federal interests shall contribute, in cash or by providing in-kind contributions, 50 percent of costs of activities for which assistance is provided under paragraph (1).

''(b) SEDIMENT REMEDIATION DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency (acting through the Great Lakes National Program Office), may conduct pilot- and full-scale demonstration projects of promising techniques to remediate contaminated sediments in freshwater coastal regions in the Great Lakes basin. The Secretary must conduct no fewer than 3 full-scale demonstration projects under this subsection.

''(2) SITE SELECTION FOR DEMONSTRATION PROJECTS.—In selecting the sites for the technology demonstration projects, the Secretary shall give priority consideration to Saginaw Bay, Michigan, Sheboygan Harbor, Wisconsin, Grand Calumet River, Indiana, Ashtabula River, Ohio, Buffalo River, New York, and Duluth/Superior Harbor, Minnesota.

''(3) DEADLINE FOR IDENTIFICATIONS.—Within 18 months after the date of the enactment of this subsection, the Secretary shall identify the sites and technologies to be demonstrated and complete each such full-scale demonstration project within 3 years after such date of enactment.

''(4) NON-FEDERAL SHARE.—Non-Federal interests shall contribute 50 percent of costs of projects under this subsection. Such costs may be paid in cash or by providing in-kind contributions.

''(5) AUTHORIZATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $5,000,000 for each of fiscal years 1997 through 2000.''.

SEC. 510. GREAT LAKES DREDGED MATERIAL TESTING AND EVALUATION MANUAL.

The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall provide technical assistance to non-Federal interests on testing procedures contained in the Great Lakes Dredged Material Testing and Evaluation Manual developed pursuant to section 230.2(c) of title 40, Code of Federal Regulations.

SEC. 511. GREAT LAKES SEDIMENT REDUCTION.

(a) GREAT LAKES TRIBUTARY SEDIMENT TRANSPORT MODEL.—For each major river system or set of major river systems depositing sediment into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or Area of Concern identified under the Great Lakes Water Quality Agreement of 1978, the Secretary, in consultation and coordination with the Great Lakes States, shall develop a tributary sediment transport model.

(b) REQUIREMENTS FOR MODELS.—In developing a tributary sediment transport model under this section, the Secretary shall—

(1) build upon data and monitoring information generated in earlier studies and programs of the Great Lakes and their tributaries; and

(2) complete models for 30 major river systems, either individually or in combination as part of a set, within the 5-year period beginning on the date of the enactment of this Act.

SEC. 512. GREAT LAKES CONFINED DISPOSAL FACILITIES.

(a) ASSESSMENT.—The Secretary shall conduct an assessment of the general conditions of confined disposal facilities in the Great Lakes.

(b) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the assessment conducted under subsection (a), including the following:

(1) A description of the cumulative effects of confined disposal facilities in the Great Lakes.

(2) Recommendations for specific remediation actions for each confined disposal facility in the Great Lakes.

(3) An evaluation of, and recommendations for, confined disposal facility management practices and technologies to conserve capacity at such facilities and to minimize adverse environmental effects at such facilities throughout the Great Lakes system.

SEC. 513. CHESAPEAKE BAY RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program to provide to non-Federal interests in the Chesapeake Bay watershed technical, planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned and will be publicly operated and maintained.

(c) COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement pursuant to section 221 of the Flood Control Act of 1970 (84 Stat. 1818) with a non-Federal interest to provide for technical, planning, design, and construction assistance for the project.

(2) REQUIREMENTS.—Each agreement entered into pursuant to this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a plan, including appropriate engineering plans and specifications and an estimate of expected benefits.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) PROVISION OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—The non-Federal interests for a project to which this section applies shall provide the lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project.

(B) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of total project costs.

(C) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of carrying out the agreement under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS AND AGREEMENTS.—

(1) IN GENERAL.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(2) COOPERATION.—In carrying out this section, the Secretary shall cooperate with the heads of appropriate Federal agencies.

(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000.

SEC. 514. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

The jurisdiction of the Mississippi River Commission, established by the first section of the Act of June 28, 1879 (33 U.S.C. 641; 21 Stat. 37), is extended to include—

(1) all of the area between the eastern side of the Bayou Lafourche Ridge from Donaldsonville, Louisiana, to the Gulf of Mexico and the west guide levee of the Mississippi River from Donaldsonville, Louisiana, to the Gulf of Mexico;

(2) Alexander County, Illinois; and

(3) the area in the State of Illinois from the confluence of the Mississippi and Ohio Rivers northward to the vicinity of Mississippi River mile 39.5, including the Len Small Drainage and Levee District, insofar as such area is affected by the flood waters of the Mississippi River.

SEC. 515. ALTERNATIVE TO ANNUAL PASSES.

(a) IN GENERAL.—The Secretary shall evaluate the feasibility of implementing an alternative to the $25 annual pass that the Secretary currently offers to users of recreation facilities at water resources projects of the Corps of Engineers.

(b) ANNUAL PASS.—The evaluation under subsection (a) shall include the establishment of an annual pass which costs $10 or less for the use of recreation facilities at Raystown Lake, Pennsylvania.

(c) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the project carried out under this section, together with recommendations concerning whether annual passes for individual projects should be offered on a nationwide basis.

SEC. 516. RECREATION PARTNERSHIP INITIATIVE.

(a) IN GENERAL.—The Secretary shall promote Federal, non-Federal, and private sector cooperation in creating public recreation opportunities and developing the necessary supporting infrastructure at water resources projects of the Corps of Engineers.

(b) INFRASTRUCTURE IMPROVEMENTS.—

(1) RECREATION INFRASTRUCTURE IMPROVEMENTS.—In demonstrating the feasibility of the public-private cooperative, the Secretary shall provide, at Federal expense, such infrastructure improvements as are necessary to support a potential private recreational development at the Raystown Lake Project, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the project.

(2) AGREEMENT.—The Secretary shall enter into an agreement with an appropriate non-Federal public entity to ensure that the infrastructure improvements constructed by the Secretary on non-project lands pursuant to paragraph (1) are transferred to and operated and maintained by the non-Federal public entity.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $4,500,000 for fiscal years beginning after September 30, 1996.

(c) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the cooperative efforts carried out under this section, including the improvements required by subsection (b).

SEC. 517. ENVIRONMENTAL INFRASTRUCTURE.

Section 219 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following new subsection:

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing construction assistance under this section—

''(1) $10,000,000 for the project described in subsection (c)(5);

''(2) $2,000,000 for the project described in subsection (c)(6);

''(3) $10,000,000 for the project described in subsection (c)(7);

''(4) $11,000,000 for the project described in subsection (c)(8);

''(5) $20,000,000 for the project described in subsection (c)(16); and

''(6) $20,000,000 for the project described in subsection (c)(17).''.

SEC. 518. CORPS CAPABILITY TO CONSERVE FISH AND WILDLIFE.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b); 100 Stat. 4157) is amended—

(1) by striking ''$5,000,000''; and inserting ''$10,000,000''; and

(2) in paragraph (4) by inserting ''and Virginia'' after ''Maryland''.

SEC. 519. PERIODIC BEACH NOURISHMENT.

The Secretary shall carry out periodic beach nourishment for each of the following projects for a period of 50 years beginning on the date of initiation of construction of such project:

(1) BROWARD COUNTY, FLORIDA.—Project for shoreline protection, segments II and III, Broward County, Florida.

(2) FORT PIERCE, FLORIDA.—Project for shoreline protection, Fort Pierce, Florida.

(3) LEE COUNTY, FLORIDA.—Project for shoreline protection, Lee County, Captiva Island segment, Florida.

(4) PALM BEACH COUNTY, FLORIDA.—Project for shoreline protection, Jupiter/Carlin, Ocean Ridge, and Boca Raton North Beach segments, Palm Beach County, Florida.

(5) PANAMA CITY BEACHES, FLORIDA.—Project for shoreline protection, Panama City Beaches, Florida.

(6) TYBEE ISLAND, GEORGIA.—Project for beach erosion control, Tybee Island, Georgia.

SEC. 520. CONTROL OF AQUATIC PLANTS.

The Secretary shall carry out under section 104(b) of the River and Harbor Act of 1958 (33 U.S.C. 610(b))—

(1) a program to control aquatic plants in Lake St. Clair, Michigan; and

(2) program to control aquatic plants in the Schuylkill River, Philadelphia, Pennsylvania.

SEC. 521. HOPPER DREDGES.

Section 3 of the Act of August 11, 1888 (33 U.S.C. 622; 25 Stat. 423), is amended by adding at the end the following:

''(c) PROGRAM TO INCREASE USE OF PRIVATE HOPPER DREDGES.—

''(1) INITIATION.—The Secretary shall initiate a program to increase the use of private industry hopper dredges for the construction and maintenance of Federal navigation channels.

''(2) READY RESERVE STATUS FOR HOPPER DREDGE WHEELER.—In order to carry out the requirements of this subsection, the Secretary shall, not later than the earlier of 90 days after the date of completion of the rehabilitation of the hopper dredge McFarland pursuant to section 564 of the Water Resources Development Act of 1996 or October 1, 1997, place the Federal hopper dredge Wheeler in a ready reserve status.

''(3) TESTING AND USE OF READY RESERVE HOPPER DREDGE.—The Secretary may periodically perform routine tests of the equipment of the vessel placed in a ready reserve status under this subsection to ensure the vessel's ability to perform emergency work. The Secretary shall not assign any scheduled hopper dredging work to such vessel but shall perform any repairs needed to maintain the vessel in a fully operational condition. The Secretary may place the vessel in active status in order to perform any dredging work only in the event the Secretary determines that private industry has failed to submit a responsive and responsible bid for work advertised by the Secretary or to carry out the project as required pursuant to a contract with the Secretary.

''(4) REPAIR AND REHABILITATION.—The Secretary may undertake any repair and rehabilitation of any Federal hopper dredge, including the vessel placed in ready reserve status under paragraph (2) to allow the vessel to be placed into active status as provided in paragraph (3).

''(5) PROCEDURES.—The Secretary shall develop and implement procedures to ensure that, to the maximum extent practicable, private industry hopper dredge capacity is available to meet both routine and time-sensitive dredging needs. Such procedures shall include—

''(A) scheduling of contract solicitations to effectively distribute dredging work throughout the dredging season; and

''(B) use of expedited contracting procedures to allow dredges performing routine work to be made available to meet time-sensitive, urgent, or emergency dredging needs.

''(6) REPORT.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall report to Congress on whether the vessel placed in ready reserve status pursuant to paragraph (2) is needed to be returned to active status or continued in a ready reserve status or whether another Federal hopper dredge should be placed in a ready reserve status.

''(7) LIMITATIONS.—

''(A) REDUCTIONS IN STATUS.—The Secretary may not further reduce the readiness status of any Federal hopper dredge below a ready reserve status except any vessel placed in such status for not less than 5 years which the Secretary determines has not been used sufficiently to justify retaining the vessel in such status.

''(B) INCREASE IN ASSIGNMENTS OF DREDGING WORK.—For each fiscal year beginning after the date of the enactment of this subsection, the Secretary shall not assign any greater quantity of dredging work to any Federal hopper dredge in an active status than was assigned to that vessel in the average of the 3 prior fiscal years.

''(8) CONTRACTS; PAYMENT OF CAPITAL COSTS.—The Secretary may enter into a contract for the maintenance and crewing of any vessel retained in a ready reserve status. The capital costs (including depreciation costs) of any vessel retained in such status shall be paid for out of funds made available from the Harbor Maintenance Trust Fund and shall not be charged against the Corps of Engineers' Revolving Fund Account or any individual project cost unless the vessel is specifically used in connection with that project.''.

SEC. 522. DESIGN AND CONSTRUCTION ASSISTANCE.

The Secretary shall provide design and construction assistance to non-Federal interests for the following projects:

(1) Repair and rehabilitation of the Lower Girard Lake Dam, Girard, Ohio, at an estimated total cost of $2,500,000.

(2) Construction of a multi-purpose dam and reservoir, Bear Valley Dam, Franklin County, Pennsylvania, at an estimated total cost of $15,000,000.

(3) Repair and upgrade of the dam and appurtenant features at Lake Merriweather, Little Calfpasture River, Virginia, at an estimated total cost of $6,000,000.

SEC. 523. FIELD OFFICE HEADQUARTERS FACILITIES.

Subject to amounts being made available in advance in appropriations Acts, the Secretary may use Plant Replacement and Improvement Program funds to design and construct a new headquarters facility for—

(1) the New England Division, Waltham, Massachusetts; and

(2) the Jacksonville District, Jacksonville, Florida.

SEC. 524. CORPS OF ENGINEERS RESTRUCTURING PLAN.

(a) DIVISION OFFICE, CHICAGO, ILLINOIS.—The Secretary shall continue to maintain a division office of the Corps of Engineers in Chicago, Illinois, notwithstanding any plan developed pursuant to title I of the Energy and Water Development Appropriations Act, 1996 (109 Stat. 405) to reduce the number of division offices. Such division office shall be responsible for the 5 district offices for which the division office was responsible on June 1, 1996.

(b) DISTRICT OFFICE, ST. LOUIS, MISSOURI.—The Secretary shall not reassign the St. Louis District of the Corps of Engineers from the operational control of the Lower Mississippi Valley Division.

SEC. 525. LAKE SUPERIOR CENTER.

(a) CONSTRUCTION.—The Secretary, shall assist the Minnesota Lake Superior Center authority in the construction of an educational facility to be used in connection with efforts to educate the public in the economic, recreational, biological, aesthetic, and spiritual worth of Lake Superior and other large bodies of fresh water.

(b) PUBLIC OWNERSHIP.—Prior to providing any assistance under subsection (a), the Secretary shall verify that the facility to be constructed under subsection (a) will be owned by the public authority established by the State of Minnesota to develop, operate, and maintain the Lake Superior Center.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1996, $10,000,000 for the construction of the facility under subsection (a).

SEC. 526. JACKSON COUNTY, ALABAMA.

The Secretary shall provide technical, planning, and design assistance to non-Federal interests for wastewater treatment and related facilities, remediation of point and nonpoint sources of pollution and contaminated riverbed sediments, and related activities in Jackson County, Alabama, including the city of Stevenson. The Federal cost of such assistance may not exceed $5,000,000.

SEC. 527. EARTHQUAKE PREPAREDNESS CENTER OF EXPERTISE EXTENSION.

The Secretary shall establish an extension of the Earthquake Preparedness Center of Expertise for the central United States at an existing district office of the Corps of Engineers near the New Madrid fault.

SEC. 528. QUARANTINE FACILITY.

Section 108(c) of the Water Resources Development Act of 1992 (106 Stat. 4816) is amended by striking ''$1,000,000'' and inserting ''$4,000,000''.

SEC. 529. BENTON AND WASHINGTON COUNTIES, ARKANSAS.

Section 220 of the Water Resources Development Act of 1992 (106 Stat. 4836–4837) is amended by adding at the end the following new subsection:

''(c) USE OF FEDERAL FUNDS.—The Secretary may make available to the non-Federal interests funds not to exceed an amount equal to the Federal share of the total project cost to be used by the non-Federal interests to undertake the work directly or by contract.''.

SEC. 530. CALAVERAS COUNTY, CALIFORNIA.

(a) COOPERATION AGREEMENTS.—The Secretary shall enter into cooperation agreements with non-Federal interests to develop and carry out, in cooperation with Federal and State agencies, reclamation and protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines in the watershed of the lower Mokelume River in Calaveras County, California.

(b) CONSULTATION WITH FEDERAL ENTITIES.—Any project under subsection (a) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(c) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under cooperation agreements entered into under subsection (a) shall be 75 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent. The non-Federal share of project costs may be provided in the form of design and construction services. Non-Federal interests shall receive credit for the reasonable costs of such services completed by such interests prior to entering an agreement with the Secretary for a project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for projects undertaken under this section.

SEC. 531. FARMINGTON DAM, CALIFORNIA.

(a) CONJUNCTIVE USE STUDY.—The Secretary is directed to continue participation in the Stockton, California Metropolitan Area Flood Control study to include the evaluation of the feasibility of storage of water at Farmington Dam to implement a conjunctive use plan. In conducting the study, the Secretary shall consult with the Stockton East Water District concerning joint operation or potential transfer of Farmington Dam. The Secretary shall make recommendations on facility transfers and operational alternatives as part of the Secretary's report to Congress.

(b) REPORT.—The Secretary shall report to Congress, no later than 1 year after the date of the enactment of this Act, on the feasibility of a conjunctive use plan using Farmington Dam for water storage.

SEC. 532. LOS ANGELES COUNTY DRAINAGE AREA, CALIFORNIA.

The non-Federal share for a project to add water conservation to the existing Los Angeles County Drainage Area, California, project shall be 100 percent of separable first costs and separable operation, maintenance, and replacement costs associated with the water conservation purpose.

SEC. 533. PRADO DAM SAFETY IMPROVEMENTS, CALIFORNIA.

The Secretary, in coordination with the State of California, shall provide technical assistance to Orange County, California, in developing appropriate public safety and access improvements associated with that portion of California State Route 71 being relocated for the Prado Dam feature of the project authorized as part of the project for flood control, Santa Ana River Mainstem, California, by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113).

SEC. 534. SEVEN OAKS DAM, CALIFORNIA.

The non-Federal share for a project to add water conservation to the Seven Oaks Dam, Santa Ana River Mainstem, California, project shall be 100 percent of separable first costs and separable operation, maintenance, and replacement costs associated with the water conservation purpose.

SEC. 535. MANATEE COUNTY, FLORIDA.

The project for flood control, Cedar Hammock (Wares Creek), Florida, is authorized to be carried out by the Secretary substantially in accordance with the Final Detailed Project Report and Environmental Assessment, dated April 1995, at a total cost of $13,846,000, with an estimated first Federal cost of $8,783,000 and an estimated non-Federal cost of $5,063,000.

SEC. 536. TAMPA, FLORIDA.

The Secretary may enter into a cooperative agreement under section 230 of this Act with the Museum of Science and Industry, Tampa, Florida, to provide technical, planning, and design assistance to demonstrate the water quality functions found in wetlands, at an estimated total Federal cost of $500,000.

SEC. 537. WATERSHED MANAGEMENT PLAN FOR DEEP RIVER BASIN, INDIANA.

(a) DEVELOPMENT.—The Secretary, in consultation with the Natural Resources Conservation Service of the Department of Agriculture, shall develop a watershed management plan for the Deep River Basin, Indiana, which includes Deep River, Lake George, Turkey Creek, and other related tributaries in Indiana.

(b) CONTENTS.—The plan to be developed by the Secretary under subsection (a) shall address specific concerns related to the Deep River Basin area, including sediment flow into Deep River, Turkey Creek, and other tributaries; control of sediment quality in Lake George; flooding problems; the safety of the Lake George Dam; and watershed management.

SEC. 538. SOUTHERN AND EASTERN KENTUCKY.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for providing environmental assistance to non-Federal interests in southern and eastern Kentucky. Such assistance may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southern and eastern Kentucky, including projects for wastewater treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) PROJECT COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State

officials, of a facilities development plan or resource protection plan, including appropriate plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal, except that the non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest before entry into the agreement with the Secretary. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR CERTAIN FINANCING COSTS.—In the event of delays in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest and other associated financing costs necessary for such non-Federal interest to provide the non-Federal share of the project's cost.

(C) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs, including for costs associated with obtaining permits necessary for the placement of such project on publicly owned or controlled lands, but not to exceed 25 percent of total project costs.

(D) OPERATION AND MAINTENANCE.—Operation and maintenance costs shall be 100 percent non-Federal.

(d) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.

(e) REPORT.—Not later than December 31, 1999, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(f) SOUTHERN AND EASTERN KENTUCKY DEFINED.—For purposes of this section, the term ''southern and eastern Kentucky'' means Morgan, Floyd, Pulaski, Wayne, Laurel, Knox, Pike, Menifee, Perry, Harlan, Breathitt, Martin, Jackson, Wolfe, Clay, Magoffin, Owsley, Johnson, Leslie, Lawrence, Knott, Bell, McCreary, Rockcastle, Whitley, Lee, and Letcher Counties, Kentucky.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 539. LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

Section 303(f) of the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3952(f); 104 Stat. 4782–4783) is amended—

(1) in paragraph (4) by striking ''and (3)'' and inserting ''(3), and (5)''; and

(2) by adding at the end the following:

''(5) FEDERAL SHARE IN CALENDAR YEARS 1996 AND 1997.—Notwithstanding paragraphs (1) and (2), amounts made available in accordance with section 306 of this title to carry out coastal wetlands restoration projects under this section in calendar years 1996 and 1997 shall provide 90 percent of the cost of such projects.''.

SEC. 540. SOUTHEAST LOUISIANA.

(a) FLOOD CONTROL.—The Secretary is directed to proceed with engineering, design, and construction of projects to provide for flood control and improvements to rainfall drainage systems in Jefferson, Orleans, and St. Tammany Parishes, Louisiana, in accordance with the following reports of the New Orleans District Engineer: Jefferson and Orleans Parishes, Louisiana, Urban Flood Control and Water Quality Management, July 1992; Tangipahoa, Techefuncte, and Tickfaw Rivers, Louisiana, June 1991; St. Tammany Parish, Louisiana, July 1996; and Schneider Canal, Slidell, Louisiana, Hurricane Protection, May 1990.

(b) COST SHARING.—The cost of any work performed by the non-Federal interests subsequent to the reports referred to in subsection (a) and determined by the Secretary to be a compatible and integral part of the projects shall be credited toward the non-Federal share of the projects.

(c) FUNDING.—There is authorized to be appropriated $100,000,000 for the initiation and partial accomplishment of projects described in the reports referred to in subsection (a).

SEC. 541. RESTORATION PROJECTS FOR MARYLAND, PENNSYLVANIA, AND WEST VIRGINIA.

(a) IN GENERAL.—

(1) COOPERATION AGREEMENTS.—The Secretary shall enter into cooperation agreements with non-Federal interests to develop and carry out, in cooperation with Federal and State agencies, reclamation and protection projects for the purpose of abating and mitigating surface water quality degradation caused by abandoned mines along—

(A) the North Branch of the Potomac River, Maryland, Pennsylvania, and West Virginia; and

(B) the New River, West Virginia, watershed.

(2) ADDITIONAL MEASURES.—Projects under paragraph (1) may also include measures for the abatement and mitigation of surface water quality degradation caused by the lack of sanitary wastewater treatment facilities or the need to enhance such facilities.

(3) CONSULTATION WITH FEDERAL ENTITIES.—Any project under paragraph (1) that is located on lands owned by the United States shall be undertaken in consultation with the Federal entity with administrative jurisdiction over such lands.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under cooperation agreements entered into under subsection (a)(1) shall be 75 percent; except that, with respect to projects located on lands owned by the United States, the Federal share shall be 100 percent. The non-Federal share of project costs may be provided in the form of design and construction services. Non-Federal interests shall receive credit for the reasonable costs of such services completed by such interests prior to entering an agreement with the Secretary for a project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for projects undertaken under subsection (a)(1)(A) and $5,000,000 for projects undertaken under subsection (a)(1)(B).

SEC. 542. CUMBERLAND, MARYLAND.

The Secretary is directed to provide technical, planning, and design assistance to State, local, and other Federal entities for the restoration of the Chesapeake and Ohio Canal, in the vicinity of Cumberland, Maryland.

SEC. 543. BENEFICIAL USE OF DREDGED MATERIAL, POPLAR ISLAND, MARYLAND.

The Secretary shall carry out a project for the beneficial use of dredged material at Poplar Island, Maryland, pursuant to section 204 of the Water Resources Development Act of 1992; except that, notwithstanding the limitation contained in subsection (e) of such section, the initial cost of constructing dikes for the project shall be $78,000,000, with an estimated Federal cost of $58,500,000 and an estimated non-Federal cost of $19,500,000.

SEC. 544. EROSION CONTROL MEASURES, SMITH ISLAND, MARYLAND.

(a) IN GENERAL.—The Secretary shall implement erosion control measures in the vicinity of Rhodes Point, Smith Island, Maryland, at an estimated total Federal cost of $450,000.

(b) IMPLEMENTATION ON EMERGENCY BASIS.—The project under subsection (a) shall be carried out on an emergency basis in view of the national, historic, and cultural value of the island and in order to protect the Federal investment in infrastructure facilities.

(c) COST SHARING.—Cost sharing applicable to hurricane and storm damage reduction shall be applicable to the project to be carried out under subsection (a).

SEC. 545. DULUTH, MINNESOTA, ALTERNATIVE TECHNOLOGY PROJECT.

(a) PROJECT AUTHORIZATION.—The Secretary shall develop and implement alternative methods for decontamination and disposal of contaminated dredged material at the Port of Duluth, Minnesota.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1996, to carry out this section $1,000,000. Such sums shall remain available until expended.

SEC. 546. REDWOOD RIVER BASIN, MINNESOTA.

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture and the State of Minnesota, shall conduct a study, and develop a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damages, improve water quality, and create wildlife habitat in the Redwood River basin and the subbasins draining into the Minnesota River, at an estimated Federal cost of $4,000,000.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the study and development of the strategy shall be 25 percent and may be provided through in-kind services and materials.

(c) COOPERATION AGREEMENT.—In conducting the study and developing the strategy under this section, the Secretary shall enter into cooperation agreements to provide financial assistance to appropriate Federal, State, and local government agencies, including activities for the implementation of wetland restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION.—The Secretary shall undertake development and implementation of the strategy authorized by this section in cooperation with local landowners and local government officials.

SEC. 547. NATCHEZ BLUFFS, MISSISSIPPI.

(a) IN GENERAL.—The Secretary shall carry out the project for bluff stabilization, Natchez Bluffs, Natchez, Mississippi, substantially in accordance with (1) the Natchez Bluffs Study, dated September 1985, (2) the Natchez Bluffs Study: Supplement I, dated June 1990, and (3) the Natchez Bluffs Study: Supplement II, dated December 1993, in the portions of the bluffs described in subsection (b), at a total cost of $17,200,000, with an estimated Federal cost of $12,900,000 and an estimated non-Federal cost of $4,300,000.

(b) DESCRIPTION OF PROJECT LOCATION.—The portions of the Natchez Bluffs where the project is to be carried out under subsection (a) are described in the studies referred to in subsection (a) as—

(1) Clifton Avenue, area 3;

(2) the bluff above Silver Street, area 6;

(3) the bluff above Natchez Under-the-Hill, area 7; and

(4) Madison Street to State Street, area 4.

SEC. 548. SARDIS LAKE, MISSISSIPPI.

(a) MANAGEMENT.—The Secretary shall work cooperatively with the State of Mississippi and the city of Sardis, Mississippi, to the maximum extent practicable, in the management of existing and proposed leases of land consistent with the Sardis Lake Recreation and Tourism Master Plan prepared by the city for the economic development of the Sardis Lake area.

(b) FLOOD CONTROL STORAGE.—The Secretary shall review the study conducted by the city of Sardis, Mississippi, regarding the impact of the Sardis Lake Recreation and Tourism Master

Plan prepared by the city on flood control storage in Sardis Lake. The city shall not be required to reimburse the Secretary for the cost of such storage, or the cost of the Secretary's review, if the Secretary finds that the loss of flood control storage resulting from implementation of the master plan is not significant.

SEC. 549. MISSOURI RIVER MANAGEMENT.

(a) NAVIGATION SEASON EXTENSION.—

(1) INCREASES.—The Secretary, working with the Secretary of Agriculture and the Secretary of the Interior, shall incrementally increase the length of each navigation season for the Missouri River by 15 days from the length of the previous navigation season and those seasons thereafter, until such time as the navigation season for the Missouri River is increased by 1 month from the length of the navigation season on April 1, 1996.

(2) APPLICATION OF INCREASES.—Increases in the length of the navigation season under paragraph (1) shall be applied in calendar year 1996 so that the navigation season in such calendar year for the Missouri River begins on April 1, 1996, and ends on December 15, 1996.

(3) ADJUSTMENT OF NAVIGATION LEVELS.—Scheduled full navigation levels shall be incrementally increased to coincide with increases in the navigation season under paragraph (1).

(b) WATER CONTROL POLICIES AFFECTING NAVIGATION CHANNELS.—The Secretary may not take any action which is inconsistent with a water control policy of the Corps of Engineers in effect on January 1, 1995, if such action would result in—

(1) a reduction of 10 days or more in the total number of days in a year during which vessels are able to use navigation channels; or

(2) a substantial increase in flood damage to lands adjacent to a navigation channel, unless such action is specifically authorized by a law enacted after the date of the enactment of this Act.

(c) ECONOMIC AND ENVIRONMENTAL IMPACT EVALUATION.—Whenever a Federal department, agency, or instrumentality conducts an environmental impact statement with respect to management of the Missouri River system, the head of such department, agency, or instrumentality shall also conduct a cost benefit analysis on any changes proposed in the management of the Missouri River.

SEC. 550. ST. CHARLES COUNTY, MISSOURI, FLOOD PROTECTION.

(a) IN GENERAL.—Notwithstanding any other provision of law or regulation, no county located at the confluence of the Missouri and Mississippi Rivers or community located in any county located at the confluence of the Missouri and Mississippi Rivers shall have its participation in any Federal program suspended, revoked, or otherwise affected solely due to that county or community permitting the raising of levees by any public-sponsored levee district, along an alignment approved by the circuit court of such county, to a level sufficient to contain a 20-year flood.

(b) TREATMENT OF EXISTING PERMITS.—If any public-sponsored levee district has received a Federal permit valid during the Great Flood of 1993 to improve or modify its levee system before the date of the enactment of this Act, such permit shall be considered adequate to allow the raising of the height of levees in such system under subsection (a).

SEC. 551. DURHAM, NEW HAMPSHIRE.

The Secretary may enter into a cooperative agreement under section 230 of this Act with the University of New Hampshire to provide technical assistance for a water treatment technology center addressing the needs of small communities.

SEC. 552. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

Section 324(b)(1) of the Water Resources Development Act of 1992 (106 Stat. 4849) is amended to read as follows:

''(1) Mitigation, enhancement, and acquisition of significant wetlands that contribute to the Meadowlands ecosystem.''.

SEC. 553. AUTHORIZATION OF DREDGE MATERIAL CONTAINMENT FACILITY FOR PORT OF NEW YORK/NEW JERSEY.

(a) IN GENERAL.—The Secretary is authorized to construct, operate, and maintain a dredged material containment facility with a capacity commensurate with the long-term dredged material disposal needs of port facilities under the jurisdiction of the Port of New York/New Jersey. Such facility may be a near-shore dredged material disposal facility along the Brooklyn waterfront. The costs associated with feasibility studies, design, engineering, and construction shall be shared with the local sponsor in accordance with the provisions of section 101 of the Water Resources Development Act of 1986.

(b) BENEFICIAL USE.—After the facility to be constructed under subsection (a) has been filled to capacity with dredged material, the Secretary shall maintain the facility for the public benefit.

SEC. 554. HUDSON RIVER HABITAT RESTORATION, NEW YORK.

(a) HABITAT RESTORATION PROJECT.—The Secretary shall expedite the feasibility study of the Hudson River Habitat Restoration, Hudson River Basin, New York, and shall carry out no fewer than 4 projects for habitat restoration, to the extent the Secretary determines such work to be technically feasible. Such projects shall be designed to—

(1) provide a pilot project to assess and improve habitat value and environmental outputs of recommended projects;

(2) provide a demonstration project to evaluate various restoration techniques for effectiveness and cost;

(3) fill an important local habitat need within a specific portion of the study area; and

(4) take advantage of ongoing or planned actions by other agencies, local municipalities, or environmental groups that would increase the effectiveness or decrease the overall cost of implementing one of the recommended restoration project sites.

(b) NON-FEDERAL SHARE.—Non-Federal interests shall provide 25 percent of the cost on each project undertaken under subsection (a). The non-Federal share may be in the form of cash or in-kind contributions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $11,000,000.

SEC. 555. QUEENS COUNTY, NEW YORK.

(a) DESCRIPTION OF NONNAVIGABLE AREA.—Subject to subsections (b) and (c), the area of Long Island City, Queens County, New York, that—

(1) is not submerged;

(2) lies between the southerly high water line (as of the date of enactment of this Act) of Anable Basin (also known as the ''11th Street Basin'') and the northerly high water line (as of the date of enactment of this Act) of Newtown Creek; and

(3) extends from the high water line (as of the date of enactment of this Act) of the East River to the original high water line of the East River; is declared to be nonnavigable waters of the United States.

(b) REQUIREMENT THAT AREA BE IMPROVED.—

(1) IN GENERAL.—The declaration of nonnavigability under subsection (a) shall apply only to those portions of the area described in subsection (a) that are, or will be, bulkheaded, filled, or otherwise occupied by permanent structures or other permanent physical improvements (including parkland).

(2) APPLICABILITY OF FEDERAL LAW.—Improvements described in paragraph (1) shall be subject to applicable Federal laws, including—

(A) sections 9 and 10 of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 3, 1899 (33 U.S.C. 401 and 403);

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) EXPIRATION DATE.—The declaration of nonnavigability under subsection (a) shall expire with respect to a portion of the area described in subsection (a), if the portion—

(1) is not bulkheaded, filled, or otherwise occupied by a permanent structure or other permanent physical improvement (including parkland) in accordance with subsection (b) by the date that is 20 years after the date of the enactment of this Act; or

(2) requires an improvement described in subsection (b)(2) that is subject to a permit under an applicable Federal law and the improvement is not commenced by the date that is 5 years after the date of issuance of the permit.

SEC. 556. NEW YORK BIGHT AND HARBOR STUDY.

Section 326(f) of the Water Resources Development Act of 1992 (106 Stat. 4851) is amended by striking ''$1,000,000'' and inserting ''$5,000,000''.

SEC. 557. NEW YORK STATE CANAL SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make capital improvements to the New York State Canal System.

(b) AGREEMENTS.—The Secretary shall, with the consent of appropriate local and State entities, enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the New York State Canal System and its related facilities, including trailside facilities and other recreational projects along the waterways of the canal system.

(c) NEW YORK STATE CANAL SYSTEM DEFINED.—In this section, the term ''New York State Canal System'' means the Erie, Oswego, Champlain, and Cayuga-Seneca Canals.

(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000.

SEC. 558. NEW YORK CITY WATERSHED.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a program for providing environmental assistance to non-Federal interests in the New York City Watershed.

(2) FORM.—Assistance provided under this section may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in the New York City Watershed, including projects for water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) ELIGIBLE PROJECTS.—

(1) CERTIFICATION.—A project shall be eligible for financial assistance under this section only if the State director for the project certifies to the Secretary that the project will contribute to the protection and enhancement of the quality or quantity of the New York City water supply.

(2) SPECIAL CONSIDERATION.—In certifying projects to the Secretary, the State director shall give special consideration to those projects implementing plans, agreements, and measures which preserve and enhance the economic and social character of the watershed communities.

(3) PROJECT DESCRIPTIONS.—Projects eligible for assistance under this section shall include the following:

(A) Implementation of intergovernmental agreements for coordinating regulatory and management responsibilities.

(B) Acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use.

(C) Acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality.

(D) Natural resources stewardship on public and private lands to promote land uses that preserve and enhance the economic and social character of the watershed communities and protect and enhance water quality.

(d) COOPERATION AGREEMENTS.—Before providing assistance under this section, the Secretary shall enter into a project cooperation agreement with the State director for the project to be carried out with such assistance.

(e) COST SHARING.—

(1) IN GENERAL.—Total project costs under each agreement entered into under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into the agreement with the Secretary for a project. The Federal share may be in the form of grants or reimbursements of project costs.

(2) INTEREST.—In the event of delays in the reimbursement of the non-Federal share of a project, the non-Federal interest shall receive credit for reasonable interest costs incurred to provide the non-Federal share of a project's cost.

(3) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations provided by the non-Federal interest toward its share of project costs, including direct costs associated with obtaining permits necessary for the placement of such project on public owned or controlled lands, but not to exceed 25 percent of total project costs.

(4) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed to waive, limit, or otherwise affect the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(g) REPORT.—Not later than December 31, 2000, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with recommendations concerning whether such program should be implemented on a national basis.

(h) NEW YORK CITY WATERSHED DEFINED.—For purposes of this section, the term ''New York City Watershed'' means the land area within the counties of Delaware, Greene, Schoharie, Ulster, Sullivan, Westchester, Putnam, and Duchess which contributes water to the water supply system of New York City.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000.

SEC. 559. OHIO RIVER GREENWAY.

(a) EXPEDITED COMPLETION OF STUDY.—The Secretary is directed to expedite the completion of the study for the Ohio River Greenway, Jeffersonville, Clarksville, and New Albany, Indiana.

(b) CONSTRUCTION.—Upon completion of the study, if the Secretary determines that the project is feasible, the Secretary shall participate with the non-Federal interests in the construction of the project.

(c) COST SHARING.—Total project costs under this section shall be shared at 50 percent Federal and 50 percent non-Federal.

(d) LANDS, EASEMENTS, AND RIGHTS-OF-WAY.—Non-Federal interests shall be responsible for providing all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project.

(e) CREDIT.—The non-Federal interests shall receive credit for those costs incurred by the non-Federal interests that the Secretary determines are compatible with the study, design, and implementation of the project.

SEC. 560. NORTHEASTERN OHIO.

The Secretary is authorized to provide technical assistance to local interests for planning the establishment of a regional water authority in northeastern Ohio to address the water problems of the region. The Federal share of the costs of such planning shall not exceed 75 percent.

SEC. 561. GRAND LAKE, OKLAHOMA.

(a) STUDY.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Army shall carry out and complete a study of flood control in Grand/Neosho Basin and tributaries in the vicinity of Pensacola Dam in northeastern Oklahoma to determine the scope of the backwater effects of operation of the dam and to identify any lands which the Secretary determines have been adversely impacted by such operation or should have been originally purchased as flowage easement for the project.

(b) ACQUISITION OF REAL PROPERTY.—Upon completion of the study and subject to advance appropriations, the Secretary shall acquire from willing sellers such real property interests in any lands identified in the study as the Secretary determines are necessary to reduce the adverse impacts identified in the study conducted under subsection (a).

(c) IMPLEMENTATION REPORTS.—The Secretary shall transmit to Congress reports on the operation of the Pensacola Dam, including data on and a description of releases in anticipation of flooding (referred to as preoccupancy releases), and the implementation of this section. The first of such reports shall be transmitted not later than 2 years after the date of the enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal years beginning after September 30, 1996.

(2) MAXIMUM FUNDING FOR STUDY.—Of amounts appropriated to carry out this section, not to exceed $1,500,000 shall be available for carrying out the study under subsection (a).

SEC. 562. BROAD TOP REGION OF PENNSYLVANIA.

Section 304 of the Water Resources Development Act of 1992 (106 Stat. 4840) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) COST SHARING.—The Federal share of the cost of the activities conducted under the cooperative agreement entered into under subsection (a) shall be 75 percent. The non-Federal share of project costs may be provided in the form of design and construction services and other in-kind work provided by the non-Federal interests, whether occurring subsequent to, or within 6 years prior to, entering into an agreement with the Secretary. Non-Federal interests shall receive credit for grants and the value of work performed on behalf of such interests by State and local agencies.''; and

(2) in subsection (c) by striking ''$5,500,000'' and inserting ''$11,000,000''.

SEC. 563. CURWENSVILLE LAKE, PENNSYLVANIA.

The Secretary shall modify the allocation of costs for the water reallocation project at Curwensville Lake, Pennsylvania, to the extent that the Secretary determines that such reallocation will provide environmental restoration benefits in meeting in-stream flow needs in the Susquehanna River basin.

SEC. 564. HOPPER DREDGE MCFARLAND.

(a) PROJECT AUTHORIZATION.—The Secretary is authorized to carry out a project at the Philadelphia Naval Shipyard, Pennsylvania, to make modernization and efficiency improvements to the hopper dredge McFarland.

(b) REQUIREMENTS.—In carrying out the project under subsection (a), the Secretary shall—

(1) determine whether the McFarland should be returned to active service or the reserve fleet after the project is completed; and

(2) establish minimum standards of dredging service to be met in areas served by the McFarland while the drydocking is taking place.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for fiscal years beginning after September 30, 1996.

SEC. 565. PHILADELPHIA, PENNSYLVANIA.

(a) WATER WORKS RESTORATION.—

(1) IN GENERAL.—The Secretary shall provide planning, design, and construction assistance for the protection and restoration of the Philadelphia, Pennsylvania Water Works.

(2) COORDINATION.—In providing assistance under this subsection, the Secretary shall coordinate with the Fairmount Park Commission and the Secretary of the Interior.

(3) FUNDING.—There is authorized to be appropriated to carry out this subsection $1,000,000 for fiscal years beginning after September 30, 1996.

(b) COOPERATION AGREEMENT FOR SCHUYLKILL NAVIGATION CANAL.—

(1) IN GENERAL.—The Secretary shall enter into a cooperation agreement with the city of Philadelphia, Pennsylvania, to participate in the operation, maintenance, and rehabilitation of the Schuylkill Navigation Canal at Manayunk.

(2) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of the operation, maintenance, and rehabilitation under paragraph (1) shall not exceed $300,000 annually.

(3) AREA INCLUDED.—For purposes of this subsection, the Schuylkill Navigation Canal includes the section approximately 10,000 feet long extending between Lock and Fountain Streets, Philadelphia, Pennsylvania.

(c) SCHUYLKILL RIVER PARK.—

(1) ASSISTANCE.—The Secretary is authorized to provide technical, planning, design, and construction assistance for the Schuylkill River Park, Philadelphia, Pennsylvania.

(2) FUNDING.—There is authorized to be appropriated $2,700,000 to carry out this subsection.

(d) PENNYPACK PARK.—

(1) ASSISTANCE.—The Secretary is authorized to provide technical, design, construction, and financial assistance for measures for the improvement and restoration of aquatic habitats and aquatic resources at Pennypack Park, Philadelphia, Pennsylvania.

(2) COOPERATION AGREEMENTS.—In providing assistance under this subsection, the Secretary shall enter into cooperation agreements with the city of Philadelphia, acting through the Fairmount Park Commission.

(3) FUNDING.—There is authorized to be appropriated for fiscal years beginning after September 30, 1996, $15,000,000 to carry out this subsection.

(e) FRANKFORD DAM.—

(1) COOPERATION AGREEMENTS.—The Secretary shall enter into cooperation agreements with the city of Philadelphia, Pennsylvania, acting through the Fairmount Park Commission, to provide assistance for the elimination of the Frankford Dam, the replacement of the Rhawn Street Dam, and modifications to the Roosevelt Dam and the Verree Road Dam.

(2) FUNDING.—There is authorized to be appropriated for fiscal years beginning after September 30, 1996, $900,000, to carry out this subsection.

SEC. 566. UPPER SUSQUEHANNA RIVER BASIN, PENNSYLVANIA AND NEW YORK.

(a) STUDY AND STRATEGY DEVELOPMENT.—The Secretary, in cooperation with the Secretary of Agriculture, the State of Pennsylvania, and the State of New York, shall conduct a study, and

develop a strategy, for using wetland restoration, soil and water conservation practices, and nonstructural measures to reduce flood damages, improve water quality, and create wildlife habitat in the following portions of the Upper Susquehanna River basin:

(1) the Juniata River watershed, Pennsylvania, at an estimated Federal cost of $15,000,000; and

(2) the Susquehanna River watershed upstream of the Chemung River, New York, at an estimated Federal cost of $10,000,000.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the study and development of the strategy shall be 25 percent and may be provided through in-kind services and materials.

(c) COOPERATION AGREEMENTS.—In conducting the study and developing the strategy under this section, the Secretary shall enter into cooperation agreements to provide financial assistance to appropriate Federal, State, and local government agencies, including activities for the implementation of wetland restoration projects and soil and water conservation measures.

(d) IMPLEMENTATION.—The Secretary shall undertake development and implementation of the strategy authorized by this section in cooperation with local landowners and local government officials.

SEC. 567. SEVEN POINTS VISITORS CENTER, RAYSTOWN LAKE, PENNSYLVANIA.

(a) IN GENERAL.—The Secretary shall construct a visitors center and related public use facilities at the Seven Points Recreation Area at Raystown Lake, Pennsylvania, generally in accordance with the Master Plan Update (1994) for the Raystown Lake Project.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000.

SEC. 568. SOUTHEASTERN PENNSYLVANIA.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in southeastern Pennsylvania. Such assistance may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southeastern Pennsylvania, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for the reasonable costs of design work completed by such interest prior to entering into a local cooperation agreement with the Secretary for a project. The credit for such design work shall not exceed 6 percent of the total construction costs of the project. The Federal share may be in the form of grants or reimbursements of project costs.

(B) INTEREST.—In the event of delays in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of a project's cost.

(C) LANDS, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of such project on publicly owned or controlled lands, but not to exceed 25 percent of total project costs.

(D) OPERATION AND MAINTENANCE.—Operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent non-Federal.

(d) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.

(e) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(f) SOUTHEASTERN PENNSYLVANIA DEFINED.—For purposes of this section, the term ''Southeastern Pennsylvania'' means Philadelphia, Bucks, Chester, Delaware, and Montgomery Counties, Pennsylvania.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal years beginning after September 30, 1996. Such sums shall remain available until expended.

SEC. 569. WILLS CREEK, HYNDMAN, PENNSYLVANIA.

The Secretary shall carry out a project for flood control, Wills Creek, Borough of Hyndman, Pennsylvania, at an estimated total cost of $5,000,000. For purposes of section 209 of the Flood Control Act of 1970 (84 Stat. 1829), benefits attributable to the national economic development objectives set forth in such section shall include all primary, secondary, and tertiary benefits attributable to the flood control project authorized by this section regardless of to whom such benefits may accrue.

SEC. 570. BLACKSTONE RIVER VALLEY, RHODE ISLAND AND MASSACHUSETTS.

(a) IN GENERAL.—The Secretary, in coordination with Federal, State, and local interests, shall provide technical, planning, and design assistance in the development and restoration of the Blackstone River Valley National Heritage Corridor, Rhode Island, and Massachusetts.

(b) FEDERAL SHARE.—Funds made available under this section for planning and design of a project may not exceed 75 percent of the total cost of such planning and design.

SEC. 571. EAST RIDGE, TENNESSEE.

The Secretary shall review the flood management study for the East Ridge and Hamilton County area undertaken by the Tennessee Valley Authority and shall carry out the project at an estimated total cost of $25,000,000.

SEC. 572. MURFREESBORO, TENNESSEE.

The Secretary shall carry out a project for environmental enhancement, Murfreesboro, Tennessee, in accordance with the Report and Environmental Assessment, Black Fox, Murfree and Oaklands Spring Wetlands, Murfreesboro, Rutherford County, Tennessee, dated August 1994.

SEC. 573. BUFFALO BAYOU, TEXAS.

The non-Federal interest for the projects for flood control, Buffalo Bayou Basin, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1258), and Buffalo Bayou and tributaries, Texas, authorized by section 101 of the Water Resources Development Act of 1990 (104 Stat. 4610), may be reimbursed by up to $5,000,000 or may receive a credit of up to $5,000,000 against required non-Federal project cost-sharing contributions for work performed by the non-Federal interest at each of the following locations if such work is compatible with the following authorized projects: White Oak Bayou, Brays Bayou, Hunting Bayou, Garners Bayou, and the Upper Reach on Greens Bayou.

SEC. 574. SAN ANTONIO RIVER, TEXAS.

Notwithstanding the last sentence of section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d–5(a)) and the agreement executed on November 7, 1992, by the Secretary and the San Antonio River Authority, Texas, the Secretary shall reimburse the San Antonio River Authority an amount not to exceed $5,000,000 for the work carried out by the Authority under the agreement, including any amounts paid to the Authority under the terms of the agreement before the date of the enactment of this Act.

SEC. 575. NEABSCO CREEK, VIRGINIA.

The Secretary shall carry out a project for flood control, Neabsco Creek Watershed, Prince William County, Virginia, at an estimated total cost of $1,500,000.

SEC. 576. TANGIER ISLAND, VIRGINIA.

The Secretary is directed to design and construct a breakwater at the North Channel on Tangier Island, Virginia, at a total cost of $1,200,000, with an estimated Federal cost of $900,000 and an estimated non-Federal cost of $300,000. Congress finds that in view of the historic preservation benefits resulting from the project authorized by this section, the overall benefits of the project exceed the costs of the project.

SEC. 577. HARRIS COUNTY, TEXAS.

(a) IN GENERAL.—During any evaluation of economic benefits and costs for projects set forth in subsection (b) that occurs after the date of the enactment of this Act, the Secretary shall not consider flood control works constructed by non-Federal interests within the drainage area of such projects prior to the date of such evaluation in the determination of conditions existing prior to construction of the project.

(b) SPECIFIC PROJECTS.—The projects to which subsection (a) apply are—

(1) the project for flood control, Buffalo Bayou and Tributaries, Texas, authorized by section 101(a) of the Water Resources Development Act of 1990 (104 Stat. 4610);

(2) the project for flood control, Cypress Creek, Texas, authorized by section 3(a)(13) of the Water Resources Development Act of 1988 (102 Stat. 4014); and

(3) the project for flood control, Buffalo Bayou Basin, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1258).

SEC. 578. PIERCE COUNTY, WASHINGTON.

(a) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to Pierce County, Washington, to address measures that are necessary to assure that non-Federal levees are adequately maintained and satisfy eligibility criteria for rehabilitation assistance under section 5 of the Act entitled ''An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes'', approved August 18, 1941 (33 U.S.C. 701n; 55 Stat. 650). Such assistance shall include a review of the requirements of the Puyallup Tribe of Indians Settlement Act of 1989 (Public Law 101–41) and standards for project maintenance and vegetation management used by the Secretary to determine eligibility for levee rehabilitation assistance with a view toward amending such standards as needed to make non-Federal levees eligible for assistance that may be necessary as a result of future flooding.

(b) LEVEE REHABILITATION.—The Secretary shall expedite a review to determine the extent to which requirements of the Puyallup Tribe of Indians Settlement Act of 1989 limited the ability of non-Federal interests to adequately maintain existing non-Federal levees that were damaged by flooding in 1995 and 1996 and, to the extent that such ability was limited by such Act, the Secretary shall carry out the rehabilitation of such levees.

SEC. 579. WASHINGTON AQUEDUCT.

(a) REGIONAL ENTITY.—

(1) IN GENERAL.—Congress encourages the non-Federal public water supply customers of the Washington Aqueduct to establish a non-Federal public or private entity, or to enter into an agreement with an existing non-Federal public or private entity, to receive title to the Washington Aqueduct and to operate, maintain, and manage the Washington Aqueduct in a manner that adequately represents all interests of such customers.

(2) CONSENT OF CONGRESS.—Congress grants consent to the jurisdictions which are customers of the Washington Aqueduct to establish a non-Federal entity to receive title to the Washington Aqueduct and to operate, maintain, and manage the Washington Aqueduct.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall preclude the jurisdictions referred to in this subsection from pursuing alternative options regarding ownership, operation, maintenance, and management of the Washington Aqueduct.

(b) PROGRESS REPORT AND PLAN.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress in achieving the objectives of subsection (a) and a plan for the transfer of ownership, operation, maintenance, and management of the Washington Aqueduct to a non-Federal public or private entity. Such plan shall include a transfer of ownership, operation, maintenance, and management of the Washington Aqueduct that is consistent with the provisions of this section and a detailed consideration of any proposal to transfer such ownership or operation, maintenance, or management to a private entity.

(c) TRANSFER.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transfer, without consideration but subject to such terms and conditions as the Secretary considers appropriate to protect the interests of the United States and the non-Federal public water supply customers, all right, title, and interest of the United States in the Washington Aqueduct, its real property, facilities, equipment, supplies, and personalty—

(A) to a non-Federal public or private entity established pursuant to subsection (a); or

(B) in the event no entity is established pursuant to subsection (a), a non-Federal public or private entity selected by the Secretary which reflects, to the extent possible, a consensus among the non-Federal public water supply customers.

(2) TRANSFEREE SELECTION CRITERIA.—The selection of a non-Federal public or private entity under paragraph (1)(B) shall be based on technical, managerial, and financial capabilities and on consultation with the non-Federal public water supply customers and after opportunity for public input.

(3) ASSUMPTION OF RESPONSIBILITIES.—The entity to whom transfer under paragraph (1) is made shall assume full responsibility for performing and financing the operation, maintenance, repair, replacement, rehabilitation, and necessary capital improvements of the Washington Aqueduct so as to ensure the continued operation of the Washington Aqueduct consistent with its intended purpose of providing an uninterrupted supply of potable water sufficient to meet the current and future needs of the Washington Aqueduct service area.

(4) EXTENSION.—Notwithstanding the 2-year deadline established in paragraph (1), the Secretary may provide a 1-time 6-month extension of such deadline if the Secretary determines that the non-Federal public water supply customers are making progress in establishing an entity pursuant to subsection (a) and that such an extension would likely result in the establishment of such an entity.

(d) INTERIM BORROWING AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), there is authorized to be appropriated to the Secretary for fiscal years 1997 and 1998 borrowing authority in amounts sufficient to cover those obligations which the Army Corps of Engineers is required to incur in carrying out capital improvements during such fiscal years for the Washington Aqueduct to assure its continued operation until such time as the transfer under subsection (c) has taken place, provided that such amounts do not exceed $16,000,000 for fiscal year 1997 and $54,000,000 for fiscal year 1998.

(2) TERMS AND CONDITIONS.—The borrowing authority under paragraph (1) shall be provided to the Secretary by the Secretary of the Treasury under such terms and conditions as the Secretary of the Treasury determines to be necessary in the public interest and may be provided only after each of the non-Federal public water supply customers of the Washington Aqueduct has entered into a contractual agreement with the Secretary to pay its pro rata share of the costs associated with such borrowing.

(3) IMPACT ON IMPROVEMENT PROGRAM.—Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with other Federal agencies, shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that assesses the impact of the borrowing authority provided under this subsection on near-term improvement projects under the Washington Aqueduct Improvement Program, work scheduled during fiscal years 1997 and 1998, and the financial liability to be incurred.

(e) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) WASHINGTON AQUEDUCT.—The term ''Washington Aqueduct'' means the Washington Aqueduct facilities and related facilities owned by the Federal Government as of the date of the enactment of this Act, including the dams, intake works, conduits, and pump stations that capture and transport raw water from the Potomac River to the Dalecarlia Reservoir, the infrastructure and appurtenances used to treat water taken from the Potomac River by such facilities to potable standards, and related water distributions facilities.

(2) NON-FEDERAL PUBLIC WATER SUPPLY CUSTOMERS.—The term ''non-Federal public water supply customers'' means the District of Columbia, Arlington County, Virginia, and the city of Falls Church, Virginia.

SEC. 580. GREENBRIER RIVER BASIN, WEST VIRGINIA, FLOOD PROTECTION.

(a) IN GENERAL.—The Secretary is directed to design and implement a flood damage reduction program for the Greenbrier River Basin, West Virginia, in the vicinity of Durbin, Cass, Marlinton, Renick, Ronceverte, and Alderson as generally presented in the District Engineer's draft Greenbrier River Basin Study Evaluation Report, dated July 1994, to the extent provided under subsection (b) to afford those communities a level of protection against flooding sufficient to reduce future losses to these communities from the likelihood of flooding such as occurred in November 1985, January 1996, and May 1996.

(b) FLOOD PROTECTION MEASURES.—The flood damage reduction program referred to in subsection (a) may include the following as the Chief of Engineers determines necessary and advisable in consultation with the communities referred to in subsection (a)—

(1) local protection projects such as levees, floodwalls, channelization, small tributary stream impoundments, and nonstructural measures such as individual flood proofing; and

(2) floodplain relocations and resettlement site developments, floodplain evacuations, and a comprehensive river corridor and watershed management plan generally in accordance with the District Engineer's draft Greenbrier River Corridor Management Plan, Concept Study, dated April 1996.

(c) CONSIDERATIONS.—For purposes of section 209 of the Flood Control Act of 1970 (84 Stat. 1829), benefits attributable to the national economic development objectives set forth therein shall include all primary, secondary, and tertiary benefits attributable to the flood damage reduction program authorized by this section regardless to whomever they might accrue.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for fiscal years beginning after September 30, 1996.

SEC. 581. HUNTINGTON, WEST VIRGINIA.

The Secretary may enter into a cooperative agreement with Marshall University, Huntington, West Virginia, to provide technical assistance to the Center for Environmental, Geotechnical and Applied Sciences.

SEC. 582. LOWER MUD RIVER, MILTON, WEST VIRGINIA.

The Secretary shall review the watershed plan and the environmental impact statement prepared for the Lower Mud River, Milton, West Virginia by the Natural Resources Conservation Service pursuant to the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) and shall carry out the project.

SEC. 583. WEST VIRGINIA AND PENNSYLVANIA FLOOD CONTROL.

(a) IN GENERAL.—The Secretary shall design and construct flood control measures in the Cheat and Tygart River Basins, West Virginia, and the Lower Allegheny, Lower Monongahela, West Branch Susquehana, and Juanita River Basins, Pennsylvania, at a level of protection sufficient to prevent any future losses to these communities from flooding such as occurred in January 1996, but no less than 100 year level of protection.

(b) PRIORITY COMMUNITIES.— In implementing this section, the Secretary shall give priority to the communities of Parsons and Rowlesburg, West Virginia, in the Cheat River Basin and Bellington and Phillipi, West Virginia, in the Tygart River Basin, and Connellsville, Pennsylvania, in the Lower Monongahela River Basin, and Benson, Hooversville, Clymer, and New Bethlehem, Pennsylvania, in the Lower Allegheny River Basin, and Patton, Barnesboro, Coalport and Spangler, Pennsylvania, in the West Branch Susquehanna River Basin, and Bedford, Linds Crossings, and Logan Township in the Juniata River Basin.

(c) CONSIDERATIONS.—For purposes of section 209 of the Flood Control Act of 1970, benefits attributable to the national economic development objectives set forth in such section shall include all primary, secondary, and tertiary benefits attributable to the flood control measures authorized by this section regardless of to whom such benefits may accrue.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for fiscal years beginning after September 30, 1996.

SEC. 584. EVALUATION OF BEACH MATERIAL.

(a) IN GENERAL.—The Secretary and the Secretary of the Interior shall evaluate procedures and requirements used in the selection and approval of materials to be used in the restoration and nourishment of beaches. Such evaluation shall address the potential effects of changing existing procedures and requirements on the implementation of beach restoration and nourishment projects and on the aquatic environment.

(b) CONSULTATION.—In conducting the evaluation under this section, the Secretaries shall consult with appropriate State agencies.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretaries shall transmit a report to Congress on their findings under this section.

SEC. 585. NATIONAL CENTER FOR NANOFABRICATION AND MOLECULAR SELF-ASSEMBLY.

(a) IN GENERAL.—The Secretary is authorized to provide financial assistance for not to exceed 50 percent of the costs of the necessary fixed and movable equipment for a National Center for Nanofabrication and Molecular Self-Assembly to be located in Evanston, Illinois.

(b) TERMS AND CONDITIONS.—No financial assistance may be provided under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $7,000,000 for fiscal years beginning after September 30, 1996 .

SEC. 586. SENSE OF CONGRESS REGARDING ST. LAWRENCE SEAWAY TOLLS.

It is the sense of Congress that the President should engage in negotiations with the Government of Canada for the purposes of—

(1) eliminating tolls along the St. Lawrence Seaway system; and

(2) identifying ways to maximize the movement of goods and commerce through the St. Lawrence Seaway.

SEC. 587. PRADO DAM, CALIFORNIA.

(a) SEPARABLE ELEMENT REVIEW.—

(1) REVIEW.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall review, in cooperation with the non-Federal interest, the Prado Dam feature of the project for flood control, Santa Ana River Mainstem, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), with a view toward determining whether the feature may be considered a separable element, as that term is defined in section 103(f) of such Act.

(2) MODIFICATION OF COST-SHARING REQUIREMENT.—If the Prado Dam feature is determined to be a separable element under paragraph (1), the Secretary shall reduce the non-Federal cost-sharing requirement for such feature in accordance with section 103(a)(3) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(a)(3)) and shall enter into a project cooperation agreement with the non-Federal interest to reflect the modified cost-sharing requirement and to carry out construction.

(b) DAM SAFETY ADJUSTMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall determine the estimated costs associated with dam safety improvements that would have been required in the absence of flood control improvements authorized for the Santa Ana River Mainstem project referred to in subsection (a) and shall reduce the non-Federal share for the Prado Dam feature of such project by an amount equal to the Federal share of such dam safety improvements, updated to current price levels.

SEC. 588. MORGANZA, LOUISIANA TO THE GULF OF MEXICO.

(1) STUDY.—The Secretary shall conduct a study of the environmental, flood control and navigational impacts assoiciated with the construction of a lock structure in the Houma Navigation Canal as an independent feature of the overall flood damage prevention study currently being conducted under the Morganza, Louisiana to the Gulf of Mexico feasibility study. In preparing such study, the Secretary shall consult the South Terrebonne Tidewater Management and Conservation District and consider the District's Preliminary Design Document, dated February, 1994. Further, the Secretary shall evaluate the findings of the Coastal Wetlands Planning, Protection and Restoration Federal Task Force, as authorized by Public Law 101–646, relating to the lock structure.

(2) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations on immediate implementation not later than 6 months after the enactment of this Act.

TITLE VI—EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND

SEC. 601. EXTENSION OF EXPENDITURE AUTHORITY UNDER HARBOR MAINTENANCE TRUST FUND.

Paragraph (1) of section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from Harbor Maintenance Trust Fund) is amended to read as follows:

''(1) to carry out section 210 of the Water Resources Development Act of 1986 (as in effect on the date of the enactment of the Water Resources Development Act of 1996),''.

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate disagree to the amendment of the House and request a conference with the House on the disagreeing vote and the Chair be authorized to appoint conferees on the part of the Senate.

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

The PRESIDING OFFICER (Mr. SMITH) appointed Mr. CHAFEE, Mr. WARNER, Mr. SMITH, Mr. BAUCUS, and Mr. MOYNIHAN conferees on the part of the Senate.

CLARIFYING THE DESIGNATION OF NORMAL TRADE RELATIONS

Mr. SHELBY. Mr. President, I ask unanimous consent the Finance Committee be discharged from further consideration of S. 1918, and further that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1918) to amend trade laws and related provisions to clarify the designation of normal trade relations.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I rise in strong support of S. 1918, legislation aimed at bringing a modicum of clarity to our trade laws. This bill, cosponsored by all 20 members of the Senate Committee on Finance, would replace the term ''most-favored-nation'' with a more direct, more accurate, less muddled phrase to describe the basis of our trade policy.

Since the 18th century, American trade policy has been one of nondiscrimination: the vast majority of our trading partners receive treatment equal to all others. Not most-favored treatment, but normal treatment. And hence, we propose the term ''normal trade relations'' in the hopes that it will lessen the confusion when we discuss trade matters.

At the root of the problem is that we continue to use a term that first appeared at the end of the 17th century—''most-favored-nation''—in our treaties and agreements, in our trade laws and executive orders, a term that, even then, was a misnomer.

There is, Mr. President, no single most favored nation. As noted in a 1919 report to the Congress by the United States Tariff Commission (known today as the U.S. International Trade Commission):

It is neither the purpose nor the effect of the most-favored-nation clause to establish a ''most favored nation;'' on the contrary its use implies the intention that the maximum of advantages which either of the parties to a treaty has extended or shall extend to any third State—for the moment the ''most-favored''—shall be given or be made accessible to the other party.''

That is, the most favored nation is not the nation with which we are negotiating, but rather a third nation altogether that happens to benefit from the lowest tariffs or smallest trade barriers with respect to some particular product. The most-favored-nation principle means merely that we will grant to the country with which we are negotiating the same terms that we give to that third country, for the moment the most favored.

Little wonder, then, that the term, though used for more than two centuries, has increasingly caused public confusion. And yet we must have a term to describe our normal trade relations for the simple reason that there is still in law a very unfavorable tariff—that is, the Smoot-Hawley Tariff Act of 1930, the last tariff schedule enacted line-by-line by the Congress, producing the highest tariff rates, overall, in our history.

In response to the disaster that followed, the Roosevelt administration negotiated a series of trade agreements—agreements with individual countries as well as multilateral agreements negotiated under the auspices of the General Agreement on Tariffs and Trade. These agreements brought down our tariffs, as they brought down tariffs worldwide.

These are the tariffs that we call our most-favored-nation tariff rates, which, in fact, apply to the vast majority of our trading partners. They are thus the norm, and not in any way more favorable than the tariffs that apply to nearly all other countries.

Nor are they, in fact, the lowest tariff rates the United States applies. We have free trade arrangements with Canada, Israel, and Mexico. We grant other tariff preferences to developing countries under the Generalized System of Preferences, to Caribbean nations under the Caribbean Basin Initiative and to Andean countries under the Andean Trade Preferences Act. The tariff rates under all of these regimes are lower than the most-favored-nation rates referred to in our laws and treaties. Hence the confusion, and hence the need to change the terminology to clarify that our most-favored-nation

tariff rates represent, in fact, our normal trade relations.

Mr. President, this legislation in no way intends to alter our fundamental international obligations. The term ''most-favored-nation'' has a long history of application and interpretation, and that will stand. This legislation is not intended as a substantive change in our trade policy. Rather, it is intended only as a change in nomenclature with the sole purpose of making our trade policy more comprehensible.

Mr. President, it is rare that legislation before the Senate has the cosponsorship of the entire membership of the committee of jurisdiction. That is the case with S. 1918, which strikes a bipartisan blow for clarity in our trade laws.

Mr. SHELBY. I ask unanimous consent the bill be deemed read a third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (S. 1918) was deemed read for a third time and passed, as follows:

S. 1918

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

SECTION 1. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) Since the 18th century, the principle of nondiscrimination among countries with which the United States has trade relations, commonly referred to as ''most-favored-nation'' treatment, has been a cornerstone of United States trade policy.

(2) Although the principle remains firmly in place as a fundamental concept in United States trade relations, the term ''most-favored-nation'' is a misnomer which has led to public misunderstanding.

(3) It is neither the purpose nor the effect of the most-favored-nation principle to treat any country as ''most favored''. To the contrary, the principle reflects the intention to confer on a country the same trade benefits that are conferred on any other country, that is, the intention not to discriminate among trading partners.

(4) The term ''normal trade relations'' is a more accurate description of the principle of nondiscrimination as it applies to the tariffs applicable generally to imports from United States trading partners, that is, the general rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States.

(b) POLICY.—It is the sense of the Congress that—

(1) the language used in the United States laws, treaties, agreements, executive orders, directives, and regulations should more clearly and accurately reflect the underlying principles of United States trade policy; and

(2) accordingly, the term ''normal trade relations'' should, where appropriate, be substituted for the term ''most-favored-nation''.

SEC 2. CHANGE IN TERMINOLOGY.

(a) TRADE EXPANSION ACT OF 1962.—The heading for section 251 of the Trade Expansion Act of 1962 (19 U.S.C. 1881) is amended to read as follows: ''**NORMAL TRADE RELATIONS**''.

(b) TRADE ACT OF 1974.—(1) Section 402 of the Trade Act of 1974 (19 U.S.C. 2432) is amended by striking ''(most-favored-nation treatment)'' each place it appears and inserting ''(normal trade relations)''.

(2) Section 601(9) of the Trade Act of 1974 (19 U.S.C. 2481(9)) is amended by striking ''most-favored-nation treatment'' and inserting ''trade treatment based on normal trade relations (known under international law as most-favored-nation treatment)''.

(c) CFTA.—Section 302(a)(3)(C) of the United States Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking ''the most-favored-nation rate of duty'' each place it appears and inserting ''the general subcolumn of the column 1 rate of duty set forth in the Harmonized Tariff Schedule of the United States''.

(d) NAFTA.—Section 202(n) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3332(n)) is amended by striking ''most-favored-nation''.

(e) SEED ACT.—Section 2(c)(11) of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 (c)(11)) is amended—

(1) by striking ''(commonly referred to as 'most favored nation status')'', and

(2) by striking ''MOST FAVORED NATION TRADE STATUS'' in the heading and inserting ''NORMAL TRADE RELATIONS''.

(f) UNITED STATES-HONG KONG POLICY ACT OF 1992.—Section 103(4) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5713(4)) is amended by striking ''(commonly referred to as most-favored-nation status')''.

SEC. 3. SAVINGS PROVISIONS

Nothing in this Act shall affect the meaning of any provision of law, Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States relating to the principle of ''most-favored-nation'' (or ''most favored nation'') treatment. Any Executive order, Presidential proclamation, rule, regulation, delegation of authority, other document, or treaty or other international agreement of the United States that has been issued, made, granted, or allowed to become effective and that is in effect on the effective date of this Act, or was to become effective on or after the effective date of this Act, shall continue in effect according to its terms until modified, terminated, superseded, set aside, or revoked in accordance with law.

G.V. (SONNY) MONTGOMERY DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. SHELBY. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of S. 1669, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1669) to name the Department of Veterans Affairs medical center in Jackson, Mississippi, as the ''G. V. (Sonny) Montgomery Department of Veterans Affairs Medical Center.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I am privileged to have introduced S. 1669, along with Senator THAD COCHRAN, to name the VA medical center in Jackson, MS, in honor of our friend and colleague, Representative SONNY MONTGOMERY. A companion bill, H.R. 3253, was introduced by Representative MIKE PARKER, and it has already passed the House.

As many of you know, Congressman MONTGOMERY is retiring at the end of his current term after 30 illustrious years in the House. He has had a distinguished career and served under seven Presidents. ''Mr. Veteran,'' as many of us have affectionately called SONNY, led efforts to obtain Cabinet-level status for the Department of Veterans Affairs. He introduced and guided to passage a peacetime GI education bill which provides incentives for both recruitment and retention of qualified young men and women for the Armed Forces. This landmark legislation bears his name as the Montgomery GI bill.

Congressman MONTGOMERY has strongly championed the State Veterans Affairs nursing homes. He has done yeoman's service for veterans as chairman of the Veterans' Affairs Committee and as a distinguished member of the House National Security Committee. Veterans throughout the Nation have benefited greatly from the outstanding resources provided by VA facilities established and improved under SONNY's watch. In particular, veterans from Mississippi, and neighboring States, are well served by the Veterans Benefits Administration Southern Area Office, the VA Regional Office, and two VA medical centers made possible by the chairman's able hand.

The VA medical center in Jackson definitely needs an official name. Others have distinguished names such as the Sam Rayburn VA, the Jerry Pettis VA, and the James Haley Veterans Hospital. Unquestionably, Representative SONNY MONTGOMERY, Congress' ''Mr. Veteran,'' truly is well-deserving of having the Jackson VA Medical Center named in his honor.

It is very appropriate that this legislation comes before us now because of several events that are occurring to pay tribute to SONNY. Representative MONTGOMERY is being honored this week by his colleagues on the House Veterans' Affairs Committee for his dedicated service. Also, Mississippi State University, the chairman's alma mater, is hosting a benefit dinner for him. Proceeds from this benefit will establish the Sonny Montgomery Scholars Program at MSU. Furthermore, House colleagues have made arrangements to plant a magnolia tree on the southeast corner of the Capitol Grounds as a living testimony of SONNY's many years of service and outstanding achievements.

Mr. President, SONNY is one of the most outstanding, revered, and beloved Members of Congress. Veterans' Affairs Committee Chairman ALAN SIMPSON is a cosponsor of S. 1669, and strongly supports this measure. I urge my colleagues to join with me in this fitting tribute to our friend and colleague, Representative G.V. (SONNY) MONTGOMERY.

Mr. President, I ask unanimous consent to have printed in the RECORD a ''Dear Colleague'' letter dated May 9, 1996.

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

U.S. SENATE,
RUSSELL SENATE OFFICE BUILDING,
Washington, DC, May 9, 1996.

DEAR COLLEAGUE: I am privileged to have recently introduced S. 1669, along with Sen. Thad Cochran, to name the Department of Veterans Affairs Medical Center in Jackson, MS, in honor of our friend and colleague, Rep. G. V. (Sonny) Montgomery. A companion bill has been introduced in the House.

As many of you know, Congressman Montgomery is retiring at the end of his current term after 30 illustrious years in the House. He has had a distinguished career and served under seven presidents. ''Mr. Veteran'', as many of us have affectionately called Sonny, lead efforts to obtain cabinet level status for the VA. He introduced and guided to passage a peacetime G.I. education bill which provides incentives for both recruitment and retention of qualified young men and women for the armed forces. This landmark legislation bears his name as the Montgomery G.I. Bill.

Additionally, Congressman Montgomery has strongly supported veterans programs such as the State Veterans Affairs Nursing Homes. He has done yeoman's service for veterans as chairman of the Veterans Affairs Committee and as a distinguished member of the House National Security Committee. Veterans throughout the Nation have benefited greatly from the outstanding resources provided by VA facilities established and improved under Sonny's watch. In particular, veterans from Mississippi, and neighboring states, are well served by the Veterans Benefits Administration Southern Area Office, the VA Regional Office, and two VA Medical Centers made possible by the chairman's able hand.

The VA Medical Center in Jackson needs an official name. Others have distinguished names such as the Sam Rayburn VA, the Jerry Pettis VA, and the James Haley Veterans Hospital. Rep. Sonny Montgomery, Congress' ''Mr. Veteran'' truly is well-deserving of having the Jackson VA Medical Center named in his honor.

I would appreciate your joining me in support of S. 1669. Please call Ney Williams of my staff at 224–4553 to cosponsor. Thank you for your consideration, and with kind regards, I am

Sincerely yours,

TRENT LOTT.

Mr. COCHRAN. Mr. President, I am pleased to join my colleague in honoring our friend, the gentleman from Mississippi, SONNY MONTGOMERY, who is retiring from the House of Representatives at the end of this Congress. We have joined in sponsoring this bill to name the VA medical center in Jackson, MS, the G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center. Throughout his career, as a senior member of the House National Security Committee and as chairman of the Veterans' Affairs Committee, SONNY has demonstrated genuine concern for the health, education, and well-being of our Nation's veterans. He firmly believes that we should treat veterans with dignity and compassion, and he has worked hard as chairman of the Veterans' Affairs Committee to enact programs and provide facilities to meet that obligation.

SONNY's concern for and attention to the men and women of our Armed Forces is firmly rooted in his own experiences, having served in the Army and Army National Guard for a total of 38 years. SONNY served in World War II and during the Korean War. As a dedicated member of the Mississippi Army National Guard, he was promoted to the rank of major general before his retirement in 1981.

SONNY's political career began as a member of the Mississippi State Senate from Lauderdale County. He served with distinction for 10 years, from 1956–1966. In 1966, he ran for and won the seat in Congress from the Third District of Mississippi. SONNY has proven to be a very capable, productive, and popular Representative. He was overwhelmingly reelected each term since the 90th Congress.

During that 30-year period of service he has earned the reputation of a champion of national defense and veterans' issues, and he often is referred to by his colleagues as ''Mr. Veteran'' or ''Mr. National Guard.''

When SONNY was elected to Congress in 1966, American soldiers were fighting in the war in Vietnam. He demonstrated his concern for those who were involved in that dangerous and deadly region by spending Christmas each year in Vietnam with the soldiers.

On these trips, SONNY would carry blank cards with him and when he ran into young soldiers from Mississippi, he would ask them to write the names and addresses of their families on these cards. When SONNY returned home he would take the time to call each soldier's family to let them know that he had seen their son or daughter and relay any stories or news that might interest them. Today, people still thank SONNY for these phone calls.

In 1975 he was appointed chairman of the House Select Committee on Missing Persons in Southeast Asia. In 1977, President Carter named him to the Woodstock Commission, which traveled to Hanoi to investigate further, those Americans missing in action. More recently, SONNY was a member of the delegation that brought back the first returned remains of United States personnel missing in North Korea during the Korean war.

SONNY MONTGOMERY stands as an example of a true patriot, and for this he has been recognized by his colleagues many times. In 1984, the Speaker of the House asked that he lead the House contingent to the commemoration of the 40th Anniversary of the D-day Invasion at Normandy, a particularly appropriate designation because SONNY fought in the European theater during this war. In 1988, when the reciting of the Pledge of Allegiance was instituted as daily practice by the House of Representatives, SONNY was asked by the Speaker to be the first Member to lead this body in the Pledge.

Throughout our time together as members of our State's congressional delegation, I have had the opportunity to observe SONNY in many situations. A most recent instance was during the last round of base closure and realignment. Two of the bases in his district were considered for closure, one of which had been on the closure list in two previous rounds. SONNY was most persuasive and successful in convincing the Base Closure Commission that Naval Air Station Meridian and Columbus Air Force Base are essential to the pilot training in both of those services. SONNY was willing to do everything he could to keep these bases open. Today, these bases remain open, largely due to the efforts of SONNY MONTGOMERY.

As a senior member of the House Armed Services Committee, now named the National Security Committee, SONNY MONTGOMERY has been a tremendous influence on our national defense policy. He has consistently supported the maintenance of a strong force.

SONNY was one of seven Democrats who in early 1994 paid a visit to President Clinton to insist on increased defense spending by his administration, particularly in the area of military pay, and to urge him to reduce nondefense spending by the Department of Defense. SONNY has always considered the protection of our freedom to be the highest priority of our Government, and he has done his best to ensure our national security.

Because of SONNY MONTGOMERY, the National Guard and Reserves are different services than they were 25 years ago. As a member of the Mississippi Army National Guard SONNY saw untapped potential in the Guard and Reserve forces, and as a senior member of the National Security Committee, he has strengthened our reserve component forces in significant ways. Over and over again, SONNY insisted that in order for the Guard and Reserves to be truly ready reserve forces, they must have first-line equipment, top facilities, and more serious training. As we saw in the gulf war, our Guard and Reserves have now been transformed into an essential component of our total forces. In addition, SONNY has always emphasized the need to keep the missions of each Guard unit relevant.

Recently, SONNY negotiated with officials at the Pentagon in order to reassign the duties of a National Guard battalion in east Mississippi, which might have been considered for closure. Instead, this battalion will be the first Guard unit in the Nation to be equipped with and train on the high-technology Avenger air defense system, a key weapon in Operations Desert Shield and Desert Storm. Our active forces will be better supported by contributions from National Guard units in the future because of SONNY MONTGOMERY.

Another high priority for him has been the recruitment and retention of soldiers; and out of this concern came

the GI bill which bears his name. SONNY considers this legislation to be his greatest accomplishment. Under the Montgomery GI bill, active duty, National Guard, and Reserve personnel are entitled to educational assistance benefits which would enable them to pursue their educational goals while serving our country. Since being passed into law in 1985, approximately 2 million military personnel have participated in the program, and over 550,000 have already attended schools with its assistance. The Montgomery GI bill has significantly improved recruiting efforts for all of the services, and it has provided much-needed training to veterans and retirees preparing to enter the work force.

In addition to protecting our national security, SONNY has consistently sought proper recognition and benefits for veterans. In the 100th Congress, SONNY fought to have the Secretary of Veterans Affairs elevated to a Cabinet-level position. When SONNY saw a need to improve the review of veterans' claims, he sponsored a bill to establish the Court of Veterans' Appeals in order to ensure the complete judicial review of each claim. Within a month, this bill was signed into law, and right away veterans saw needed changes in the claims process. Also, he has worked to streamline the services offered at regional service centers and hospitals, aiming toward providing, in effect, one-stop shopping for our veterans.

During the last Congress, SONNY authored legislation to extend compensation to our most recent veterans, those who fought in the Persian Gulf war. The Veterans' Persian Gulf War Benefits Act, now law, requires the VA to give priority to veterans suffering from undiagnosed illnesses after their service in the Persian Gulf region. The bill also established new research and outreach programs to further the identification of this disease. This legislation is just another demonstration of his belief that we have a moral obligation to care for and compensate those who have suffered disabling injuries during their service to our country.

While in the Army and for his efforts in service to military personnel and veterans of our country, SONNY has received many awards, including the Legion of Merit, Meritorious Service Medal, Combat Infantry Badge, Army Commendation Medal, a Bronze Star for Valor, and Mississippi Magnolia Cross Award, and the Harry S. Truman Award, which is the highest award given by the National Guard Association of the United States. In addition, he has been recognized by the American Red Cross, the Veterans of Foreign Wars, the Reserve Officers Association of the United States, and AMVETS of World War II. He is past president of the Mississippi National Guard Association, and he remains an active member of the American Legion and VFW Post 79 in Meridian, MS. Veterans' organizations across the country are saddened to see SONNY retire.

Above all of SONNY's legislative accomplishments, he must be recognized and appreciated for his patience, congeniality, and compassion. Having maintained so many friendships in both parties, SONNY has often been called to be a mediator. He has been on good terms with Republican and Democrat leaders in Congress and Presidents of both parties throughout four decades, and his friendship with former President Bush goes back to their days as freshmen in the House. His peers regard him as a respected friend, who is wholly dedicated to his purpose in office. A small example of his loyalty is evidenced by the number of hours he has logged in the Speaker's chair, a duty many consider drudgery, but something that SONNY has viewed as an opportunity to serve his fellow Members.

I will miss his good counsel and true friendship. Mississippi's Third District and the entire Nation will miss his strong leadership and clear vision. Members like SONNY are rare, and his leaving signals the end of an era for southern Democrats, and the House of Representatives as well.

I am pleased to join my colleague, Senator LOTT, in offering S. 1669, a bill to name the Department of Veterans Affairs Medical Center in Jackson, MS, for SONNY MONTGOMERY, and I urge all of my colleagues to support the renaming of this facility.

Mr. SIMPSON. Mr. President, in reflecting on my own lifetime of public service, I can think of no one whose sincere dedication to veterans, combined with the ability to transform that dedication into a concrete reality, exceeds that of my old and dear friend G.V. ''SONNY'' MONTGOMERY.

We all know why the Montgomery GI bill carries SONNY MONTGOMERY's name. It's not just an honor, it is a clear depiction of reality. What some Members of this body may not realize is that SONNY MONTGOMERY's interests and everlasting impact extend far beyond the veterans' education benefit that carries his name.

There is no path down which a veteran may travel that hasn't been scouted first and smoothed and improved by the Congressman from Mississippi, SONNY MONTGOMERY.

There is no benefit provided to our veterans by a grateful nation that does not bear the imprint of the longtime chairman, and now ranking minority member, of the House Committee on Veterans' Affairs, SONNY MONTGOMERY.

The rules of the Senate Committee on Veterans' Affairs limit proposals to name VA facilities to the names of individuals who are deceased. As we consider the measure before us today, some may wonder what has occurred to amend that standard.

If such a person were to exist, I could assume that they do not know the stirring 30-year record of service and legislation written by SONNY MONTGOMERY. If such a question is raised, I will only say to the inquirer that exceptional service calls for exceptional action and that such an action also calls for an exception to the rule. This is such a time. A rule that would prohibit application of the name G.V. SONNY MONTGOMERY to the VA Medical Center in Jackson, MS, is a rule begging to be temporarily laid aside—in sheer gratitude from us all.

In fact, SONNY MONTGOMERY is the dominant presence in the world of veterans' affairs and the genial and generous shadow he casts extends far beyond the boundaries of the State of Mississippi. An honor limited only to his native State of Mississippi is an honor quite inadequate to describe his full legacy.

In reflecting on the full and honest career and commitment of the senior Congressman from Mississippi, I conclude that if honors truly reflected accomplishment, we would likely have to name the whole shooting match of the Department of Veterans Affairs after SONNY MONTGOMERY.

When SONNY MONTGOMERY leaves us in the Congress and returns to his beloved home as a private citizen he will leave behind an unmatched legacy of unselfish commitment and service. He will leave behind shoes that it would take a giant to fill. The only way that veterans may not benefit in the future from the career of SONNY MONTGOMERY will be if the height of the bar he set is up there so high that those who follow him may be discouraged by the fact that it will be so difficult to equal, much less exceed, his remarkable record. SONNY MONTGOMERY will serve as an example to generations of all legislators to come. I am so very proud to join in supporting legislation to recognize an example, and a career, and a wonderful, never tiring, ever focused, lovely, kind, incomparable man, by ensuring that the VA Medical Center in Jackson, MS, will forever carry the name that his actions have made synonymous with love of veterans: G.V. SONNY MONTGOMERY.

I love him. He has saved my skin a time or two. He is my true friend. God bless him.

I thank the Chair.

Mr. SHELBY. I ask unanimous consent the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the RECORD.

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

The bill (S. 1669) was deemed read for a third time and passed, as follows:

S. 1669

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

SECTION 1. NAME OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, JACKSON, MISSISSIPPI.

(a) NAME.—The Department of Veterans Affairs medical center in Jackson, Mississippi, shall be known and designated as the ''G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center''. Any reference to such medical center in any law,

regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the G.V. (Sonny) Montgomery Department of Veterans Affairs Medical Center.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect at noon on January 3, 1997.

ORDERS FOR WEDNESDAY, SEPTEMBER 11, 1996

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 11 a.m. on Wednesday, September 11; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately resume H.R. 3756, the Treasury-Postal appropriations bill.

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

SCHEDULE

Mr. SHELBY. Mr. President, tomorrow morning the Senate will be resuming the Treasury-Postal appropriations bill. We hope to complete action on that bill during tomorrow's session. Therefore, Senators can anticipate votes throughout the day and a possible late-night session may be necessary.

Also, as a reminder to all Senators, tomorrow at 10 a.m. there will be a joint meeting of Congress to hear an address by Prime Minister Bruton, of Ireland. Members are asked to be in the Senate Chamber at 9:40 a.m., so they may proceed to the House of Representatives for the address.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. SHELBY. If there is no further business to come before the Senate, I ask unanimous consent the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 7:21 p.m., adjourned until Wednesday, September 11, 1996, at 11 a.m.