SENATE—*Wednesday, March 20, 1996*

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Abraham Lincoln expressed his dependence on prayer to sustain and strengthen him in difficult and challenging times. He said, "I have been driven many times to my knees by the overwhelming conviction that I had nowhere to go but to prayer. My own wisdom and that of those all about me seemed insufficient for the day."

Gracious Father, thank You for the gift of prayer. When problems pile up and pressures mount, we are so grateful that we, too, have a place to turn. And You are there waiting for us, offering Your grace for grim days and Your strength for our struggles. How good it is to know that we are not alone. We can be honest with You about our insufficiencies and discover the sufficiency of Your wisdom given in very specific and practical answers to our deepest needs. Lord, help us to spend more time listening to Your answers than we do in our lengthy explanations to You of our problems. We dedicate this day to seek Your guidance, to follow Your direction, and to do our best to lead this Nation according to Your will. We humbly confess our profound need for You and praise You for Your faithfulness to give us exactly what we need for all the challenges of the day ahead. Lead on Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized, the Senator from Washington State.

SCHEDULE

Mr. GORTON. Mr. President, this morning the Senate will immediately begin consideration of the conference report accompanying H.R. 956, the product liability bill.

Under the consent agreement reached last night, there will be 5 hours of debate, equally divided, which will end just after 3 p.m. today. At that time, the Senate will begin a vote on invoking cloture on the conference report, to be immediately followed by a cloture vote on the motion to proceed to the Whitewater legislation.

As a reminder, under a previous order, if cloture is invoked today on the product liability conference report, there will be an additional 3 hours of debate tomorrow morning at 9 a.m., with a vote on the adoption of the conference report at 12 noon on Thursday. Following the cloture votes scheduled at 3 o'clock today, the Senate will begin consideration of S. 1459, the grazing fees legislation. Additional votes are, therefore, to be expected today in regard to the grazing fees bill.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. CAMPBELL). Under the previous order, leadership time is reserved.

COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the conference report to accompany H.R. 956.

The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and fair conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

Mr. GORTON. Mr. President, I am pleased, after a lapse of almost 1 year, to present to the Senate and to support the conference report on H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996. This is a bipartisan proposal reflecting, essentially, the decisions made here in the U.S. Senate last year, without the broader additions that were passed by the House of Representatives.

Mr. President, during the course of this 5 hours today, there will be many statements—passionately held—about what the future holds with respect to both our legal system and our economic system, and whether this bill should pass. As a consequence, Mr. President, I want to start my remarks with a statement about what has already happened as a result of a very modest product liability reform that was passed by the Congress of the United States, and signed by the President, just 2 or 3 years ago. I am going to do that because that action speaks louder than any words we can say about the desirability of this broader legislation.

On August 17, 1994, President Clinton signed the General Aviation Revitalization Act of 1994. That act created an 18-year statute of repose on general aviation, piston-driven aircraft. That single provision, in less than 2 years, has already had a magnificently positive impact on the general aviation industry.

Since the enactment of the bill, the general aviation industry has recorded its best year in more than a decade. In 1986, as a result largely of product liability litigation, Cessna, a famous name in aviation, stopped producing piston-driven aircraft. It has now reentered that field. In July, Cessna will open a new $40 million facility in Kansas and, once again, will begin to produce piston-driven aircraft. The facility will employ about 2,000 people.

Cessna is not alone in this connection, Mr. President. Piper Aircraft, just 2 years ago, was having an extremely difficult time getting out of a bankruptcy proceeding to which it had been subjected. No investor wanted to come to the rescue of that famous American company because it would have to assume its liability risks. Since the enactment of that simple piece of legislation, however, investors have come forward. The Piper Aircraft Co. has come out of bankruptcy, and its employment has increased by 30 percent. More generally, employment is up at every general aviation manufacturing facility in the United States by 15 percent. We went to the Internet last week to find the kind of job openings that have resulted from this resurgence in general aviation activity. Here is a brief list of some of the jobs we found: Avionics technician, Cessna; computer control technician, Cessna; systems designer, Cessna; weights engineer, Cessna; senior cost accountant, Raytheon; senior engineer, software systems certification, Raytheon. Exactly the kind of high-skill, high-wage jobs that the United States needs in order to continue its leadership in world technology, and in order to provide jobs for coming generations.

Mr. President, that bill less than 2 years ago was criticized as restricting the rights of plaintiffs. Yet, Mr. President, I am confident when I say that there is not a single Member of this body—or, for that matter, of the House of Representatives—who ever, in the course of a political campaign or to meet an obligation, turned down a ride in a Cessna aircraft on the grounds that those aircraft were negligently manufactured. Those who most eloquently defend the present legal system—a system which for all practical purposes bankrupted Cessna and Piper

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

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by reason of lawsuits claiming negligent manufacture—never once acted on that and said, "Oh, no, I cannot get on the plane; it was negligently manufactured."

Mr. President, I cannot imagine that there is a Member of this body, or of the House of Representatives, who ever said, "I won't allow my child to get a whooping cough vaccination because the materials in that vaccination were negligently manufactured." And yet they will stand up here today and say, "We cannot change the law. We cannot protect those manufacturers against lawsuits like that because it would be unwise to do so."

The present system has driven every such manufacturer—except one—out of the business, and has caused the cost of that vaccine to be multiplied by 400 percent. It is less available and more expensive because of the insistence that we continue to allow absurd lawsuits to be brought against those manufacturers. The people of the United States deserve, we all agree, a system that is fair and efficient, yields reasonably predictable results, holds parties responsible in accordance with their fault, and perhaps most importantly reduces the wasteful transaction costs associated with all kinds of litigation, but in this case product liability litigation.

Estimates of total tort costs of litigation and associated activities range from some $80 to $117 billion a year. Every dollar of these costs is forced back on consumers through higher prices on products used every day, and not at all, incidentally, limits the choice of those products as well.

Listen to just a few facts about today's product liability system in America. The current system accounts for about 20 percent of the cost of a ladder. It accounts for 50 percent of the cost of a football helmet. Injured parties, on the other hand, receive less than half of the money spent on product liability actions, with the other half going to lawyers and their associated expenses. Nearly 90 percent of all of the companies in the United States can expect to become a defendant in a product liability case at least once—90 percent of all of the companies in the United States. Are 90 percent of them negligent manufacturers or product sellers? No. Many win these lawsuits, but they have to pay their attorney fees and they have to pay their insurance costs, in any event.

Product liability insurance costs 15 times as much in the United States as it does in Japan and 20 times more than it does in Europe. Are their manufacturers, as a result, automatically negligent and indifferent to their consumers? Under the present laws in most of the States of the United States, manufacturers can be sued for products manufactured in the 1800's—manufactured a century ago.

The present system costs too much. In a book published 5 years ago by the Brookings Institution the following note appears:

> Regardless of the trends in tort verdicts, most studies in this area have concluded that, after adjusting for inflation and population, liability costs have risen dramatically in the last 30 years, and most especially in the last decade.

I have already spoken to the proposition that more of the money in the system goes to the lawyers and to their associates than goes to victims. Liability insurance costs affect every manufacturer in the United States.

One example from my own State is a water ski manufacturer, Connelly Water Skis of Lynnwood, WA, pays an annual premium every year of $345,000 for product liability insurance even though it has never lost a case. It has never lost a case—but still has to pay that huge premium.

The present system takes forever—years—to settle cases. Compensation, ironically, is unfair. The smaller the amount of damages, the larger the percentage of recovery. The larger the actual damages, the actual losses to an individual, the lower the percentage of actual recovery.

Unpredictability. Last year in a hearing before the Commerce Committee a Virginia law professor, Jeffrey O'Connell, explained:

> If you are badly injured in our society by a product and you go to a highly skilled lawyer . . . in all honesty the lawyer cannot tell you what you will be paid, when you will be paid, or, indeed, if you will be paid.

What is the effect of a broken down system on people in the United States today? First, it is increased costs. I have already referred to the fact that one manufacturer of vaccines has raised its price 400 percent, from $2.80 to $11.40, solely to recover the cost of increased lawsuits, and that in 1984 two of the three companies manufacturing the DPT vaccine decided to stop production because it just simply was not worth it, by reason of the cost of the product liability. Later in that year, the Centers for Disease Control recommended that doctors stop vaccinating children over the age of 1 in order to conserve limited supplies of that vaccine.

Second, it is very clear that the fear of product liability litigation hinders the development of new products in the United States, and the marketing of those products once they are developed. In an American Medical Association report entitled "The Impact of Product Liability on the Development of New Medical Technologies," they wrote:

> Innovative new products are not being developed, or are being withheld from the market because of liability concerns, or the inability to obtain adequate insurance. Certain older technologies have been removed from the market not because of sound scientific evidence indicating lack of safety or efficacy but because product liability suits have exposes manufacturers to unacceptable financial risk.

Rawlings Sporting Goods, one of the leading manufacturers of competitive football equipment for more than 80 years, announced in 1988 that it would no longer manufacture, distribute, or sell football helmets. Two manufacturers in the United States out of 20 that were in this business in 1975 remain in that business today.

A recent article in Science magazine reported that a careful examination of the current state of research to develop an AIDS vaccine "shows liability concerns have had negative effects."

It points out that Genentech halted its AIDS vaccine research after the California legislature failed to enact State tort reform. Only after a favorable ruling did they renew or resume that research.

On that same topic, consider a recent comment by Dr. Jonas Salk, the inventor of the polio vaccine. I quote Dr. Salk:

> If I develop an AIDS vaccine, I do not believe a U.S. manufacturer will market it because of the current punitive damage system.

Not only does the current system hurt medical innovation, it also inhibits small companies from producing everyday goods. For example, again in my own State, Washington Auto Carriage in Spokane distributes various kinds of truck equipment throughout the United States. Here is what its owner, Cliff King, says, and I quote him.

> We have been forced out of selling some kinds of truck equipment because of the exorbitant insurance premiums required to be in the market. As a result, this type of equipment tends to be distributed only by a very few large distributors around the country who can afford to spread the costs over a very large base of sales. Ultimately there is much less competition in these markets.

Many arguments are made against this proposal on the basis of federalism. The United States is a single market, however, a single market now with 51 different product liability regimes. As a result, one of the associations that is most interested in a devolution of power to the States, the National Governors' Association, recognizes that the current patchwork of U.S. product liability law is too costly, time consuming, unpredictable and counterproductive, resulting in severely adverse effects on the American consumer, workers' competitiveness, innovation and competence.

Mr. President, we will have a considerable period of time today during which to debate details of this legislation, but I wish to return just for a moment to the point with which I began this explanation of the bill.

First, the Members of the Senate, even those who argue most passionately and eloquently to retain the present broken down system, do they

act in their own lives as if these manufacturers were engaged in nefarious activities indifferent to the safety of their consumers? Did they, during all of the years in which Cessna and Piper were being driven out of business by the system they defended, refuse to fly on their airplanes? No. Do they tell their families or do they themselves refuse the latest medical devices, the latest serums, the costs of which have been driven sky high by product liability litigation? No, they do not. They use them. They use them for their children. Do we have an example of what even modest reform in this field means to the American economy? Yes, we do, in the general aviation industry. And so I am convinced that we can and should pass this modest product liability reform, and we can expect an immodest and positive result: more competition, better goods and services, lower prices, fewer lawsuits, and a higher degree of justice for the American people as a whole.

This issue has been debated in this body for more than a decade at this point. It is time to bring that debate to a close, to pass this legislation, and to see the relief that the American consumer, the American manufacturer, and American competitiveness needs to be successful in the world of the 21st century. As a consequence, I urgently ask my fellow Senators promptly to pass this bill and send it to the House and then to the President of the United States.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina, [Mr. HOLLINGS], is recognized.

Mr. HOLLINGS. I yield so much time as will be necessary.

I am thoroughly bemused by my friend from the State of Washington starting off on aircraft with the very categorical statement that no one ever got on a plane saying that Cessna's planes were unsafe or the manufacturer was negligent. If they thought so, they were not going to get on the plane. They would not have to say it. Come on. Who are we kidding?

By coincidence, just last Thursday, I saw it reported that a Cessna plane down in Florida took off with the Blackburn family from my hometown and it had barely gotten off, I observed, to fly over the waters, and it turned and went down in about 5 to 10 feet of water at the most. We saw the pictures of them trying to save the family. The husband and wife and two of the children were lost, the pilot was lost, and the little 11-year-old hangs on as we talk.

Being an observer, I wondered what had happened. Stories have come again and again that the pilot was most experienced. Someone saw the engine streaming smoke. I cannot tell. You cannot. No one can at the moment. But it appears that it is a product liability situation. There is not any question in my mind. It occurs again and again.

It brings me right to the point, Mr. President, of the shabby nature of this whole proceeding. I say that because we passed this bill in the Senate last May and finally agreed to a conference on the House side in November. They had one short, brief meeting. Under the rules in the House, you have to at least have a meeting. But thereafter there was nothing.

It really bemuses me when the distinguished Senator says we are now to consider the conference report. We now consider the conspiracy report. It is not a conference. I never conferred. I was appointed by the distinguished Presiding Officer of the Senate as a member of the conference but was never told, never consented, never conferred, and not any on our side of the aisle or our staff were invited other than the distinguished Senator from West Virginia.

Here is what is happening in the Congress of the United States. I am going on my 30th year now, and this is the first time I have ever seen this happen this year and last year where they fixed the jury; namely, they get together on what they want and, since they are the majority party, can pick up a vote or two. They then go and bicycle around: Now, Senator, will this please you if we change this little word? And you have a "gerrybuilt" bill in front of you that never would pass muster in a conference.

Having fixed the vote, they went ahead and we heard last week that something was happening. In fact, I could tell it. On Thursday night Richard Threlkeld on CBS came in at 7:20 and he said the U.S. Congress is about to consider these dastardly, ridiculous lawsuits, and he went on to talk about a man in the men's restroom where women came in and he was insulted. The proponents talk about the coffee case from McDonald's, and they have these anecdotal, nonsensical matters that never tell the complete facts. And the truth of the matter is, since we mention the coffee case, I have the finding right here that confirms that the jury did award $3 million. But the judge reduced that. After all, judges do have sense. Jurors do have sense. All wisdom is not vested in the Senate. And they reduced that amount to $640,000 and the lady who was hospitalized with third-degree burns, requiring skin grafts, settled for even a lesser amount. But you hear on CBS national news, "All you have to do is spill coffee and run up and get your money." Come on.

Regarding all the planes, now they are back in business and everything. We always allocate to ourselves that everything begins and ends right here with the wisdom of the U.S. Senate. They want to tell how we passed a good budget bill that has corporate America going like gangbusters, the stock market through the roof, and, yes, people are buying planes, but they do not want to talk about the budget we passed that none of them ever voted for. Categorically, one Senator on the other side of the aisle said, just 2 years ago, that if we pass this budget they would be hunting us down like dogs in the street and shooting us, the economy would collapse, there would be a depression; everything would go wrong.

Here now the stock market sets record levels, corporate America is as affluent as it has ever been, and they are buying airplanes. And my colleagues want to attribute that to themselves passing a bill? Come on.

The next thing the proponents say is the present system costs too much. Mr. President, it is like a college education. A college education is most expensive. The only thing more expensive is not having a college education. If product liability costs, which it does very little, the worst would be to not have product liability, because injuries occur. We have a safe America.

I wish I had time to go down through a list of these injuries. When I say the conference was "a shabby procedure," I mean that last week I was struggling on Friday to try to find the bill. The bill's supporters were changing words down to the last minute. They filed a cloture motion at the time they filed the bill, which means they have the votes for cloture, and the jury is fixed before they hear any arguments. And thereby they can come in with the fixed jury and say, bam, bam, they have cloture—today I was limited to an hour postcloture. They could have called for the cloture vote in the next 20 minutes, since we came in at 10 o'clock. So you are under the gun when they offer you only a few hours of debate. You are not allowed to talk sense.

Oh, boy, we could spend an afternoon pointing out the good that product liability has done. We do not get blown up by that Pinto gas tank. Cars all have antilock brakes. That elevator is checked. The steps are marked. Little children do not burn up in flammable pajamas. The women of America are not threatened with Dalkon shields. And football helmets are much safer—yes, we have had some wonderful decisions against their unsafe nature. When you and I played football, Mr. President, we ran into the line and there was just a piece of leather and what you would get, many, many a time, was traumatic cataracts. That does not occur now in high school and college ball, because of the better construction of football helmets—and product liability.

We could go all afternoon and try to explain the wisdom of a tort system that is working at the State level. But

the proponents do not give you time to do that. They come up here with the anecdotal stuff, that it is costing too much. Let me cite some reports about what it costs, because the Rand Corp. and the Conference Board have studied these matters. The Rand Corp. said that less than 1 percent of product liability injuries ever result in a lawsuit. Over 50 percent of civil cases are business suits, incidentally. Business is suing business, like gangbusters. Pennzoil against Texaco, a $10.2 billion verdict, that one business against business result is more than all the product liability for personal injuries in the last 20 years, that one case. And they are talking about, "It costs too much."

But what did the Conference Board do? They interviewed 232 risk managers. We have it in the RECORD. The Conference Board interviewed 232 risk managers, of the blue chip, Fortune 500 companies, who said that less than 1 percent of the cost of the product was due to product liability. It was not a problem.

The proponents knew this. They come in here because they have Victor Schwartz and there is still a movement against lawyers. This is pollster driven. We all come here per political poll. Lawyers get rid of the lawyers.

Ah, Mr. President, "the trial lawyers have paid them off." Yes. The proponents had a news conference even before the bill was called up. You see they have radio, TV shows, news conferences, before we even call the bill, and before those who oppose it have even a chance to say so. That is why I say it is a shabby operation. But I will quote, because you have to get the news clips about how two of the Senators:

> . . . who will appear on the ballot with Clinton in West Virginia this fall responded angrily to Clinton's weekend threat to veto the House-Senate compromise of a bill that limits damage awards in product liability cases. The two gave an "unusually harsh accusation" to the President, saying Clinton was "rewarding" the trial lawyers who are "bankrolling his reelection bid."

That is from the Baltimore Sun.

Come on, it takes a bankroller to find a bankroller. Let us go to the individual Senators, namely this Senator. I hope I have gotten some contributions from the trial lawyers. I have been one. But I have been a business lawyer, too. I have handled antitrust cases. I have sued a corporation before the Securities and Exchange Commission. When you come from a relatively small town like I grew up in, you represent all sides. And look at the record. I have been elected six times to the U.S. Senate. I will guarantee I have gotten more business contributions than trial lawyer contributions. So let us dispel this notion about what you are doing for the trial lawyers. We are thinking of the Constitution in this case. That is one of the big reasons the American Bar Association opposes it.

We are thinking of that seventh amendment. We are thinking of what the bill's supporters said in the original instance about simplicity, transactional costs, but how this particular measure now increases the transaction cost and makes complex the so-called simplicity, if there ever one was.

More than anything else, let us go to the original doctrine of the Contract With America crowd, from the 1994 election. Oh, they won on account of the contract. Did you not get the message of the contract?

They have a bunch of children Senators running around, hollering, "The contract," and "We gave our pledge." This Senator was elected, too, on a pledge: To stop a lot of this nonsense if he possibly could.

None other than the distinguished majority leader said, at the beginning of this particular Congress:

> America has reconnected us with the hopes for a nation made free by demanding a Government that is more limited. Reining in our government will be my mandate, and I hope it will be the purpose and principal accomplishment of the 104th Congress.

Senator ROBERT DOLE, now the Republican nominee for the Presidency here in November. I further quote Senator DOLE:

> . . . We do not have all the answers in Washington, DC. Why should we tell Idaho, or the State of South Dakota, or the State of Oregon, or any other State that we are going to pass this Federal law and that we are going to require you to do certain things . . .?

The majority leader then went on to say.

> . . . Federalism is an idea that power should be kept close to the people. It is an idea on which our nation was founded. But there are some in Washington—perhaps fewer this year than last—who believe that our States can't be trusted with power. . . . If I have one goal for the 104th Congress, it is this: that we will dust off the 10th amendment and restore it to its rightful place.

Those powers not reserved under the Constitution are hereby delegated to the several States.

Here we go with the devolution group. We started off with unfunded mandates. They said we had to give everything back to the States. Every measure that has come up here says, "Send welfare back, send the health problem back"—of course, it is all political pap. It is trying to get rid of responsibility. They do not want to pay the bill.

We have been spending $250 billion more than we have taken in each year and both budgets—the President's and the Republican budget—will call again for another $250 billion in expenditures with less than $250 billion in revenues. So they do not want to speak the truth. They want to get boiled up into term limits, and we have gotten the lawyers now because this says "kill all the lawyers," as the butcher said in Henry VI.

People do not realize how he said it. He said anarchy cannot predominate unless we get rid of all the lawyers. The lawyers, Mr. President, have been the bulwark of this great democracy. Every President from Washington up to Lincoln was a lawyer. They are the ones who founded this country, gave thought and wisdom and direction and growth.

I hearken the words of Patrick Henry: "I know not what course others may take, but as for me, give me liberty or give me death." A Virginia lawyer.

Another Virginia lawyer, a 34-year-old lawyer sitting there and penning, "All men are created equal." Thomas Jefferson.

James Madison foresaw our problem right here this minute 200-some years ago. He said, "But what is Government save the best of reflection on human nature. If man were angels, there would be no need for Government, and if angels governed man, there would be no need for controls over the Government. The task in formulating a government to be administered by a man over man is first frame that government with the power to control the governed and thereupon oblige that same government to control itself." James Madison, the lawyer.

This Government is out of fiscal control, and no one wants to talk about it. I wish you would pick up the business section this morning. They do not talk about that. They said, "Well, the idea of deficits now has gone sort of out of style." Why? I can tell the Washington Post why.

For all last year the Republicans had a fraudulent budget, 7 years to balance. It was a fraud. It did not balance. Finally, President Clinton said, "Well, monkey see monkey do. I will put out a fraudulent budget, too." So when he put one out, they said, "Ah-ha, fraud." He said, "No, that's what you have," and that is why they stopped talking, because neither side can possibly balance the budget without an increase in taxes, and both sides are trying to buy—trying to buy—the vote in November with a tax cut.

Sheer nonsense, but that is what is going on. That is why they do not talk about deficits anymore, because you cannot realistically talk about it and give a tax cut at the same time. So they are moving on to abortion, immigration, they pick up lawyers—term limits—any kind of sidebar that is not a national problem to get by the election.

It is all applesauce. It is all Presidential politics. We are spinning our wheels, and it is a shabby process to come and bring this without any debate, limited as we are to talk about a national need that every one of the States over the years has addressed—the distinguished Senator from Rhode Island got up on the floor and talked

about the years we have been discussing this. He is right. We have been discussing it for years and years, and the reason it has not passed is because the States have long since taken care of the problem, whether the problem was the inability of finding insurance, whether it was trying to get uniformity, whether it was international competition—you can go down the list, like Sealtest ice cream, the flavor of the week, they had a different reason every time.

Every time that the law professors looked at it, they came en masse and testified, "For Heaven's sake, don't pass this measure."

Every time the State legislators came, or the State attorneys general came, they said, "Look, we're doing the job. It's a nonproblem."

Every time the chief justices of the States—the States that they revere so much in devolution but that are totally repudiated here—the Association of State Chief Justices came and said, "Don't pass this."

The American Bar came and said, "Don't pass this."

I do not know who they represent other than themselves trying to get reelected on a pollster hot button. That is all it is. We can go down the list of those who oppose this measure still.

The AFL-CIO, do you not think they represent working Americans? Find me a working American who says this is a good bill.

The Coalition for Consumer Rights; the Consumer Federation of America; the National Conference of State Legislatures; Public Citizen—I can go right down the list.

Mr. President, I challenge the supporters of this bill to say what group, other than the Business Advisory Council and Victor Schwartz, wants it. I represent people in business, and I can tell you about the cost of it.

So the Senator mentions the cost. Then he gets into the amount of lawyers. Since we are talking about the lawyers, I should have completed my thought. Again, it was a lawyer, Abraham Lincoln, who made the Emancipation Proclamation. Franklin Roosevelt in the darkest days of the Depression, a lawyer, said: "All we have to fear is fear itself."

I was admitted to practice before the U.S. Supreme Court in December 1952, Mr. President. We had then the school segregation cases. Brown versus Board of Education of Topeka—actually the lead case was Briggs versus Chaney. We had John W. Davis, the former Solicitor General, argue on behalf of the State. Thurgood Marshall, the lead attorney arguing not the Kansas case but the Briggs versus Chaney case. I can see Justice Marshall, a lawyer, standing there now talking about freedom and bringing this Congress and the people in this land to equal justice under law.

"Get rid of the lawyers," they say. I can go to Ralph Nader, I can go to Morris Dees, and all the others. I can go down and then I can come to the 60,000—did you hear the figure?—60,000 registered to practice downtown in the District, all on billable hours, hardly any in a court, all fixing us politicians, $200 an hour, $400 an hour.

I have talked to some with ethics charges, and they have gone broke. They have not paid their bills yet. They got rid of the ethics charge, but to go back to all the records, they had to pay lawyers $400 an hour to come and just look over the records in the office.

The billable hour crowd is behind this bill. That is one group. They do not want to mention it. Lawyers, yeah, they have the Persian rugs, mahogany desks, and the drapes. They never worked. The trial lawyers have to convince 12 jurors in their community, all 12—all 12—and have to withstand judicial review, as the coffee case did where it was cut. They did not get paid anything. The presumption is, on the amount to the lawyers, that these injured parties without a lawyer would get the money. That is why they are having a product liability case, because they are denying payment. They are denying payment.

But, yes, we had in the committee—I will read about who gets what, and that this is just a plaintiff's lawyer—people ought to know about defendants' lawyers and about the billable hours thing. It is wonderful. We are talking about the time it takes and the backlog. Who is interested in time and backlog? Then there is the insurance company lawyer out there on the 20th or 30th floor, and the Persian rugs. He could care less. He gets his money. If the insurer can put the claim off and never pay it, at least when they do pay it, it will be in inflated dollars. The insurance lawyers are the ones who are asking for continuances and motions and who call their secretary and tell her to put 52 interrogatories in. Then, they get the discovery going. All they do is just sit there and answer the phone and go out to the club and eat lunch and have their martinis and say how smart they are. And they get paid.

Plaintiffs' lawyers, the defendants' lawyers. I read from the committee report:

According to calculations derived from the survey conducted by the insurance services officer of the Institute for Civil Justice, for every dollar paid to claimants, insurance paid an average of an additional 42 cents in defense costs. While for every dollar awarded to a plaintiff, the plaintiff pays an average contingent fee of 33 cents out of that dollar. Thus, in cases in which plaintiffs prevail, out of each $1.42 in total litigation costs, including damages, about half of that goes to attorney's fees, with the defendant's attorneys on average paid better than the plaintiff's attorneys. Of course, defendant's attorneys are paid regardless of the outcome of the case, while the plaintiff's attorneys are paid only if they win their case; otherwise, they take a loss for the time and expenses they have incurred.

Mr. President, coming to the Senate, I left a lot of money on the table. I can say that poor person now in the Boland case—this guy had broken down between Georgetown and Charleston. As he went back to get the spare tire out of the trunk, the bus rammed him, dead. The family did not have any money, whatever it was. I said, "Well, I'll take it." We spent quite a bit of time and money, won the case, took the case on appeal, trying to chase down to Florida the particular defendants in that case, everything else of that kind. We just had to leave that.

Plaintiff's attorneys understand that is the cost of doing business. Otherwise, how is poor America ever going to be represented? I take my hat off to trial lawyers. Heavens above, yes, if they make it, some are making in these class actions, I guess, healthy amounts. But the experience is otherwise. As we have heard in the hearings and everything else like that, the cost is not trial lawyers, the cost is because of the defense lawyer.

The cost of the enactment of this particular so-called conference, what I call conspiracy, report, is that individual rights would be seriously, seriously inhibited. There is not any question about the matter of the studies that we have had. In 1991, the Rand Corp. showed that only 2 percent of product liability cases are ever filed. The majority of the 2 percent are business; 90 percent never get to court.

I have already mentioned the Conference Board. The Rand study said that less than 1 percent of corporate America is ever named in a particular lawsuit. Of course, Cornell University's most updated study shows that in the decades of the 1980's, coming into the 1990's, there has been a decline of litigation. There used to be what they call, I forget now, but they had a panic that they just had a plethora of suits. Actually under the Cornell study the suits have declined 44 percent.

The States have moved in. They have moved in a responsible fashion. And here we come—in the State of Arizona, for example, they had a referendum on this. This bill abolishes the public vote of the people of Arizona. If that is not senatorial arrogance, if that is not congressional arrogance, if that is not Washington Government at its worst—everybody's campaigning on the stump, Republican and Democrat, that we are going to get rid of that kind of Washington Government—if that is not it, I do not know what is.

I could go on, Mr. President, into the matter of the bill itself. The very interesting thing is that they are talking, oh, so reasonable, about how they are struggling and how it works and how they have balance. I hope they do not use that word "balance" because I

heard that in the caucus yesterday. Balance, my Aunt Edith. This does not apply to the business of the majority of people bringing product liability cases. Oh, no. Hum-mm. No. It does not apply to coming back on punitive damages and having a separate hearing nor to joint and several liability. None of this balance talk is about pain and suffering, none of this at all—

Oh, look through this obstacle course they have here for the poor, injured party. Not an injured business, no. United Airlines is looking at suing the Dallas manufacturer, I take it, of the baggage handler out there in Denver. No. This bill will not apply to them. That is a corporation. No, siree. That military airplane that crashed—oh, boy, I think we have had 31 of those F-14's in a period of a few months or years. We put those planes on line 23 years ago. That last crash killed, I think, two or three people on the ground there in Nashville. No case under this bill. No case because they have been exempted.

You have to read this thing. I am proud to stand here and tell the truth and expose this nonsense, this conspiracy, that has taken on, on the one hand, a political poll hot button issue, that is a nonproblem, and expose the movement that is in behind it and continues and continues because who is paid, when they talk about the trial lawyers and being bankrolled, who is paid and bankrolling this?

So you have two classes of injured parties. If you are a business injured, do not worry. If you are instead an individual who struggles because you not only have to get the investigation cost, you have to get your medical cost, you have to get it all assumed by that rascally trial lawyer, and he is assuming the plat to be made, the diagrams, the photographs and everything else to bring the truth to the 12 men and women on the jury and suffer all the legal motions and everything else. The trial lawyers are bankrolling injured parties, for an average, I would say, of anywhere from 1½ to 2 years at least on these cases.

If they do not prevail with all 12 or with the supreme court of the State on appeal, they are goners. They are goners. That has happened time and time again.

But you have two classes. There the bill's supporters have been very, very careful to talk about fairness and trying so long. You have two classes of individual parties: the CEO and the fellow who is working in the plant. The CEO makes $5 million. Ask AT&T; I think the CEO got up to $16 million. If he comes in and he gets an injury, he can get twice times the economic damages. So, if he is out for a year, he can get $32 million in punitive damages.

But if the same fellow in the car that is driving with the CEO—if the CEO will give him a ride—that fellow will only get $250,000 in punitive damages. Oh, boy, what a fair bill. It is so studied, so nice, so pleasant. We have been holding it up because trial lawyers have been bankrolling everybody, and everything else of that kind.

I wish this crowd would sober up and read this thing. You have the poor women. You have two classes there. If you have the breadwinner, the man in the family, he can get all his economic damages and everything else, but she can be expecting a baby and lose that baby and never be able to produce a child again, but that is not economic damage, that is pain and suffering. So there is going to be a separate hearing there.

Mr. President, later, if the time permits, I want to get to the uniformity and the global competition that they talk about, because with respect to, say, the State of Washington which does not have punitive damages, this law would not apply. To my State of South Carolina that does have punitive damages, this law shall apply. They call that uniformity. They call that uniformity.

Interstate commerce is a many splendored thing and the lawyers are bolixing it up. As for global competition—I have foreign industries coming in like gangbusters. I have been in the game at least 35, nearly 40 years. This is why I challenged the distinguished Senator from North Carolina; I know his State; we compete together. We have never had the blue chip corporations that we have today—I have Firestone, several GE's, I have several DuPont, American industries. Right here in the last 2 or 3 months, we have BMW, we have roller bearings, Hoffmann-La Rouche, the most wonderful pharmaceutical firm that you have ever seen. Companies from everywhere—Hitachi, in the TV industry.

I want to thank publicly the Washington Post for that Outlook article on Sunday. I have been trying to bring this trade issue to the U.S. Senate now—this is the 30th year, this so-called protectionism. President Ronald Reagan, under section 301, started moving in these cases and got voluntary restraint agreements. As a result of the voluntary restraint agreements in things like Sematech—protectionism, if you please—we are not only holding on to the old jobs but we are getting new jobs.

I remember the Republican primary campaign in South Carolina, when the former Governor said, "Free trade, free trade. Look at this, BMW taking Senator DOLE through its new plant. It was there on account of free trade." It was there on account of protectionism. When we got voluntary restraints, that is how we got Honda, how we got Toyota, how we got BMW. Who is kidding whom?

When the distinguished Senator from Alaska, Senator STEVENS and I, put into the defense bill the Buy America provision on roller bearings, we got Koyo and INF up in York County. That is why they are there. Voluntary restraint agreements on steel, voluntary restraint agreements with respect to semiconductors, Sematech, Hitachi. You can go down the list, Mr. President. Trial lawyers, protectionism. Competition is what America is interested in at this particular moment, not the tort system being handled by the States, not term limits and all the other fanciful games played in political polls. They want America. They want this Congress to get competitive.

There is nothing wrong with the industrial work of America. The industrial work of America is the most competitive. What is not competing is us up here, where we have a failed policy of the cold war that we had to enact trying to keep the alliance together. Now with the fall of the wall is the time to build up our economy. Now is the time to go forward with the protectionism that we have for the environment that they are trying to get rid of—clean air, clean water, proper trial at the State level.

I have to read aloud the seventh amendment because I do not believe they have ever read it. You ought to see what it says. The seventh amendment to the Constitution:

> In suits at common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, according to the rules of the common law.

They have reexamined the amendment in here where they say, "Mr. Trial Judge, do not tell the jury about that $250,000 cap, but if they come in, then you go and you factually proceed in violation of the Constitution and come out with your trying of the facts in your decision." Come on.

They say now they have worked over the many years to pass a product liability bill, and the general aviation bill lets manufacturers sell airplanes that are working so well. Global competition, we have to get into the global competition. I am going to write a follow-up piece for publication. Over half of what is coming in here in imports is American multinational generated. We are competing with ourselves. The multinationals that have lost their country as far as business imports are concerned have gone overseas and they are coming back in and the foreign entities, foreign governments are coming in here with a historic chant. It is devastating our economy. Everybody can see it but us politicians. Everybody can see it but us politicians.

It is a given in manufacturing that 30 percent of volume is the cost of the employees, the workers; now we call them the associates. It is a given, further, that you can save as much as 20 percent of sales volume by going to a low-wage country in manufacturing.

So if you have $5 million in a sales corporation you can keep your executive office, your sales force, but move your manufacturing offshore to a low-wage country and save $100 million, or you can continue to work your own people and go broke. That is not greedy corporations. That is a stupid Congress that allows that to happen.

If I ran a corporation and my competition headed overseas and started cutting his costs that much, I am forced to leave. We have a veritable hemorrhage of industries leaving. I pointed out that Baxter Medical that I brought here years ago, with 830 workers, has just gone to Malaysia. Secretary Reich says, and the Congress says, now what we have to do is retraining, retraining, retraining. Come on. I have skilled training coming out of my ears. We can train them to do anything. We do not need a Federal program. We have BMW without a Federal retraining program, and all these other industries.

But assume they are right and they are retrained into wonderful computer operators, 830 of them, the next day. The average age is 45. Do you think they will hire the 45-year-old computer operator or the 25-year-old? With the cost of retirement, with the medical costs and everything, the answer is obvious.

What we are dealing with here is not a cost of doing business. I am identifying our injury. Our injury is the failure to, as Lincoln said, "disenthrall" ourselves from free trade, free trade, free trade. There is no such thing as free trade. In the 1930's, we had reciprocal trade, and tariffs as the instrumentality—protectionism. Everybody wants to flatten the income tax—flat tax, flat tax, flat tax, is something else going on. Well, we lived on tariffs and protectionism from the beginning of the republic up until 1913. A country, an economic giant, built on protectionism. But they are all running around here like children and hollering, "Protectionism, protectionism, free trade, free trade. Product liability is such a weight on doing business." And all of the business statistics, findings, insurance company results and everything else of that kind show otherwise.

I reserve the remainder of my time.

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

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that Craig Williams, a fellow on the staff of Senator MCCAIN, be granted the privilege of the floor during the Senate session today.

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

Mr. GORTON. Mr. President, I yield to the Senator from West Virginia such time as he may desire.

Mr. ROCKEFELLER. Mr. President, I thank the Senator from Washington.

Mr. President, I am very happy that the Senate, at long last, is taking this bill up. We have been here before; we have been here many times before. I wish we could have gotten here sooner this year. Nevertheless, I am glad we are here. I think there is a natural tendency in Congress to wait until absolutely the last minute before important decisions are made, and that is what we are doing again this time. But so be it.

I am here to report to my colleagues that the Senate product liability bill has maintained the Senate's standard, which is products only. It has to be fair. It cannot include a whole lot of extra things that the Contract With America wanted, or that others wanted, or, indeed, that earlier generations within this body tried to add on to this bill. It was always my intention—and it was always the intention of the Senator from the State of Washington—to keep this bill disciplined, on products only, not to expand and include all kinds of other subjects, so that we could keep faith with our colleagues. I believe we have done that. All of this is now embodied in H.R. 956, the commonsense product liability legal reform bill.

I am enormously proud of the fact that the Senate really does want to see meaningful product liability reform, to fix our broken products system. Most of those on the other side of the aisle feel that way. There is a merry band of us on our side of the aisle who feel that way, and we have for a long time.

We can announce to our colleagues that we have done what we promised we would do—hold to the Senate position in virtually every respect, to preserve the balanced, reasonable Senate product liability reform provisions that will provide Federal uniformity to the hodgepodge of State laws, which deal with product liability today. This will improve the product liability system for consumers and for business alike.

There is a feeling sometimes in here that the bill has to either be just for consumers or just for business, and that you are over here or you are over here. This bill is trying to reach to both sides. We do some things to help manufacturers, and we do some things to help consumers. That was the point—to make it a balanced system. The statute of limitations is one that occurs to me mightily. California, for example, has a 1-year statute of limitations, and that means, in California, I presume—and I am not a lawyer—that if you are injured and wish to sue, you have 1 year within which to do it, and after a year is passed, you cannot sue. I consider that to be anticonsumer, and I consider those who are defending the status quo to be defending an anticonsumer position, which is, in fact, virulently anticonsumer.

Our bill says that one has the right to go 2 years after one discovers, first, that one is injured and, second, what the cause of the injury was, so that one knows who to sue. Now, in an era of drugs and toxics—and we are seeing this, for example, in the Persian Gulf war with the so-called mystery illness, which is no mystery to me, but what seems to be a mystery to the Department of Defense—sometimes it takes 4 or 5 years. Sometimes it takes 15 or 20 years for a toxic or a drug to show up as an injury. So then you know that you are injured.

But under our bill, that is not enough. You have to know what the cause of the injury was so you know who to sue. Now, that is clearly proconsumer, and those who are defending the status quo—that is, those who oppose this legislation—wish heartily to deny consumers that window to get into the courthouse door. I find that stunning. I find that, in many ways, shocking. I am very proud that we have that in our bill.

Opponents of this legislation have, I believe—and this has been true in the past—used gross distortions and out and out misstatements about this bill to try to suggest that it has been significantly changed from the Senate-passed product liability bill. We are spending our time running around taking examples, which are patently false, which have been raised as though they were patently true. That is not a distinguished aspect of Senate life on this bill.

The fact is that this report is virtually identical to the Senate bill in every single respect—virtually. Senator GORTON and I, in what I thought was a rather extraordinary colloquy from the floor, delivered on our blood oath, in which we both said that if we did not deliver on this promise, we would vote against proceeding to the bill or vote against the bill; and that was that we promised to delete the provision providing a defendant with a right to a new trial under the "additional amount" provision. That was an issue. We pledged to remove it. We did. We also took the House timeframe on the statute of repose. That was the one change that we made, maintaining the Senate bill's limited scope, importantly, to durable goods in the workplace.

Now, again, some of the distortions being used are that by reducing the statute of repose, which was the only area in which we gave the House what they wanted—we gave them the 15 years, but we did not give them what they really wanted. They wanted this to include everything, not just durable goods in the workplace. We maintained the Senate position even on that.

Beyond that, no substantive changes were really made. Technical and conforming drafting changes were made, as in any report of this sort. But that is it. That is the sum of the changes from the Senate-passed bill, no matter what the opponents of the reform will

assert, and will assert this day. My colleagues need to know that, and they should be reassured that this means that the product liability report is yet one more opportunity to go on record in support of moderate and beneficial reform of our product liability law.

Senator GORTON has gone through, and will continue to go through, a detailed legal analysis for the minor changes that were made, conforming changes. He will also rebut—certainly better than I—the outrageous claims that are being circulated by the opponents of the reform. I heard them in the Democratic caucus yesterday, and I am sure I will hear them on the floor today. However, as coauthor of the Senate product liability bill, I would like to go on record with my own analysis of the opponents' wild claim about the report. It is not in legalese because I am not a lawyer. But it is in English. I want this RECORD to reflect what is actually in the bill, rather than what the other side will, as I have said, continue to misinform Members about during this crucial debate.

There is a lot of confusing misinformation being circulated. Here are the facts.

Fact No. 1: There is no cap on economic or noneconomic damages—no cap on economic or noneconomic damages. Claimants will continue to be able to recover whatever they are awarded in a court.

Fact No. 2: The statute of repose remains limited to durable goods in the workplace only—only. Statements being made that they now cover all goods are wrong.

Fact No. 3: Product sellers, lessors, or renters will not be protected from negligent liability. That is precisely why the negligent entrustment exception was moved to the product sellers' section of this bill.

Fact No. 4: Dow-Corning and other companies who made, or make, breast implants will not be shielded from liability—will not be shielded from liability. We went through this last year, and groups, in particular, women's groups, gave impassioned, very emotional press conferences in which they said they would be included and that they would be shielded by this bill. It was not true last year. It is not true this year. Whether or not they supplied the silicon, they remain as liable as any other manufacturers who produce a defective product, if they do.

Fact No. 5: And this is very important because this involves a subject which has struck a number of people on my side of the aisle deeply, and it has to do with a letter that Mothers Against Drunk Driving—obviously an incredibly excellent and wonderful group—have circulated. But we have been trying to reach them to get them to make a retraction because they have made a mistake. It is a mistake which has been persuasive, unfortunately, to at least two Members on our side that I can think of.

I repeat, drunk drivers, gun users, et cetera, will not be protected from liability in any way. Opponents are intentionally trying to confuse harm caused by a product—that is, harm caused by a product which is covered in the bill—and harm caused by the product's use by a person, or persons, which is not covered in the bill and remains totally subject to existing State law. Specifically, for those inclined that way, section 101(15) and 101(a)(1), definition of "product liability action," includes only "harm caused by a product, not use." That is an enormous difference.

If I have leased a car and then stopped off at several bars and become drunk and then cause damage to somebody, I, as a person, can certainly be sued, but the use of the car, if the car is not defective, is not actionable under this bill, nor should it be, because this is a products-only bill. It is the products we are talking about, not the use, or the user.

Fact No. 6: In all States that permit punitive damages, they will continue to be available and the additional amount provision—we used to call that judge additur, but we now call it additional amount provision—will apply in all those States regardless of whether caps are higher or lower in that State.

Fact No. 7: Tolling, this was raised in our caucus yesterday; it has been raised since. Tolling of the statute of limitations will be covered as they are now by applicable State and Federal law. For example, for those so inclined, see 11 U.S. Code 108(c), "automatic tolling in bankruptcy cases."

Nothing in the bill, Mr. President, or omitted from the bill, will change State law on tolling. That is a fact.

Fact No. 8: State law will continue to control whether or not electricity, steam, et cetera, is considered a product or not.

Fact No. 9: This is not a one-way preemption bill but a mix of State and Federal rules, as it ought to be, in a bill which is moderate. Products are in interstate commerce—we have said this over the years so many times—70 percent. There was a day when things that were manufactured in California were probably sold in California for the most part. Today, on a national average, 70 percent of all things that are manufactured are interstate and are sold outside the borders of that State and thus are in interstate commerce, and they should be subject to more uniform rules for business and consumers.

Let me just say again, as I did last year, that the European Economic Community—which is close to 400 million people and an enormous competitor for the United States of America economically—all 13 countries have a single product liability law, a uniform product liability law—all 13 countries, not provinces within those countries but the whole country.

Japan has just adopted a uniform product liability law, a law uniform for the country, but we have 51. We have 51 different laws. For example, in the case of punitive damages, I think about 80 percent of all punitive damages come from three States—California, Texas, and Alabama. Why is that? Probably because of something called forum shopping. Because we have so many different laws—51 different laws—people can simply try to find the place which is most effective for their particular case, and there they go. So this is not a one-way preemption.

Fact No. 10: On joint and several liability—there has been a lot of talk about that and this is an extremely important issue—30 States have modified joint and several liability at this point. The Federal proposal follows the California law affecting only noneconomic damages. It is interesting on this point; the States clearly recognize that there are things they want to change in joint and several liability. Twelve States have eliminated joint liability altogether. Two States have eliminated joint liability for noneconomic damages. That is California and Nebraska. Ten States have otherwise limited the availability of joint liability as to noneconomic damages or damages generally, with the result being it is significantly less likely that noneconomic damages would be subject to joint liability. Three States have eliminated joint liability in cases in which the plaintiff is negligent and five States have capped awards of noneconomic damages. In all, 30 States have done this, and these include 8 of the 9 largest States in the Nation.

For the remainder of my time I wish to remind my colleagues and whoever else might be listening why some of us have wanted so much to act on this legislation and to outline the opportunity that this reform in fact holds for this country and for our people as consumers and as human beings.

Product liability reform has a very long history in the Congress. Members in both Houses and on both sides of the aisle have been trying to reform the product liability rules for over a decade, in fact for substantially longer than that, and we have done it for the most part by working together, Republicans and Democrats. No matter what anyone says to try and hone this issue as truly partisan or divisive, the idea of product liability reform is a legislative idea with a complete, thorough, aboveboard, open, and honest history of hearings, of markups, of floor debate, of cloture votes, and everything and anything else that one could call the way to legislate.

Yes, we have been persistent, those of us who want to see this law enacted. We have been dogged. We have been focused because we think this country

and its people need the change. The status quo is hurting American workers, American business, American consumers, and American competitiveness. When products by definition cross State lines—at least 70 percent of them—it makes no sense, absolutely no sense for product liability rules to be different in all 50 States, which they are—50 different sets of rules. It breeds unpredictability, delay, confusion, and unfairness that hurts everybody, not just businesses being sued but people, too.

Senator GORTON and I introduced a bill last year, once again to reform product liability. And I have to say I have enjoyed enormously a true partnership in spearheading this effort with Senator GORTON. Because I said everything good I could think of last year and ran out of the English language, I can simply thank him once again for his legal acumen, extraordinary integrity, and extraordinary sincerity in trying to enact reform.

Different legislation was passed in the House earlier in the year, as people know, and fortunately one part of it was product liability reform. In the discussions, many of my colleagues in the House and some in the Senate deeply wanted to pursue nonproduct liability legal reforms—nonproduct liability legal reforms, all kinds of ideas—making it available to all civil torts, putting it on medical malpractice, which I personally favor but which has no place in a products bill. This is a products bill. The problem was that the Senate did not have companion legislation to consider or to conference on the House's ideas for malpractice reforms or legal reforms beyond product liability. While I am not opposed to looking at other kinds of legal reforms, I believe I owe it to my colleagues to whom I and Senator GORTON and others have made this pledge and to the legislative process to have the Senate first take up legislation through the relevant committees and the regular process.

The history of product liability reform legislation makes it obvious that it is still a very contentious subject, and I always say to my good friend, Senator HOLLINGS, that I do not like disagreeing with him on anything, on anything, but I think there is an immensely compelling, urgent, and clear-cut case for product liability reform.

Senator GORTON and I introduced a bill that is bipartisan, moderate, balanced, and focused as a way to begin fixing the problems in the product liability system. The report is in essence the same bill with improvements suggested by the administration—I repeat, with improvements suggested by the administration—and others interested in getting responsible product liability enacted into law. Even the National Governors' Association, usually the most insistent that the job should be left to the States, which we have seen in Medicaid and welfare reform and many other things, even in these last 10 months, has said in formal resolutions that "uniform standards" are needed in product liability. They have so said. One of those resolutions was passed.

In fact, the original task force on product liability—one of the members was then Governor Bill Clinton, and he was the leading force at NGA—had a unanimous report in favor of uniform standards and twice the President of the United States voted to support that position.

Last August, the Economic Strategy Institute, the organization headed by Clyde Pressler, with whom I believe the Senator from South Carolina generally agrees, and a voice for tough action on trade and other areas, issued a report called—and this is not what I would call the best title I have ever read in my life, but it is called "Tortuous Road to Product Liability Reform."

To paraphrase, when the institute issued the findings of its recent research, it said that America's unique approach to product liability has brought enormous and growing costs to the resolution of disputes, and the costs are borne by consumers and U.S. business alike.

It goes on to say that costs are eating up money that could be spent on wages, on research and development, on training and other investments to be competitive with the rest of the world where our principal economic opponents have adopted uniform product liability standards. The institute's report underscores that product liability reform would significantly benefit consumers and business.

I think everybody knows that I obviously am disappointed by the President's recent statements indicating that he intends to veto this report, particularly when the administration issued a statement by the President on May 4, when the Senate was debating amendments to expand our product liability reform bill, that concluded with the final paragraph which I think shows how much consensus we have managed to develop over the years on the point that action on product liability is needed. It said in that statement, "The administration supports the enactment of limited but meaningful product liability reform at the Federal level. Any legislation must fairly balance the interests of consumers with those of manufacturers and sellers."

It was this President who just 2 years ago signed legislation providing the American aviation industry and its consumers with provisions very much like what is in the current report for product liability reform. That bill, the general aviation bill, thoroughly described by Senator GORTON, has helped the small plane industry make a major comeback since its enactment, and the President when he signed it said he felt that this would create many, many jobs for Americans. The President was correct then in arguing for reform, and I hope, hope and hope and pray, that he will seize the opportunity of moderate, balanced reform that our conference report presents to him now.

Mr. President, I believe this conference report is the legislation the President was calling for last May. I truly believe that it is. I consulted with the administration every step of the way during this long process to meet its parameters and those of many of my Democratic colleagues. I felt an obligation to so do. I think and believe that my colleagues know how hard I have fought to stay within these parameters.

Now we are voting on the conference report that produces the product liability reform the Democrats and Republicans in both Houses have toiled in the vineyards to achieve these many years. At a time when America clearly faces threats to our jobs and economic growth across the world, where they do not have the same maze of conflicting laws, we should do everything we can to suit up, not surrender. Consumers should not have to bear the costs of ridiculous delays or be denied the breakthrough drugs or other innovations that the current system scares off.

So I think this conference report, in concluding, Mr. President, has earned the votes of those who support meaningful product liability reform in good faith, those who sincerely mean it. The final decision, of course, is the President's. He said he is going to veto it. Having so said, obviously, he has a chance to hear this debate, to rethink his position, and to change his position itself and, in fact, to sign the bill. He could still do that.

As I have said, I hope he will take that time and see this vote as a reason to reconsider his position.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 25 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 25 minutes.

Mr. HEFLIN. Mr. President, Senator ROCKEFELLER, I am sure, has endeavored to live up to his commitments to not expand the conference report, to the best of his knowledge, but being a nonlawyer, I am afraid some of his advisers who are writing it did not explain to him the vast expansion of this report over what the Senate passed before. There are numerous changes, subtle changes in many instances—for example, the changing of the word "and" to "or," which greatly expanded the bill.

The proponents are referring to the various special interests who have concerns about this legislation. You know

to whom they are referring—trial lawyers and advocates on behalf of the American consumer. But there are a lot of other special interests that are involved, particularly those who have been endeavoring to save money and to make a bigger profit. In that category could be many elements of business from manufacturers to wholesalers, distributors, retail sellers and also including the insurance industry. These can certainly be called special interests.

This report's section on punitive damages has, with regard to small businesses, a provision about "the lesser amount" and therefore providing a maximum cap on punitive damages of $250,000 if a business has less than 25 employees. I doubt if there is any company that has 25 employees that does not carry substantial excess liability insurance over and above $250,000. Most businesses carry liability insurance in large amounts, and the relationship of employees to the policy of insurance that is carried, that protects them, is not really germane at all.

The conference report is greatly expanded by lowering by 25 percent, from 20 to 15 years, the statute of repose. For example, the statute of repose will apply to a bridge. Most contractors' negligence and the defects in the production of a bridge do not occur during the first 5 years, 10 years, or even 15 years of a bridge's use. A defect in a part or component product of a bridge manifests itself by a bridge collapsing, or giving way after a period of time in excess of 15 years.

Under the definition of the term "products," it is anything that is used in the construction of a bridge under this bill, and there are many component products that are manufactured for the purpose of lasting many, many years.

So, as we see in particular mountainous areas where bridges span big gaps, or cross between mountains, you will have a real danger after 15 years of a collapse and under the statute of repose of 15 years, an insured person or his estate is outright prohibited from bringing a suit to determine fault. Also, consider that it is 15 years from the date of the delivery to the first purchaser that the statute begins to run. There are many consumer items, products that are delivered to the first purchaser, which is not the consumer, that may stay on the shelf 2 or 3 years. What do we have? The statute running even sooner against unwary consumers.

We should also consider workplace products and their safeguards that are supposed to protect innocent workers. What you protect is a person, a farmer from losing a hand in a corn machine, which harvests corn. Or you can have any type of other situations where there is an absence of or defect in safeguards associated with machinery. I have charts to show the various items of where safeguards are left off. Consider a plastic injection molding machine or a tractor, manufactured more than 15 years prior to the accident where a 34-year-old person was killed, and where the manufacturer failed to equip it with rollover protection system. Consider a punch press which lacked guards and safety devices. All of these items illustrate how an innocent person could be adversely affected by the 15 year statute of repose contained in this conference report.

Then the statute of repose has some language that says "not caused by a toxic material." The issue arises in regard to whether or not, for example, asbestos is a toxic harm or toxic material. There are various and sundry people who would say a position can be taken that asbestos is not a toxin or a poison, but that breathing it, is unlike poisons like chlorine or benzene. They say that asbestos is simply a rock fiber and asbestosis, the most prevalent asbestos-related disease, is caused not from toxic interaction between the asbestos fibers and cells but, instead, because the needle-like asbestos fibers pierce and destroy air sacs in the lungs.

It takes generally 15 or 20 years of exposure to asbestos material before the disease develops. But under the statute of repose, you do not have a right to bring any suit. You are forever barred from bringing a suit after the passage of 15 years from the date of delivery to the first purchaser.

Now tell me this is fair. This, to me, is a great expansion of the conference report from the Senate-passed bill. But let us look at some of the other expansions in this report.

The report has a change of a slight word about a standard of liability other than negligence. For years and years, product liability bills have excluded natural gas and electricity, but this report comes back from conference with a change in language providing that if natural gas or electricity is subject to a different standard than negligence, then it is subject to all of provisions of this legislation—this is a vast expansion.

Now, natural gas and electricity are looked upon, in practically all States, to be highly dangerous and are subject to laws that say that if they are sold, the producer and seller must be held to the highest standard of care in order to protect the public. But the conference report contains an expansion for the first time in about 18 years. Was this merely an inadvertence or was it intended?

Natural gas is odorless, and producers have to add a fluid to it for people to smell it in order to detect it. It is generally referred to as "skunk juice." But if somebody fails to add it or fails to put the proper amount in and a devastating accident occurs, are those in the production chain allowed to reap the benefits of this legislation's protections, say, as to the caps on punitive damages? Is that not a great expansion of the conference report? I just wonder how many homes are heated with natural gas, and there is a particular case that just occurred recently, a Seminole natural gas case out in Texas where there was an explosion and three people were killed and many were injured. Punitive damages were awarded by a jury.

Obviously, that brought to mind a very crafty, highly intelligent drafter, who now says we can take care of similar situations by a little sleight of pen and make these type of these cases come within the ambit of the bill. I am sure that the distinguished proponents of this legislation did not realize or never were told about this particular change, but it greatly expands the bill, make no mistake about it.

Consider the provision regarding negligent entrustment. There was a provision in the Senate-passed bill that said that the limitations of this bill shall not apply to any suit brought for negligent entrustment. The Mothers Against Drunk Driving had insisted that that provision be in the Senate bill. That is where you have the State dram shop laws, where liability is provided where tavern or bar owner sells whiskey to a minor or to a drunk who then drives a car under drunken conditions and kills an innocent victim. Under the Senate-passed bill, a defendant was not provided with the limitations of this bill such as the caps on punitive damages. But now a defendant could come within the limitations contained in the conference report. Gun dealers, who have been subject to negligent entrustment actions on the State level for selling guns to known incompetents or criminals, would now benefit from the subtle change between the Senate-passed bill and the conference report which is now before the Senate.

The negligent entrustment provision was moved from one place in the Senate-passed bill to another place in the conference report, and this subtle change allows defendants in negligent entrustment actions to avail themselves of the limitations in this conference report. The Mothers Against Drunk Driving are utterly opposed to this report and are urging Senators to vote against cloture.

Then there is the issue of the statute of limitations of 2 years where a court orders an injunction, like a company goes into bankruptcy and you, therefore, are enjoined by law from filing a product liability suit. Under the bill that was passed by the Senate, that time did not count—the statute of limitations was suspended or tolled. It said that that time did not count on your statute of limitation running of 2 years.

But, by sleight of hand, it is removed from the bill and it is no longer there.

The President, in his veto message that he sent, points that out. I had read the bill, and I had not discovered that. I went back and read it again, and I saw how craftily that had been omitted from the conference. So, therefore, if your company goes into bankruptcy, there is an automatic stay against being able to file a civil suit. Therefore, that provision that gave you protection against the running of time is removed.

I mentioned a definition of durable goods, how the adding of a "comma" in the durable goods section now brings in many, many household goods—baby cribs, lawn mowers, razors, electric razors that are used—any type of thing that has a projected life of 3 years is now in it. Before in it, it had to be related to a business. No longer does it. But it includes household goods that are there.

There is another change about remediation relating to Superfund in regards to the environment. I am not sure that I understand it, but it was changed for some reason. The conferees did not make these changes unless they are trying to give some sort of protection to some company.

Another change to me that was unusual was the conferees changed the name of the bill. When the bill was in the Senate and passed the Senate it was called the Product Liability Fairness Act of 1995. I made a speech about it and said that was the biggest misnomer and pointed out the unfair provisions. For example, business can sue for commercial loss, and they are not subject to these provisions. The report exempts business in their suits against each other. But they contain provisions that it would apply to individuals, to injured parties. But if you are an injured business, you can sue for loss of profits, you can sue and are not subject to the bill's limitations.

For example, you have a statute of limitations for 2 years here, while in most States the statute of limitations, under the Uniform Commercial Code, is anywhere from 4 to 6 years, just for example. Business suits are not subject to it. Yet the biggest verdicts that have been rendered relative to punitive damages are business cases. Pennzoil versus Texaco and so on. But anyway the proponents changed the name to the Commonsense Product Liability Legal Reform Act of 1996.

I just do not believe that it is common sense or fairness either way. I think it is a misnomer. Is it common sense to include governmental entities, the Department of Defense, the GSA, and subject them to the provisions of this, but not subject business by allowing them to be able to sue for their commercial losses? But does it make common sense that in this time of deficits where we are trying to reduce Government spending, to put the Federal Government at a disadvantage as regards this bill?

The Department of Defense has helicopters, tanks, trucks, et cetera. Almost all products that the military buys are built with the idea of having a long life.

But does it make common sense, in these days, to have the Government subjected to the statute of repose of 15 years? Does it make sense, in these days of where we are trying to take care of local governments and not to have unfunded mandates, to impose this bill's limitations upon governmental entities?

Does it make sense, common sense, to allow them to not subtract time from bankruptcy from a statute of limitation? Does it make common sense not to show in a trial in chief that the engineer who designed a railroad bridge was a known alcoholic, and the company knew it, and they still did not take steps to review his works, and a bridge on a railroad collapses? I mean, let us go down the list relative to commonsense matters.

But this idea of fairness is a smokescreen for patent unfairness. When you get movements, say, started, and the questioning of all the trial lawyers, therefore it gives you an opportunity not to just maybe address one issue or two issues, but it addresses all of these issues that you have lost cases on. So therefore you want to protect the insurance company and you start adding and adding.

I think there is also the question of fairness where the issue of a separate trial on punitive damages is requested. If a separate trial has been requested, it is automatically granted. But the report says you cannot show the conduct of the defendant which exhibits a conscious, flagrant indifference to the safety of others. That is the standard in this report that allows for punitive damages.

A claimant cannot show that type of conduct in the trial in chief for compensatory damages—that is the trial for economic nor noneconomic damages. Remember noneconomic damages include pain and suffering that may be caused by conscious, flagrant indifference to one's safety. Is that fair to a person who has been badly disfigured, scarred, or suffered a loss of limb by a product whose manufacturer knew of its defect but refused to take steps to recall the product.

I would like to give this illustration of commercial loss. There are two commercial airplanes, one of them Delta, one of them American. They collide and we will just say here, for a hypothetical viewpoint, the American is at fault. The passengers that are killed in any one of them are subject to the limitations of this act. But Delta can sue for the loss of profits which are not limited and can have a different statute of repose or statute of limitations; it can sue with no limit on punitive damages for their commercial loss relative to this accident.

But the passengers are limited under the provisions of this report. Is it fair that businesses have a double standard? If it is good for the goose, it ought to be good for the gander. But why do the proponents exclude civil actions for commercial loss? That shows how one sided this legislation is.

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

Mr. HEFLIN. I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. The Senator is yielded 2 more minutes, if there is no objection. Without objection, it is so ordered.

Mr. HEFLIN. If that plane falls on Yankee Stadium, and has killed or injured people—they are bound by the limitations of this act. But the owner of Yankee Stadium can sue for the loss of profits due to the destruction of his grandstand. None of the provisions pertain to him.

So this is a grossly unfair bill, and it does not make common sense. The conference bill greatly expands the Senate passed bill. It is extreme in its provisions. It denies an injured party rights. It is particularly harmful to women in title II's provisions regarding biomaterial suppliers, giving a complete immunity or bar to suit to such suppliers. I wish I had time to go into all of that, and I urge them to review title II carefully. I urge that my colleagues vote against cloture on this bill.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Washington.

Mr. GORTON. I yield such time as the Senator from Connecticut desires.

Mr. LIEBERMAN. I thank my friend and colleague from the State of Washington.

Mr. President, I rise as an enthusiastic supporter of the conference report accompanying H.R. 956, called the Commonsense Product Liability Legal Reform Act of 1996. In this case, it is not just a title. This bill is full of common sense. It is reform. This is a moderate bill. It is a thoughtful bill. It reflects compromise. It reflects years of effort to solve a real problem.

Sometimes when we get into the back and forth of the arcane legal concepts involved here, we may lose sight of the fact, as Senator GORTON pointed out in his excellent opening statement, and Senator ROCKEFELLER, there is a real problem out there. Our tort system, our system for compensating those who were injured as a result of other's negligence, has gone off the track. People in this country know there is too much litigation. People know that they are not benefiting from it. They are actually paying more for it in higher consumer prices and lost opportunity for jobs and lost opportunity to use new products that require some risk. People in this country, businesses, are afraid to take that risk. Why? Because they are worried about

being bludgeoned by a lawsuit, regardless of whether they are negligent or not.

I have to tell you when I was attorney general of the State of Connecticut, I was involved—and my friend and occupant of the chair may have gone through the same experience—I was at a national meeting of the attorneys general. I recall voting for a resolution that spoke out against product liability reform. I did not know much about it. We were oriented in a different direction. I started going around the State of Connecticut. I made it a practice to visit businesses, particularly small businesses in the State. People out there are the heroes. They are out there, day in, day out. They are not making big money. They took a risk. They are working hard. Maybe they have 10, 20, 30, 40, 50 people, maybe a few more, in their business.

I am interested always in knowing, how did you get started? How did you raise the money to get into it? How are you doing? What can I do to help you? Over and over again, right there at the top, one, two, or three, "Do something about all this litigation. We are constantly being sued, and even though we are not negligent we have to pay so much money to lawyers." Or, "We get frightened because they come after us not just to pay the cost of an injury, medical, lost wages, et cetera, but the intangibles of pain and suffering, or so-called punitive damages which go well beyond the specific injuries suffered. Please help us with this." That is how I got into this battle.

It seemed to me this was a real problem. There is a real problem out there. The bill that comes out of conference is a real commonsense solution to that problem. It puts some very moderate limits and lines and parameters on the existing system. It does not deny an injured plaintiff the right to recover any wages lost, any medical expenses; indeed, even the so-called noneconomic intangibles of pain and suffering, loss of consortium, et cetera. What it does, basically, is to say in the category of punitive damages, punishment, I guess created at the outset for probably a good reason, which was to add to this civil justice system some sort of extra punishment to a truly negligent producer of a product, to get that person not to do that anymore. It is almost a kind of criminal penalty; in fact, it is quasi-criminal.

What has happened with this presumably well-intentioned concept of punitive damages, it has become a club held over the head of defendants, worried that juries may come in with multi-million-dollar verdicts. So they settle regardless of whether they are negligent or not. So it is a limitation of the greater of $250,000, no small amount, or twice the compensatory damage that is economic and noneconomic as we have talked about—that is the basic limit on punitive damages that this bill provides. Very moderate.

Senator GORTON and Senator ROCKEFELLER have spent the 9 months since the Senate passed this bill, saying "No" to just about everyone who sought to change the bill passed on the Senate floor last May. They said "No" to Democratic Senators; they said, "No" to Republican Senators, and they said "No" to the House conferees.

What they have produced is a bill that is remarkably similar to what the Senate passed last year with overwhelming Republican and Democratic support. Frankly, Mr. President, I do not understand why anyone who voted for this bill last May will not vote for cloture and vote for this bill today when it comes up.

Senators GORTON and ROCKEFELLER deserve our thanks, but to speak in much more tangible terms—they deserve our votes this afternoon to break this filibuster. They have spent these many months in the disagreeable position of saying "No" to so many, specifically so that Senators who voted for the Senate bill last May—we understood the margin was not greatly over the 60 votes required to break a filibuster. Again, not 51 for a majority, but 60 to break a filibuster. They kept saying "No" so that the 60-plus votes last May would stay there when the conference report came out.

I think they have achieved what most people thought, frankly, was impossible in the conference report they brought up, because the House yielded to the Senate on almost every proposal, every measure, every item in controversy.

What now do our colleagues, Senators GORTON and ROCKEFELLER, face? Last-minute concerns, distortions, new arguments. I would not blame these two warriors if they were dispirited. I admire them for not being so. Unfortunately, it is what we have come to expect in these debates. The hostile fire keeps coming in from every different direction. It is like having a shot fired; it is defended against; another shot fired on another perimeter; it goes on and on. It is meant to blur over the basic requirement for this bill, and the basic moderation and common sense of the bill before the Senate.

Mr. President, I have a particular interest in title II of this bill, the so-called biomaterials provision. It is almost identical to a bill that I was proud to cosponsor and introduce with our colleague from Arizona, Senator MCCAIN, in 1994. We reintroduced it in 1995. Happily, the Commerce Committee incorporated the bill into the conference report on product liability early last year.

Mr. President, among the attacks that have come up here at the last minute as we come close to finally doing this after 18 years, now, that we have been working at this. I make reference to the Bible. I hope we are not going to have to wander for the 40 years the children of Israel did before they got into the promised land. I am looking at my colleague and dear friend, Senator GORTON, he deserves better than that. Here we are, close to this vote. We look like we have worked out a very sensible bill and now new crossfire comes in after this proposal has been up for years. I want to answer a few charges raised against the biomaterials provision.

In the middle of last week as the final conference report had been under discussion for months, was being completed, we are suddenly confronted with claims that the provision would "devastate the chances for recovery," of claimants in the so-called breast implant cases; that those claimants then presented proposed amendments to fix the allegations that there were problems in the bill. Of course, we have also seen some extraordinarily active lobbying on behalf of those suddenly urgent amendments.

Since so much confusion and concern seem to have been generated as a result, I want to respond. First, the product liability bill and the biomaterials provision is prospective. It does not go into effect until it is enacted.

The bill only applies to civil actions filed after it is adopted. It would have, therefore, no effect on the thousands of breast implant claims already filed, pending—no effect. It would have no effect on claims filed in Dow Chemical's bankruptcy proceeding, past or future. It would have no effect, as Senator ROCKEFELLER pointed out earlier, on the capacity of bankruptcy judges and State judges in product liability cases, including breast implant cases, to toll the statute of limitations, to stop it from going while the bankruptcy proceeding is going on. Finally, to the extent that any claims are filed after this bill becomes law, it would have no effect on the overwhelming majority of those cases, for the following reasons:

First, Dow Corning was the originator and largest single manufacturer of breast implants. The biomaterials title explicitly preserves the liability of manufacturers and sellers of implants like Dow Corning.

In other words, if you are claiming to be a supplier but you are actually a manufacturer or seller, there is no protection under the bill.

Second, the provision has no relevance to litigation in which claimants are seeking to impose liability on Dow Chemical and Corning Corp., the two corporations that own Dow Corning, since neither was a biomaterial supplier under the title II definition of a supplier. To my knowledge, no one has argued that they were biomaterial suppliers.

Third, while Dow Corning invented silicone breast implants and was the

single largest manufacturer of them, they also sold silicone gel to other companies that manufactured breast implants. Those companies, generally, are the large pharmaceutical and manufacturing companies. Many claims have been made against them, and the biomaterials provision will have absolutely no effect on those claims.

Now, what if a raw material supplier knew the product might harm the person in whom the medical device was implanted? Will that person be let off? No. Biomaterial suppliers who sell raw materials or components they know are going to hurt somebody will find no protection under the biomaterials provisions of the bill. If the raw material supplier knows its material will cause harm, and fails to disclose it, that supplier cannot be said to be providing the product described in the contract between the manufacturer and the supplier because it departed so substantially from the expectations of the parties. That, too, in the legislation before us, is an exception from the general protection offered to suppliers. They are not protected if, in fact, they are manufacturers, if, in fact, they are suppliers, and if they breach the specifications of the contract with the manufacturers or the description of the product as certified by the FDA. A supplier who provides a product that does not meet contract requirements, or these specifications, is not eligible for protection under the provision.

We have tried to construct a liability scheme where suppliers would have some comfort that they would have the opportunity to prove their innocence early in the litigation. The responsibility of ensuring that a medical device is safe for the purpose intended should rest with the manufacturer responsible for the design, testing and research of that product, not with the supplier who is supplying a component that, of its own, will have no benefit and cannot be used as an implant for the consumer desiring it.

The suppliers have been sued because they are viewed as "deep pockets." The cases against them have almost always been dismissed without a finding of any liability. Raw materials suppliers are typically supplying generic products with a lot of different uses. I will get into what happened in the field that has generated a need for this provision in a moment.

So let me repeat, Mr. President, that this provision will not preclude present or future breast implant claims filed against these companies. They remain available to satisfy judgments.

Plaintiffs will likely argue that Dow Corning, for instance, was so involved in the creation of the product originally to be a manufacturer in all instances, or they violated applicable contractual requirements or specifications by supplying silicone gel that "did not constitute the product described in the contract" because it departed so substantially from the expectations of the parties. Those arguments are consistent with title II, and they will be in order if this bill is enacted into law.

Remember what I said earlier, that the major difference here, even in an extreme biomaterials case, is that the arguments by the suppliers to get out of a case because they are innocent will be able to be made earlier in the litigation. Under our current system, these innocent raw material component suppliers who have supplied small amounts of material and have not been involved in design, testing, or manufacture of medical devices, fear the cost of being kept in these lawsuits for years more than they fear the judgments, because they know they are innocent. We have found very little evidence that such raw materials suppliers are ultimately ever found liable in these cases.

So why the provision in the first place? This, again, is why I say this bill is not just an exercise in legal theory; it responds to a very real crisis out there in the real world.

Title II, the biomaterials provision, is a response to what I would call a genuine public health crisis. It is there to end a frightening, artificially caused biomaterials shortage that doctors, patients, the American Cancer Society, the American College of Cardiology, Paralyzed Veterans of America, and other major medical societies, scientific organizations, and patient and consumer groups have all pleaded with Congress to solve.

What is the cause of this artificial shortage of biomaterials, the stuff that you need to make the devices I am going to describe? It is not because we are running out of those materials. It is because the fear of litigation by the suppliers, who make very little money in supplying the raw materials and component parts for these extraordinary devices, far outweighs any benefit they can incur by selling these devices. It is just not worth it to them. But it is worth it to the 8 million people whose lives are either being sustained or made normal by the miraculous array of medical devices that technology makes possible today.

What are we talking about? Pacemakers, hip and knee joints, hydrocephalic shunts for children, balloon angioplasty catheters, defibrillators, vascular grafts, and even, in some cases, sutures used in common surgery. We all know people whose lives are either being sustained or made better by these unbelievable devices. Fifty years ago, who would have guessed that life could be sustained by these devices? The fact is—and we have heard testimony before committees of Congress—that the people who make these devices obviously need raw materials to make them. They need resins, plastics, rubber, and other component parts. And the suppliers either have cut back or have given them a warning they are about to do it by a date certain. The most recent date is January 1, 1997, next January, because they cannot afford the millions of dollars that they have to pay to defend lawsuits for supplying a nickel's worth, a dime's worth, or a quarter's worth of plastic resin or rubber.

The problem is not a genuine shortage. It is an unnatural shortage caused by a system of litigation that has gone wild. The economics of the decision that these raw materials suppliers make are unfortunately understandable because of the small amount of money that they make on these devices. The fact is that since 1994 12 raw material suppliers, including three major chemical companies, have decided to simply stop selling to medical device manufacturers. The medical device manufacturers are scrambling to find substitute products but sometimes they are simply not available.

If you doubt whether this is a crisis just check the congressional testimony. Listen to the father of the young man—boy—who passed out because he had water on the brain. They put in a hydrocephalus shunt that takes the water out of the brain. The child was living a normal life. He actually came and testified before one committee hearing which I had. He is a wonderful looking young man, and very active. Periodically they have to replace that shunt. And, if there is not the raw materials to do that, this young boy faces a tragedy, and his family with him.

It is worth noting that the administration in the statement of policy issued by the President over the weekend opposing the product liability bill singled out the biomaterials provision for praise and acknowledged the importance of ensuring that "biomaterials suppliers will continue to provide sufficient quantities of their products to medical device manufacturers."

Contrary to what some of our colleagues I am afraid may have heard in the last week or so from those opposed to this bill, this provision is not a trick nor a ruse to protect bad suppliers from legitimate claims. This is an effort to respond to a genuine public health crisis, one that is well documented, and, as I say, acknowledged by the administration in its praise, in its statement of policy.

The biomaterials provision does nothing to reduce the liability of manufacturers, or other responsible parties but consistent with the fundamental and fair premise of this legislation—this conference report—it places responsibility where it ought to be—on those who do wrong, and protects from unnecessary harassment and enormous cost those who have done no wrong.

Mr. President, this bill actually in that sense so fundamentally relates to

the broader questions of values in our society and the fear that people often have that our legal system has gone astray, that those who do wrong are not punished and too often those who have done no wrong suffer. We most often hear that cry about the criminal justice system. But it has unfortunately become true in our civil justice system as well. The guilty parties do not pay enough. The innocent parties pay too much. And all of us end up paying, and the price we pay for consumer goods and lost jobs are paying for this irrational a system.

Mr. President, that is what this bill is all about. There are those who oppose the bill who describe it in "either/or" terms. Either you are probusiness or proconsumer. You are either proinnovation or prosafety. That rhetoric misses the point—preventing us from dealing with the central issue. The fact is that this bill is probusiness and proconsumer. It is proinnovation and prosafety. It is aimed at putting liability back where it should be—on the parties who are actually responsible for any harm and so are best able to prevent injury.

It is aimed at protecting the defendants from being frightened by lawyers and lawsuits into paying legal fees and settlement costs when they are in fact not responsible for any harm.

All of that contributes to the cynicism and mistrust of our legal system which is so fundamentally corrosive to the way we live in our country, and so costly to our society.

Mr. President, I ask unanimous consent that a list of raw material suppliers and their action withdrawing various products from the market be printed in the RECORD.

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

SUPPLIER WITHDRAWAL AS OF DECEMBER 1995

Supplier	Raw material	Withdrawal date	Device affected
Allied Signal Chemicals	ACCUFLOR CFx fluorinated carbon	May 1995	Pacemaker batteries.
Altec	Surgical stainless steel	Summer 1994	
Ausimont USA	Fluoropolymers	January 20, 1994	Pacemakers.
BASF Corp	PEKEEK, Ultrapek polymer	December 1994	Production of spinal implants.
Dow Chemical	Medical grade resins and film products	April 1992	Cardiac prosthetic devices and long-term implants.
	Pellethane®, polyurethane and Isoplast	April 1995	Pacemaker leads.
Dow Corning	Silastic® silicone	December 1993	No sales for medical implants or use in obstetrical, gynecological, contraceptive applications, or load-bearing or drug-loaded implants.
du Pont	All polymers TEFLON® (tetrafluoroethylene), DACRON® polyester, DELRIN® acetyl.	January 31, 1994	
Furakawa (Japanese vendor)	Nickel/titanium memory metal	December 1994	Scoliosis correction implant system.
Industrial Techtronics	Tantalum X-ray market beads	January 1995	
Montell Polyolefins	UHMW polyethelene	1995	Biomet Co. (orthopedic implants) polyethelene coats the surface of artificial joints.
Owychem	Alathon® polyethelene resin		
Rehau	Silicone adhesives	March 1995	
Shell	PET	February 1994	
Victrex	PEEK (polyether ether ketone) & PEK (polyether ketone)	1994	

Mr. LIEBERMAN. Mr. President, I did not always support a national approach to product liability reform and I can well understand the hesitancy, particularly of newer Members, to support Federal involvement in what traditionally has been the province of State law. In fact, as attorney general of Connecticut and a member of the National Association of Attorneys General, I voted for resolutions opposing earlier Federal product liability legislation that would have swept away virtually all State product liability laws and repealed the doctrine of strict liability for product defects.

But as I traveled around the State of Connecticut, this problem—product liability litigation—kept coming up in my discussions with small business men and women, with small and large manufacturing companies, and with plant managers. They told me of problems they had experienced with the product liability system, of the expense of defending yourself even when you win, of the cost of settlements to avoid paying litigation costs, and of the time and energy that product liability suits diverted away from the business of designing new products and bringing them to market.

At a time when we need to be rebuilding our country's manufacturing base, to be promoting innovation in our manufacturing sector, to be designing, building, and bringing to market the next generation of high-quality, high-value added products the world will need, our liability system chills innovation.

The debate should really center around consumers, because it is consumers who suffer because of this system, not simply businesses. Consumers are the ones who have to pay higher prices in order to cover product-liability-related costs. If a ladder costs 20 percent more because of liability-related costs, consumers—not businesses—end up paying that 20 percent premium.

The best interests of consumers as a whole are not always identical to the interests of people who are seeking compensation. The people who suffer or die because a new drug or medical device was never developed, or was delayed in its development, are hurt as surely as those who suffer because a device malfunctioned or a drug was improperly designed. These silent victims of our product liability system's chilling effect on innovation are consumers whose interests also deserve protection.

Of course, even for its intended beneficiaries, people who are injured by defective products, the legal system hardly can be said to work well. GAO, in its 5-State survey, found that product liability cases took an average of 2½ years just to reach trial. If the case was appealed, it took, on average, another year to resolve. This is a very long time for an injured person to wait for compensation.

In some instances, too, our product liability laws have erected barriers to suit that just do not make sense. For example, in some States, the statute of limitations—the time within which a lawsuit can be brought—begins to run even though the injured person did not know they were injured and could not have known that the product was the cause. In those States, the time in which to bring a suit can expire before the claimant knows or could ever know there is a suit to bring.

Mr. President, no one will argue that this bill will cure all the ills in our product liability system. That would require a gargantuan overhaul and we are not likely to reach agreement in the near future as to what that would look like.

I make no secret of the fact that I would have preferred a broader bill. Product liability cases are only a part of the problems in our civil justice system. I have very real concerns that when we fix some of the problems there, some lawyers will just target nonmanufacturing clients, like financial service providers, municipalities, nonprofit organizations. I would have preferred a bill that covered much more, but clearly that was not to be.

By working incrementally to eliminate the worst aspects of our current system with respect to product liability, perhaps we can begin to create a record that will allow us to restore some balance to our tort system overall. The enactment of the Federal General Aviation Revitalization Act of 1994 has demonstrated that reform does not

mean that injured people will go uncompensated and bad actors unpunished, but that reform means more jobs and safer aircraft. I hope we will have the same chance to build the same foundation for more reform with this modest, balanced product liability bill.

For people injured by defective products, this bill makes a set of very important and beneficial changes. First, it enacts uniform, nationwide statute of limitations of 2 years from the date the claimant knew or should have discovered both the fact he or she was injured and the cause of the injury. Injured people will no longer lose the right to sue before they know both that they were hurt and that a specific product caused their injury.

Second, this bill will force defendants to enter alternative dispute resolution processes which can resolve a case in months rather than years. If the defendant unreasonably refuses to enter into ADR, it can be liable for all of claimant's costs and attorney's fees. On the other hand, if a plaintiff unreasonably refuses to enter ADR, they will suffer no penalty.

For workers who face possible injury in the workplace, this bill will reform the product liability system to give employers a stronger incentive to provide a safe workplace. Under current law, an employer is often permitted to recoup the entire amount of workers compensation benefits paid to an employee who was injured by a defective machine, even if the employer contributed significantly to the injury by, for example, running the machine at excessive speeds or removing safety equipment. This essentially means that an employer can end up paying nothing despite the fact that their misconduct was a significant cause of the injury.

This bill would change this. When an employer is found, by clear and convincing evidence, to be partly responsible for an injury, the employer loses recoupment in proportion to its contribution to the injury. This does not change the amount of money going to the injured person, but it makes the employer responsible for its conduct.

Manufacturers of durable goods—goods with life expectancy over 3 years that are used in the workplace—will also be assured that they cannot be sued more than 20 years after they deliver a product. This will bring an end to suits such as the one in which Otis Elevator was sued over a 75-year-old elevator that had been modified and maintained by a number of different owners and repair persons through the decades. By the way, this same provision will not apply to household goods such as refrigerators, and is only intended to cover those workplace injuries that are already covered by workers compensation.

Manufacturers will also have some protection against deep pocket liability. While the bill still permits States to hold all defendants jointly liable for economic damages such as lost wages, foregone future earnings, past and future medical bills, and cost of replacement services, noneconomic damages such as pain and suffering will be apportioned among codefendants on the basis of each defendant's contribution to the harm.

For wholesalers and retailers, they will, in the majority of cases, be relieved of the threat that they can be held liable for the actions of others. Under current law, for example, the owner of the corner hardware store could be sued for injuries resulting from a power saw just as if she was the manufacturer of a power saw, even if she had no input in the design or assembly of the power saw and had done nothing other than to inspect a sample to make sure there were no obvious flaws and to put the items on the shelf.

For our American economy and industrial base, passage of this product liability reform legislation will move us back to promoting innovation and the development and commercialization of new products. Passing this bill will create and save jobs here, not overseas.

Mr. President, let me reiterate that I believe this bill can be a win-win situation. It provides real balance. It balances the scales of justice to ensure that the victims of defective products will continue to be compensated while consumers receive the best products available. It is incremental reform. Frankly, it is a lot less than I had hoped for and that I voted for. But I think it is incremental because it is hoped that is the way to begin the road to genuine legal reform in our country.

In this debate today, we hear a lot of charges, countercharges, and attacks coming from every which direction as we come close to the vote. One thing should not be lost. This bill does not absolve a company that has not made a safe product. If a company has made a defective product, it will and must be held fully accountable, period. But when a company does follow the rules and makes a safe product, it should not have to settle frivolous claims simply to avoid the expense of litigation and protect against the risk that a huge and irrational judgment will be awarded against it.

Mr. President, once again I thank my colleagues, Senators GORTON and ROCKEFELLER, who have really been extraordinarily able and honorable in this task.

I honestly believe that what is on the line here today in this vote is not just the fate of this product liability bill, but it is a broader question of whether this Congress is able to function on a bipartisan basis and get something done to respond to a real problem as we have described out in society.

The critics who say—I hear this all the time when I go home—"Why are you folks all so political? Why don't you get together and get something done, and respond to some real problems? Why don't you compromise?" A compromise is not just to reward the people who send us here to serve them. Compromise is getting something done.

Senators GORTON and ROCKEFELLER—Republican and Democrat working hard for years now but particularly the last year and 3 months—bipartisan, and willing to accept compromise, get the bill past the hurdle of breaking a filibuster here in the Senate with over 60 votes, get it passed, take it to the conference committee, again compromise, get something done to start us down the road to a response, to a real problem, and now we are faced with these last-minute attacks and a threat of a veto by the President.

I think what is on the line here is whether, with all the procedural intricacies at work, we can produce. I hope that the answer is yes. I hope that we will vote this afternoon to break the filibuster, that we will then tomorrow pass this bill and that President Clinton will then reconsider his decision to veto it.

This is a moment of opportunity. It is a moment of test for this institution, and it may not come again in this way for quite a long time.

I thank the Chair.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am sure the distinguished Senator from Connecticut would also include me in his thanks but, of course, not being in the conference and not making any contribution I am not due any thanks at all. We just could not participate.

I was rather interested to hear for the first time that the House gave in on all of these things because we never conferred on any House giving into anything.

Just highlighting, of course, the nature of this endeavor, the fact is this Senator spoke and shepherded over a 3-year period a communications bill that passed this Senate on a bipartisan vote of 91 Senators. So I know how to work in a bipartisan fashion. But this thing is a hijacking, if I have ever participated in one.

I yield 10 minutes to the distinguished Senator from Louisiana.

Mr. BREAUX. Mr. President, I thank the Chair. I thank very much the senior ranking member of the committee for yielding, and for the work he has put in over the years on this issue.

Mr. President, I rise in opposition to the legislation for a number of reasons but principally because it is bad policy. It is bad public policy. And, second, it is not necessary. It is not needed. There are some who have argued that there is a rash of product liability suits

and everybody who makes a product in America is just about on the verge of not making products anymore because they fear they may get sued if they make bad products that injure people, whether they do it with gross negligence, or it is just the egregious nature of what they are doing; but they may get sued and put people out of business.

The facts are just the opposite, and that is one of the issues I wish to focus on, plus the punitive damages question.

First of all, is there so much litigation out there that companies are not producing products? No. The legislation is trying to fix a problem that does not exist. Product liability cases account for only 4 percent of all of the injury cases that are filed in this country—4 percent. Only 4 percent of the cases dealt with defective products. There is not an explosion of product liability cases.

Then if you look at the statistics, out of 762,000 civil cases resolved in the Nation's 75 most populous counties in the whole country in 1991 and 1992, only 360 cases out of 762,000 cases dealt with defective products. Is there an explosion of litigation from products? I think the facts are just the opposite.

Something else. In all of those 360 product cases, do you know how many had punitive damages awarded? Three. Three. And yet the principal focus of this legislation that is before the Senate is that we have to pass this legislation because the country is in chaos because of product liability suits, when the truth is that only 4 percent of all of the civil cases filed are product liability cases.

The second point I wish to focus on is this part of the bill that says Washington knows best. Our Republican colleagues want to block grant just about everything in Washington to the States and let them decide—Medicaid, welfare, you name it. "Give it to the States; Washington does not know what it is talking about" is the statement that I hear from my colleagues on this side of the aisle except when it comes to this legislation, it is just the opposite. Their position on this legislation is that the States do not know anything, that the States are messing it up so bad that we are going to have Washington decide what is the appropriate remedy for people in the various States who are injured by defective products back in their States. Welfare, we are going to do it in the States; Medicaid, we are going to do it in the States, but when it comes to product liability we are going to do it here in Washington.

This legislation says that no matter how egregious the actions of a person or a company that makes a product, the cap on damages, punitive damages is $250,000. My friend from Connecticut said that is really a lot. Let me give you an example of the problem. The $250,000 figure is out of the air. It is something that they just picked up. It has no basis in fact. This legislation says that if a person is going to be entitled to punitive damages against a company for the most egregious type of behavior that we have ever heard of, the cap is going to be $250,000 or two times the economic damages.

The courts have said that unlike damages which are awarded to compensate an individual for his injuries, punitive damages are unique because they are based on an entirely different public policy consideration, that of punishing the wrongdoer to change that wrongdoer's behavior, and, second, to set an example to others that you should not do that type of behavior. Punitive damages are generally awarded for egregious, morally repugnant conduct, conduct that is so offensive to the average American that we say that person who has done this should not do it again. We have to make an example of this type of morally repugnant behavior so that others who may think about doing it will not do it again.

That is what punitive damages is all about. And that is on what this bill arbitrarily sets a cap of $250,000. Let me tell you what is wrong with that, why it is not based on anything.

Say you have a person, I call him Joe Six-Pack in this case, and Joe Six-Pack is just as mean and ornery a fellow as you ever want to meet. And one day Joe Six-Pack is walking down the street in his hometown and a guy is coming in the opposite direction, and when he gets next to Joe, Joe just hauls off and knocks the ever-living everything out of the guy because he did not like the way he looked. He smashes his fist into the guy's face, and he breaks his cranial bones, permanently disfigures him and sends him to the hospital. They have to do surgery to reconstruct this individual's face.

The individual, after he finally recovers, says, "I am going to sue Joe. I want him to pay for my suffering, my hospital bills." And the court says he is right; that was repugnant, morally offensive behavior. We are also going to assess punitive damages because we do not want this to happen again. So how much is the right amount? OK, they take a look at what Joe Six-Pack is worth. Say Joe Six-Pack is worth $10,000. That is the savings, the money he has. If the court says we are going to fine him maybe half a percent of his assets, that is a $50 fine.

Does anybody think a $50 fine is going to change Joe Six-Pack's behavior? Is that enough to tell Joe that he should not do that again? Probably not. The court could say, "Well, let's fine Joe 1 percent of his assets." Is that enough to change Joe's behavior and set an example for others they should not do it? That is a $100 fine. I doubt whether that really will affect Joe's behavior. He may do it again just because he is an ornery fellow or he does not care.

The court may say, "Well, maybe punitive damages are 5 percent. Let's fine him $500." Is that enough to change Joe's behavior? Probably getting close. Probably he will think a second time before he walks up to the next person and smashes him in the face if he knows the court said, "Joe, that's morally repugnant behavior. You are fined $500." Joe is going to say, "I don't think I am going to do that again."

So let us take another example. How about a Corp. Let us call it XYZ Corp. It is a small Corp., with only $50 million of assets. And I say small because of the Fortune 500, the number 500 company on the Fortune 500 list has assets of $4 billion. So XYZ Corp. with $50 million of assets is pretty small.

Let us assume XYZ Corp. starts making a product. Let us say they make pajamas for children, and when they make those pajamas for children their engineers say, "Mr. CEO, we just found out that these pajamas that you make for children are flammable; these pajamas catch on fire very easily, and we are making them for children. We could fix that by adding this retardant chemical to it so it will not catch on fire." The president and the board says, "Forget it; we have this whole warehouse full of them. We are going to sell them. We don't care; we'll take our chances."

XYZ Corp. starts selling their pajamas all over the United States, and, lo and behold, the inevitable happens; a child catches on fire walking in front of the fireplace, is horribly burned and disfigured for life. The engineers come back to the chairman and the board and say, "Look, we told you that was going to happen. This is our study. We saw it. It's flammable. Let's change it."

The president and the board say, "No way. We still have half a warehouse full of pajamas. We are going to sell the rest of them. We don't care. We don't think it's going to happen again. We don't care what your studies say. Forget them. File them away."

Sure enough, a second child who is wearing the same pajamas catches on fire in front of a fireplace, is horribly disfigured and burned, with economic damages, pain and suffering, disfigured for the rest of that person's life, and they file suit against XYZ Corp. The court says, "Your behavior is morally repugnant to this country. Your behavior is indefensible. Your behavior needs to be punished. How much should we punish XYZ Corp.?"

Well, if we said half a percent was not enough to affect Joe Six-Pack because it would only be $50 of his assets, a half a percent of XYZ Corp. would be $250,000. That is the cap in this bill. That is the cap in this bill. And if we said that that was not enough to affect Joe Six-Pack's behavior, a $50 fine,

why should the same percentage be enough to change XYZ Corp.'s position in manufacturing defective products that they know are defective?

We said that a 1-percent fine of $100 was not enough to affect old Joe. Joe was still going to do whatever Joe was wanting to do, smashing people in the face. It was not enough to change his behavior. How about a 1-percent fine for the XYZ Corp.? That is $500,000. We said it would not have an effect, but it is also twice the cap in this bill. We cannot even do that under this legislation.

So we say 5 percent was probably getting pretty close to affect Joe's behavior. That is what, $500. That probably changes his mind about his social behavior and society. How about XYZ Corp.? A 5-percent fine is $2.5 million. But forget it when this legislation is passed, because somebody in Washington has decided that $250,000 is the magical number.

Let me show you something. The No. 500 corporation on the Fortune 500 list in this country has assets of $4 billion. If this cap is in place and they make a defective product and they are fined the maximum of $250,000, do you know what percentage of their assets that turns out to be? That is .00625 percent. Does anybody think that a maximum fine that is .00625 percent of that corporation's assets is going to have any effect on their social behavior? I bet they do not even consider it. It is a dot on their asset sheet.

So, if we get back to the point that punitive damages is to tell a reckless defendant, who has had a jury say that this is morally repugnant behavior, if we tell them that from here on out, Congress in Washington, in our wisdom, has decided that the maximum fine is $250,000 and it has no relationship to the ability of a defendant to pay, we are making a serious public policy mistake. We should, I think, be ashamed of this legislation with this type of cap. I am. The States, I think, are doing a good job. It is not a problem. In addition to not being a problem, this arbitrary proposal makes no sense.

You wonder why a lot of the very big businesses think it is a great idea? It is because a cap of that small amount is such a small percentage of their assets, they can continue to make those pajamas. They can continue to say, "We are not going to listen to our engineers who have told us it is flammable. We are not going to listen to our engineers who told us that children can catch on fire wearing this product and the only thing we have to do to fix it is to add a fire retardant ingredient. Do you know what? We are not going to do it because we still have that warehouse full of pajamas and we are going to keep selling them."

How many young kids would be in danger? That is just one example. There are literally hundreds of them.

Mr. President, I will conclude simply by saying this legislation is not necessary, it is not needed, there is not a problem. In addition to that, it is a bad public policy statement.

I yield the remainder of my time.

Mr. McCONNELL. Mr. President, this is a historic day. For more than a decade we have tried to pass product liability reform. In every Congress, until this Congress, the opponents of reform have mounted successful filibusters. But this year we broke through the filibuster, and the Senate passed a modest bill. Now, the conference report is before us, and we must again break a filibuster.

The American people are frustrated with the legal system. Cases take too long to resolve and too many injured don't get fairly compensated, while a few win the lawsuit lottery.

Litigation drains billions from our economy, adding a tort tax to goods and services. For example, the average price of an 8-foot ladder is $119.33, but the actual cost is less than $95.00, with the litigation tax responsible for a 25-percent increase in the cost. Lawsuits drive the price of a heart pacemaker up 20 percent, from $15,000 to $18,000.

If we don't fix the problems of our legal system, consumers will have fewer choices and American companies will have a smaller share of the global market.

This bill is a significant, although imperfect, step in the right direction. But before I mention what the bill does, let me explain what the bill doesn't do. The opponents have scared many into believing that this bill cuts off the right to sue for injuries. But it doesn't. Those who are injured by defective products will be able to sue and recover all of their losses—their lost wages, all medical bills, any costs for home assistance, and even so-called pain and suffering damages.

This bill does not close the courthouse door to any injured party. So, there will be no horror stories as predicted by the opponents, of those injured by cars, household appliances, or workplace machinery shut out of the legal system. It's simply not true.

The bill does contain a modest limitation on punitive damages, which are supposed to punish the responsible party, not be a windfall for the injured party. Punitive damages are limited to the greater of $250,000 or two times compensatory damages. But this bill contains no limitation on economic damages or pain and suffering damages.

The bill also provides some limited protection to those who have nothing to do with the defect in the product, but who sometimes get stuck with the tab in a lawsuit. An injured will be able to recover from those who are responsible for the defects in the products—the manufacturers, and not the sellers who simply put the merchandise on a shelf or in a showroom. And, if the injured party can't find the manufacturer, or if the manufacturer can't be sued, or if a damage award can't be collected from a manufacturer, then a product seller will be responsible. So, injured parties will always be fully compensated for their injuries. The opponents of this bill are only scaring and deceiving consumers when they claim this bill will cut off the ability of injured persons to recover.

And, this bill makes a necessary change in the assessment of pain and suffering damages against multiple defendants. Each defendant will only be responsible for its proportionate share of noneconomic losses. This will, hopefully, discourage suing someone who is only remotely connected to the defective product on the basis of that defendant's deep pockets.

Mr. President, the time for this bill is long overdue. The problems of our legal system—long delays, inefficiency and unpredictability in getting compensation to those injured—are only getting worse. And that means more burdens on productivity and invention in our economy.

I regret that the President has announced his intention to veto this bill, based upon false assumptions about the bill. As I've already said, the bill won't prevent injured from recovering; it won't limit the recovery of damages that compensate victims for their injuries. The President's assertions to the contrary just simply aren't true.

Survey after survey and poll after polls show that the American people are frustrated by our legal system and particularly dissatisfied with the legal profession. Those lawyers who misstate the facts about this bill in an effort to scare the public do their profession a disservice. Not only does this bill protect the injured party's right to compensation, but it would also restore some public confidence in lawyers and the legal system. It is unfortunate there's a failure to understand this fact at the other end of Pennsylvania Avenue.

I urge my colleagues to vote for this conference report. Let the American people know that this Congress wants to improve the legal system and protect the injured consumers.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose this conference report for a number of reasons. One of the principal ones is the fact that it does not provide uniformity when it comes to product liability.

The statement of the managers says that one of its purposes—this is on page 3—"* * * is to establish certain

uniform legal principles of product liability." Its sponsors on the floor have said the same thing, that it is aimed at providing uniformity when it comes to rules governing product liability. But, unfortunately, this bill fails to live up to its own statement of purposes. Indeed, it violates its own statement of purposes because there is no uniformity that is provided in this bill. There is no fair balance among the interests of product users, manufacturers, and product sellers.

This bill has what perhaps could be called a one-way preemption approach. Under this approach, States are allowed to adopt laws that differ from the so-called uniform standards, providing that States are more restrictive on the rights of injured parties. But, if States seek to be less restrictive on the rights of injured parties, they are then prevented from doing so. This is not uniformity. This is not a bill which says that we are going to have a 15-year statute of repose, that is it, that is what injured plaintiffs have, that is what defendants can count on. That would be a uniform standard. This bill does something very, very different from that.

This bill says that if a State wants to be more restrictive than the provisions of this bill, more restrictive in terms of the ability of plaintiffs who are injured persons to recover, that they are allowed to do so. It is only if a State decides they want to be less restrictive on the rights of injured parties that they are prevented from doing so, that they are preempted from doing so. That is not uniformity. That is a one-way street. That is preemption of the rights of injured parties.

I want to go through some of the language in these titles to make this point clearer, to make the point that we are not going to have one law that governs all the States. We are not going to eliminate the patchwork of product liability laws. We are still going to have a patchwork. We are still going to have States that are more restrictive than the particular ceiling which is set forth in this statute. There is not going to be a uniform rule which is fair. There is going to be a so-called rule, which is applied if this passes, but not really. States are allowed to be more restrictive if they choose to do so.

Let us take a look at section 106 of this conference report. Section 106 provides that:

> Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser. . . .

That sounds pretty uniform. It says, "Subject to paragraphs (2) and (3), no product liability action * * * may be filed after a 15-year period." That is the statute of repose. As a matter of fact, the heading of that section, 106, says "Uniform Time Limitations on Liability." The word "uniform" is right in the heading.

Then you read paragraphs (2) and (3). Paragraph (2) says,

> Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply. . . .

How do the sponsors use the word "uniform" in the title, when in fact they permit diversity, providing it is downward, providing it is more restrictive on the rights of injured parties? That is allowed. The title "uniform" is used, although a patchwork of laws is permitted, providing they are more restrictive than the 15-year limit which is provided for in section 106. How is that for a misleading label? Uniform? There is nothing uniform about it.

My dear friend from West Virginia said this morning that when products cross State lines, it makes no sense for product liability rules to be different from State to State. Well, if it makes no sense for product liability rules to be different from State to State, how does it then make sense to allow States to be more restrictive than the 15-year statute of repose?

They cannot be less restrictive. They cannot give more rights to injured parties, only less. But to use the words of my dear friend from West Virginia, if it makes absolutely no sense for liability rules to be different from State to State, why then are States allowed to move in one direction, to be more restrictive under section 106 and section 108 and a whole host of other sections, but they cannot be less restrictive to persons who are injured?

That is not uniformity. That is uniform unfairness. That is a consistent unfairness. That is a one-way street. That is a one-way preemption.

Let us take a look at some other provisions of the law. Section 108 of the conference report contains a provision entitled, again, "Uniform Standards for Award of Punitive Damages."

Uniform standards. It is not a uniform standard in section 108. When you read it, it says, and this relates to punitive damages:

> Punitive damages may, to the extent permitted by applicable State law—

And then it goes on to say what those punitive damages can be. But State law governs if it is more restrictive. What happens if State law is less restrictive? What happens if State law is more generous to injured parties? What happens if State law is tougher on defendants in terms of punitive damages? That is not allowed. That is preempted. But if a State law is more restrictive, that is, again, allowed.

That is not uniformity, and if it makes sense for product liability rules to be uniform from State to State or, to use the words of the Senator from West Virginia, if it makes no sense for product liability rules to be different from State to State, then it surely makes no sense to allow States to vary from the rule downward to be more restrictive on the rights of injured parties. All they are prevented from doing is to be less restrictive in terms of the rights of plaintiffs and injured parties.

Another section, section 110. Section 110 of the bill contains a provision that limits joint and several liability in product liability suits. The statement of managers explains that this provision is intended to preempt State laws that are more favorable to plaintiffs, but not to preempt State laws that are more favorable to defendants. Here is what the statement of managers says. It says that the House-passed version specified that the section, and here we are talking about the section on joint and several liability, the section—

> . . . does not preempt or supersede any State or Federal law to the extent that such law would further limit the application of the theory of joint liability to any kind of damages.

So this section on joint and several liability, according to the House version, is not intended to limit or preempt or supersede any State or Federal law if that law further limits—further limits—the application of joint and several. That is OK. That is OK in the House version, and then we are told by the statement of managers——

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

Mr. LEVIN. If I could have 30 more seconds.

We are told by the statement of managers that the language that I just quoted reflects the conference agreement's intent. It is not just the House provision, it is the conference agreement's intent.

So, Mr. President, what we have here is not uniformity. We have a one-way preemption in this bill that allows the State in section after section after section to be more restrictive of the rights of injured parties. All that they are preempted and prevented from doing at the State level is being less restrictive on the rights of injured parties.

That is not fair. That is not uniform. It is one of the reasons I will vote against this conference report, because even though you can make out an argument for uniformity, I think there is a good intellectual argument that can be made for uniformity, if it is true uniformity, if it applies both ways, to both plaintiffs and defendants, if it is not just a one-way street that allows States to be more restrictive but not less restrictive. That is intellectually defensible.

Whether you agree with it or not, at least it is consistent, at least there is a coherent logic to it. But to provide, as this bill does, that State laws which are more restrictive are preempted but

not the ones less restrictive, it is unfair, unbalanced, and it is one of the reasons I will vote against this bill.

Let us look at one example of how this one-way preemption provision would work. The bill would override State laws that provide joint and several liability for noneconomic damages. Joint and several liability is the doctrine under which any one defendant who contributed to the injury may be held responsible for 100 percent of the damages in a case, even if other wrongdoers also contributed to the injury.

The sponsors of this bill, and this amendment, have pointed out that there are problems with joint and several liability. In some cases, a defendant who has only a marginal role in causing the damage ends up holding the bag for all of the damages. That doesn't seem fair.

On the other hand, there are good reasons for the doctrine of joint and several liability. Case and effect often cannot be assigned on a percentage basis with accuracy. There may be many causes of an event, the absence of any one of which would have prevented the event from occurring. Because the injury would not have occurred without each of these so-called but-for causes, each is, in a very real sense, 100 percent responsible for the resulting injury.

This bill, however, does not recognize that in the real world, multiple wrongdoers may each be a cause of the same injury. It insists that responsibility be portioned out, with damages divided up into pieces, and the liability of each defendant limited to a single piece. Under this approach, the more causes the event can be attributed to, the less each defendant will have to pay.

Unless the person who has been injured can successfully sue all parties who contributed to the injury, he or she will not be compensated for his entire loss. The real world result is that most plaintiffs will not be made whole, even if they manage to overcome the burdens of our legal system and prevail in court. Isn't it more fair to say that the wrongdoers, each of whom caused the injury, should bear the risk that one of them might not be able to pay its share than it is for the injured party to bear that risk and remain uncompensated for the harm?

The bill before us completely ignores the complexity of this issue with its one-way approach to Federal preemption. States which are more favorable to defendants are allowed to retain their laws. But State laws that try to reach a balanced approach between plaintiffs and defendants would be preempted.

Roughly half the States choose to protect the injured party through the doctrine of joint and several liability. Another half dozen States have adopted creative approaches to joint and several liability, seeking to balance the rights of plaintiffs and defendants.

Let me give you a few examples.

Louisiana law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages; there is no joint and several liability at all in cases where the plaintiff's contributory fault was greater than the defendant's fault.

Mississippi law provides joint and several liability only to the extent necessary for the plaintiff to recover 50 percent of damages, and for any defendant who actively took part in the wrongdoing.

New Jersey law provides joint and several liability in the case of defendants who are 60 percent or more responsible for the harm; joint and several liability for economic loss only in the case of defendants who are 20 to 60 percent responsible; and no joint and several liability at all for defendants who are less than 20 percent responsible.

New York law provides joint and several liability for defendants who are more than 50 percent responsible for the harm; joint and several liability is limited to economic loss in the case of defendants who are less than 50 percent responsible.

South Dakota law provides that a defendant that is less than 50 percent responsible for the harm caused to the claimant may not be liable for more than twice the percentage of fault assigned to it.

Texas law provides joint and several liability only for defendants who are more than 20 percent responsible for the harm caused to the claimant.

All of these State laws are efforts to address a complex problem in a balanced manner, with full recognition of factors unique to the State. To the extent that they are more favorable to the injured party than the approach adopted in this bill, however, they would all be preempted.

On the other hand, other States, which take a more restrictive view of joint and several liability, or even prohibit it altogether, would be allowed to retain their individual State approaches. That just does not make sense.

Mr. President, there is a list of problems in our legal system that we could all go through. Going to court takes too much time and it costs too much money. Some plaintiffs get more than they deserve, while others who suffer injuries may spend years in court but recover nothing at all. As Senator GORTON, one of the lead authors of the bill before us, explained during last year's debate on the Senate bill:

> [T]he victims of this system are very often the claimants, the plaintiffs themselves, who suffer by the actual negligence of a product manufacturer, and frequently are unable to afford to undertake the high cost of legal fees over an extended period of time. Frequently, they are forced into settlements that are inadequate because they lack resources to pay for their immediate needs, their medical and rehabilitation expenses, their actual out-of-pocket costs.

I agree with Senator GORTON that there is unfairness in our current legal system. There is unfairness to defendants in some cases, and there is unfairness to plaintiffs in other cases. However, the conference report before us does not even attempt to address the problems faced by plaintiffs. There is absolutely nothing in this bill to assist those who have been hurt by defective products and face the difficult burdens of trying to recover damages through our legal system.

On the contrary, the bill makes every effort to override State laws which attempt to help the victims of defective products. Only laws that make it harder for the injured party to obtain compensation are permitted. That is not uniform, it is not fair, and I cannot support it.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield such time that the Senator from North Dakota may desire.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate the Senator yielding time. I would like to ask a series of questions about the bill and about one section of the bill specifically.

I voted for this bill and moved the bill to conference. I am inclined to vote for cloture today. But I have reviewed what came out of conference, and one area gives me some concern. I want to go through it with the Senators on the floor, especially Senator GORTON.

There is on page 6 of the bill that the Senate passed an exclusion for the term "product." The bill included on the bottom of page 6 under (ii), the exclusion reading: "electricity, water delivered by a utility, natural gas or steam."

We were clearly deciding that these utilities were not covered as products in this bill.

The bill came back from conference with that provision. However, a new clause was added. The same words existed— "electricity, water delivered by utility, natural gas or steam." This is in the part of the bill which is defining what is excluded from the bill. That is what the Senate passed.

But the conference report comes back with the same words but goes on to say: "except * * *" In other words, we are excluding utilities "except to the extent electricity, water delivered by a utility, natural gas or steam are subject, under applicable State law, to a standard of liability other than negligence."

Forty-four States have such standards; 18 of them have been litigated on the subject of electric utilities. It appears to me that what the conference

has done in this section is added utilities as being covered by this bill. I have asked questions of half a dozen experts in the last 24 to 48 hours, and the answers I get are not satisfying. The answers I get are, "Well, that's what the words say, but that's not what it means." I am assuming courts will say this means what it says, not what someone says it means. So I want to go through a couple of questions.

I ask the Senator from the State of Washington, how is the provision that went into conference different from the provision that came out? When it went in, it said "electricity, water delivered by a utility, natural gas and steam" are excluded. Period. They are not part of this bill. When it came out, it seems to say they are now a part of this bill, which is a major change.

Mr. President, I ask that we might have an interchange. I ask the Senator from Washington if he can respond to that for me.

Mr. GORTON. I can. I would start by referring the Senator from North Dakota back to page 6 of the original bill, the bill that passed the Commerce Committee, on which both of us serve, and passed this body, the Senate, unchanged and to look at the entire subsection (B), entitled "EXCLUSION." The Senator from North Dakota will see in that exclusion.

The term "product" does not include,

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence.

It goes on to say,

[And] (ii) electricity, water delivered by a utility, natural gas, or steam . . .

The next reference that I would make to the Senator from North Dakota is in the Senate committee report on that bill. On page 24 of the Senate committee report on the bill that passed the Senate here, in subsection (ii), the explanation under the term "product" there is, for all practical purposes, word for word this exclusionary language, particularly the last two sentences.

The term does not include tissue, organs, blood and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood and blood products, or the provision thereof, are subject under applicable State law to a standard of liability other than negligence.

In other words, the same word is in the statute.

The term also does not include electricity, water delivered by a utility, natural gas or steam.

There is a footnoted comment. And the footnote reads:

Claims for harm caused by tissue, organs, blood and blood products used for therapeutic and medical purposes are, in the view of most courts, claims for negligently performed services and are not subject to strict product liability. The act, thus, respects State law by providing that in those States, the law with respect to harms caused by these substances will not be changed. In the past, however, a few States have held that claims for these substances are subject to a standard of liability other than negligence, and this act does not prevent them from doing so. Such actions would be governed by the act. Actions involving claims for harms caused by electricity, water delivered by a utility, natural gas or steam are treated in the same manner.

When this went to conference—we had the better part of a year to read through every detail—the proposition, the meaning of this bill, as it passed the Senate, showed up in the proposition that this exception appeared in subsection (i) on page 6. It did not appear in subsection (ii). The same words have now been added to subsection (ii), which simply accords with the committee report interpretation of the language that we passed here in the Senate.

So the fundamental answer at this point to the question that is raised by the Senator from North Dakota is that this change does not change the meaning of the act as it was set out in the committee report to the original Senate bill. State law, in other words, in each of these cases, whether it is tissue or electricity, State law will govern.

If a State passes a law that says electricity is a product, yes, it would be governed. If that State consciously decides to treat electricity as a product, then it would be a product under this bill. But these strict liability States, you know, do not do that. It leaves it entirely up to North Dakota or California or to Washington or West Virginia to make that determination. If it wishes for strict liability, it can impose strict liability. If it wants to call it a product—I do not know of any that do—but if it wants to call it a product, it can bring it up to this bill. That is up to the State.

Mr. DORGAN. You are arguing one of two things. Either you are making the case that utilities are defined as a product under the bill, as originally passed by the Senate, because of a footnote on page 24 of the committee report. In other words, you are saying that utilities would not be excluded from the definition of the term product but, in fact, are covered by this bill. Therefore, what came back from the conference is not a change. That might be what you are arguing. I do not think that is the understanding of most Members of the Senate.

I think, having read what left the Senate on its face—it says on page 6, "EXCLUSION," that is, an exclusion not to be treated as a product includes:

(ii) electricity, water delivered by a utility, natural gas, or steam.

You might be arguing, I think, that although we might have read that as an exclusion, it never really was. Utilities were really going to come under this. We just did not understand the application of the footnote on page 24, or you are making the case now that what has been done in conference has no impact at all on what the language really means. What you are saying then is that utilities are truly excluded, and what you have done comports with the description under "tissues, organs and blood," and your intention is to make sure that utilities are not defined as a product but, in fact, are a service and are, therefore, excluded under the definition section of this bill. I am not sure what you are saying.

Mr. GORTON. I would say the second is correct, with the exception if a State wants to define it as a product and bring it under this bill, they can.

Mr. DORGAN. But that is not what the language says. It says it is excluded unless the State defines it with a standard of strict liability.

I am saying to you that there are 18 States that already have this with respect to electric utility cases alone. Are you saying, the way you have written this, those 18 States have already decided this bill will cover electric utilities? If that is the case, that is a remarkable change from what left the Senate.

Mr. GORTON. I am sorry.

Mr. DORGAN. Let me try it one more time. The Senator is saying the States can make the decision whether utilities are excluded or not. The bill passed by the Senate was very simple. On page 6—it cannot be misread, notwithstanding any other footnotes in some other committee report—it says:

EXCLUSION.—The term [product] does not include—electricity, water delivered by a utility, natural gas or steam.

That is what the Senate passed. I am coming to the floor to ask the question, has that dramatically changed so that in fact utilities are no longer excluded? Did somebody lift up the flap on the tent and utilities snuck in to get a massive exclusion under this bill? If that is the case, then I am very concerned about this. What I am hearing from people is to say, "no, it kind of reads that way, but that is not really the effect of it."

I do not have the foggiest notion of how one relates to the contradiction between how something reads and how someone intended it. That is why I am asking the question of, what is your intent? Is it your intent that just as in the bill passed by the Senate, it is your intent that the exclusion means that utilities will be excluded, period?

Mr. GORTON. I am sorry. Repeat it again.

Mr. DORGAN. Is it the intent, just as in the bill that was originally passed by the Senate, that the exclusion under (B), page 6, would still remain, that electricity, water delivered by a utility, natural gas and steam are, in fact, excluded? They are not products? Is

that the intent of the people that wrote whatever they wrote in this conference?

Mr. GORTON. Well, first I need to say that no outside group came and asked whatsoever.

Mr. DORGAN. I did not say "outside group."

Mr. GORTON. The intent of the conference committee drafters was to see to it that subsection (i) and subsection (ii) read the same way, because we had already described them as having the same meaning in the original Senate bill. There was an inconsistency. There they were described in the Senate bill, conference report, as having exactly the same meaning. So there is a change only to the extent that something was already gone with respect to tissue, organs, and blood.

Mr. DORGAN. But you cannot describe in the conference report what the language means. The language means what it says it means.

My question, first, is, when this language left the Senate, did it mean that utilities were excluded from the definition of products? I thought it meant that. Most Members of the Senate thought it meant that. That is what I think it says. Do you believe that is what it says?

Mr. GORTON. I think that is the case not only with electricity but with respect to tissue, organs, and blood.

Mr. DORGAN. That is fine. I am not interested in those, but I am interested in electricity.

Mr. GORTON. Let me finish. I think it is exactly the same exclusion for both unless a State legislature has determined that they ought to be considered products. That is a privilege that the State legislature has now and retains under this bill.

Mr. DORGAN. That is not what the law says that you are asking us to vote on, as written. You are not talking about whether the State wants to determine if it is a product. You are talking about the question of the standard the State determines, appropriate.

There are certain kinds of things that are very dangerous and high risk that the States determine it wants an elevated standard of liability. It's called a strict liability standard. The way this is written, you are saying that utilities are excluded as products under this bill. They are excluded. They are not involved in this bill, except if a State determines that their standard is one of strict liability, then they are considered as products.

What you have done, you have swept claims against utilities under the bill. My point is, 18 States have already determined that in their courts with respect to claims against electric utilities alone, 14 have permitted strict liability in claims against natural gas utilities and 11 have allowed the same standard of strict liability on water utility cases. The fact is that there have been court cases and legislation on this very point. Thus, it appears it is already determined that claims against utilities are going to fall under the definition of "products" under this bill. I am not trying to be antagonistic. I voted for cloture before, and I voted for this bill on final passage. I want to understand whether somebody decided to bring a big moving van here and move something into this bill that no one on the floor understands. The "moving van" means loading up utility interests and putting it in.

Let me frame it in as simple a way as I can. Is it the intention of those who wrote this when it left the Senate, is it the intention that utilities shall not be considered a product? Is it the intention that the language as written—it says under "exclusion" on page 6 that utilities are not part of this bill. They are not a product. They are excluded, period, end of sentence, just declarative, end of sentence.

If that is the case—I want the answer to that—if that is the case, one says that judgment has not changed, how do we reconcile that with the changed language? That is what I am trying to understand. I am not trying to take up anybody's time or cause trouble. I am trying to understand exactly what this does and means with respect to utilities. I may be putting whoever is listening to sleep, I am sure, but it is very important.

Just parenthetically, while I am asking this question, I think this is one of those interesting issues where there is a little bit of truth on all sides, frankly. I know both sides immediately just separate and say, "Well, you are wrong; we are right," and, "We are wrong; you are right." The fact is there is a little bit of truth on the product liability issue in general. There are too many lawyers in America too prone to file lawsuits. I understand all that. I do not want to injure anybody's rights to redress for grievance in our court system if they get a defective product.

I have advanced this bill because it was narrow enough, to me, and because I thought it was a reasonable approach. When I see the conference report, first of all, nobody pulled this out for us to say this was a change. However, the more I look at it, the more it occurs to me that something has happened here that is of concern. I am trying to understand what it is because you are dealing with a very large industry—the electricity and the utility industry—and something has changed this definition.

So, I know that the Senator from South Carolina wanted to ask a question, but I have the two questions I want to ask: First, is it the understanding of the folks that wrote this when we originally dealt with it in the Senate that the exclusion—very straightforward on page 6—meant that we were excluding utilities? End of the story. That was my notion. I voted for it. Was that the notion that everyone else had who wrote this? It is pretty hard to misread it. Even if you have page 24 of the conference report, it is not hard to misread what it says. It says:

EXCLUSION.—The term "product" does not include electricity, water delivered by utility, natural gas or steam.

Is your understanding the same as mine, that under that bill utilities were excluded? They were not to be considered products for this bill? I ask the Senator from Washington.

Mr. GORTON. My understanding was that it was the meaning as is stated in the conference committee report of the original bill that they were excluded unless the State had defined them as a product and had subjected them to strict liability. That was the meaning of the original bill and the meaning of this bill.

Mr. DORGAN. But the original bill was not written that way or understood that way by this Senator.

Is it your understanding there are many States that have adopted a standard of strict liability, which would mean that the way you interpret the provision in the original bill would redefine utilities as a product and provide for utilities protection under this bill?

Mr. GORTON. Do I have a specific understanding of that or can I name the States? I would have to answer the question "no." The committee report, which I believe to be accurate, says that most of the courts in most States treat these matters as matters that are subject to a negligent standard, not to a strict liability standard. Certainly there are some States treating them as strict liability.

Mr. DORGAN. But those who do adopt a strict liability standard, because these are kinds of activities that have a potential for greater danger and so on, is it the intention of those who have authored this to say for those States that adopted that standard of strict liability that we will offer protection of the utility industry under this bill?

I think, frankly, that is a substantial departure from what most people in this Senate would understand. I had thought originally some, incidentally, whom I have consulted with in the last 2 days or day on this, they say, "No, you do not understand this. We do not really mean utilities fall under this bill." That is comforting to me, except the language seems at odds with that.

I think what Senator GORTON is saying is the way I read it, that those many States who have decided on the standard of strict liability—and there are many of them—will be told by this piece of legislation that utilities, for them, will now be a product whose interests will be protected by the limitations in this bill, and I daresay, I do

not think there are two Senators on the floor of the Senate that understand that to be the case.

Can you respond to that? I am not trying to cause trouble for you. I want to understand exactly what we are doing.

Mr. GORTON. The answer to the question of the Senator from North Dakota is that in such States, such States are subject to the restrictions of this bill, exactly as they were under the intention of the bill as it was originally passed by the Senate Commerce Committee and by the Senate itself, as is evidenced by the Senate committee report, and that the change in the statutory language was simply to conform the statutory language with the intention expressed in the committee report.

Mr. DORGAN. We are both on the Senate Commerce Committee. I ask, do you think it was or is the intention of the Senate Commerce Committee to provide protection for utilities under product liability?

Mr. GORTON. Under the same circumstances that it would provide it for any other similarly situated organization, providing product liability provides it for any manufacturer, or for that matter, distributor, no matter how large or how small.

The direction of the bill, the direction of a product liability bill is to provide a degree of predictability and a protection of the consumer interest for the producers of goods—not services in this case—goods. If this is the description that a State uses for its utilities, yes, the committee did intend to provide exactly that protection, and that is exactly what the committee report says.

Mr. DORGAN. Well, the bill that we passed in the Senate Commerce Committee that came to the Senate floor that I supported said this, and said only this; it had no caveats, no exception, no exclusions. It said on page 6, "EXCLUSION. The term 'product' does not include electricity, water delivered by utility, natural gas or steam."

The answer I am hearing from the Senator from Washington now is that you would have had to understood more than this language in order to understand the importance of it, because you are saying that this really meant except those 44 States, 18 of whom already had court cases on the issues of standard of strict liability on electric utilities. Those that adopt a standard of strict liability will find that utilities in their States have their products or their services defined as products in this bill.

There is something wrong here. There is something that does not connect. I am trying to understand, because I have been a supporter, and I am trying to understand what does not connect here. What are we trying to avoid by including the exception? I come from a school of nine people in my graduating class, and we did not have the highest math there or advanced reading, but I understand what I read, and it says, "the term 'product' does not include electricity, water delivered by utility, natural gas or steam." Period, end of story.

I voted for that. I say I agree with that. Utilities are not covered as products because they are in the section called "Exclusion." Now I am hearing a description that says, "No, you only read what was in the law. There was something else behind it." So I am just trying to understand where we are. If someone can enlighten me. Where are we with respect to utilities?

Mr. HARKIN. Will the Senator yield for a question?

Mr. HOLLINGS. Will the Senator yield?

Mr. DORGAN. I guess. I do not know that you will enlighten me.

Mr. HARKIN. I have never heard of this. Can I ask a question?

Mr. DORGAN. Well, who has the floor, Mr. President?

The PRESIDING OFFICER (Mr. JEFFORDS). The time is under the control of the Senator from South Carolina.

Mr. HOLLINGS. I will yield on my own time just a minute. I say to Senator DORGAN, he is right on target. In the zeal to avoid using what is intended—namely, the expression of strict liability and nuisance—for utilities, as put in the juxtaposed position in this language, where you have two exceptions, almost like a mathematical case of two negatives making a positive. Yes, positively, utilities are covered, wherein they have strict liability on nuisance tests. I have here in my hand a majority of States that do have it.

I ask unanimous consent to have this printed in the RECORD.

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

THE FOLLOWING CHART INDICATES WHERE A CAUSE OF ACTION UNDER STRICT LIABILITY CAN BE BROUGHT BY AN INJURED PARTY

State	Natural Gas	Electricity	Water
Alabama			
Alaska			State Farm v. Municipality of Anchorage, 788 P.2d 726, 729.
Arizona	Mast v. Standard Oil Co., (1983) 140 Ariz 19; 680 P.2d 155		Ramada Inns., Inc. v. Salt River Valley Water Users' Assn', 523 P.2d 496, 498–99 (Ariz. 1974).
California	Davidson v. American Liquid Gas Corp. (1939) 32 Cal App 2d 382, 89 P2d 1130.	Pierce v. Pacific Gas & Electric Co. (1985, 3d Dist) 166 Cal App 3d 68, 212 Cal Rpt 283, CCH.	Transamerica Insurance Co. v. Trico International Inc., (1985) 149 Ariz. 104; 716 P.2d 1041.
Colorado	Blueflame Gas, Inc. v. Van Hoose (1984, Colo) 679 P2d 579	Smith v. Home Light & Power Co., (1987, Colo) 734 P2d 1051, CCh.	Barr v. Game, Fish & Parks Comm'n, 497 P.2d 340, 343 (Colo. Ct. App. 1972). Garnet Ditch & Reservoir Co. v. Sampson, 110 P. 79, 80–81 (Colo. 1910).
Connecticut	Dunphy, et al vs Yankee Gas Services Co., (1995) Conn. Super. Docket No. CV94–0246428S.	Carbone v. Connecticut Light & Power Co. (1984) 40 Conn Supp 120, 482 A2d 722	
Delaware		Does not recognize strict liability in Tort For Products Liability Actions	
District of Columbia			
Florida			
Georgia			
Hawaii			
Idaho			
Illinois	Decatur & Macon County Hospital Asso. v. Erie City Iron Works (1966, 4th Dist) 75 Ill App 2d 144, 220 NE2d 590.	Troszynski v. Commonwealth Edison Co., 356 N.E.2d 926. 923 (Ill. App. Ct. 1976) Genaust v. Illinois Power Co. (1976) 62 Ill 2d 456, 343 NE2d 465. Cratsley v. Commonwealth Edison Co. (1976, 1st Dist) 38 Ill App 3d 55, 347. Elgin Airport Inn, Inc. v. Commonwealth Edison Col. (1980, 2d Dist) 88 Ill App 3d 477	
Indiana	Southern Indiana Gas & Electric Co. v. Indiana Ins. CO. 91978) 178 Ind App 505, 383 NE2d 387.	Petroski v. Northern Indian Public service Company (Ind. App. 1979) 396 N.E. 2d 933 Public Service Indian, Inc. v. Nichols (1986, Ind App) 494 NE2d 349 Hedges v. Public Service Co. (1979, Ind App) 396 NE2d 933.	
Iowa	Pastour v. Kolb Hardware Inc. (1969, Iowa) 173 NW2d 116. Koppinger v. Cullen-Schiltz & Associates (1975, CA8 Iowa) 513 F2d 901. Kellar v. Peoples Natural Gas Co., (1984) 352 N.W.2d 688.		
Kansas	.Worden v. Union Gas System, Inc. (1958) 182 Kan 686, 324 P2d 501 Williams v. Amoco Prod. Co., 734 P.2d 1113, 1121–23 (Kn. 1987)		
Kentucky		Bryant v. Tri-County Elec. Membership Corp., 844 F. Supp. 347, 351.	Winchester Water Works v. Holliday 45 S.W.2d 9, 10–11, (Ky. 1931).
Louisiana	American secur. Ins. co. v. Griffith's Air Conditioning (1975, La App 3d Cir) 317 So 2d 256.	Sessums v. Louisiana Power & Light Co. (1981, CA5 La) 652 F2d 579 cert den 455 US 948, 71 L Ed 2d 661, 102 S Ct 1448	

THE FOLLOWING CHART INDICATES WHERE A CAUSE OF ACTION UNDER STRICT LIABILITY CAN BE BROUGHT BY AN INJURED PARTY—Continued

State	Natural Gas	Electricity	Water
Maine			
Maryland	Dudley v. Baltimore Gas & Elec. Co., 98 Md. App. 182, 632 A.2d 492.	Voelker v. Delmarva Power & Light Co., 727 F. Supp 991, 994	
Minnesota			
Mississippi			
Missouri	McGowen v. TriCounty Gas Co. (1972, Mo) 483 SW2d 1 Crystal Tire Co. v. Home Service Oil Co. (1971, Mo) 465 SW2d 531	Hills v. Ozark Border Electric Cooperative 91986, Mo App) 710 SW2d 338.	Amish v. Walnut Creek Dev., Inc. 631 S.W.2d 866, 871 (Mo. Ct. App. 1982) Covington v. Kalicak, 319 S.W.2d 888, 894 (Mo. Ct. App. 1959)
Montana			
Nebraska		Rodgers v. Chimney Rock Public Power Dist. (1984) 216 Neb 666, 345 NW2d 12	
Nevada			
New Hampshire			
New Jersey		Aversa v. Public Service Electric & Gas co., 186 N.J. Super, 30, 451 A.2d 976 (1982) Huddell v. Levin, 537 F.2d 726 (3 Cir. 1976)	
New Mexico			
New York		Farina v. Niagara Mohawk Power Corp. (1981, 3d Dept) 81 App Div 2d 700, 438 NYS2d 645.	Pixley v. Clark, 35 N.Y. 520, 531 (1866)
North Carolina		Does not recognize strict liability in Tort For Products Liability Actions	
North Dakota			
Ohio		Otte v. Dayton Power & Light Co., (1988) 37 Ohio St 3d 33, 523 NE2d 835	
Oklahoma			
Oregon	McLeane v. Northwest Natural Gas Co., 467 P.2d 635 (Or. 1970).		Union Pac. R.R. v. Vale, Oregon Irrigation Dist., 253 F. Supp. 251, 257–58 (D. Or. 1966).
Pennsylvania		Schriner v. Pa. Power & Light Co. 501 A.2d 1128, 1134 Pa. Super. Ct. (1985) Carbone v. Connecticut Light & Power Co., 40 Conn Supp 120, 482 A2d 722 (1984) Smithbower v. S.W. Cent. Rural Elec. Co-op., 374 Pa. Super. 46, 542 A.2d 140, appeal denied 521 Pa. 606	
Rhode Island			
South Carolina		Priest v. Brown 91990, SC App) 396 SE2d 638	
South Dakota			
Tennessee			
Texas	Smith v. Koening (1965, Tex Civ App) 398 SW2d 411	Houston Lighting & Power Co. v. Reynolds; (1986) Tex App Houston (1st Dist)) 712 SW 22d 761.	Anderson v. Highland Lake CO., 258 S.W. 218, (Tex. Ct. App. 1924). Texas & Prac. Ry. v. Frazer, 182 S.W. 1161, 1162 (Tex. Ct. App. 1916).
Utah			Zampos v. U.S. Smelting, Ref. & Mining co., 206 F.2d 171, 176–77 (10th Cir. 1953).
Vermont			
Virginia		Does not recognize strict liability in Tort For Products Liability Actions	
Washington	Zamora v. Mobil Corp. (1985) 104 Wash 2d 199, 704 P2d 584 New Meadows Holding Co. v. Washington Water Power Co., 687 P.d 212, 216 (Wash. 1984)		Johnson v. Sultan Ry. & Timber Co., 258 P. 1033, 1034–35 (Wash. 1927).
West Virginia			
Wisonsin		Ransom v. Electric Power co., (1979) 87 Wis 2d 605, 275 NW2d 641. Koplin v. Pioneer Power & Light Co. (1990, App) 154 Wis 2d 487, 453 NW2d 214.. Kemp v. Wisconsin Electric Power Co. (1969) 44 Wis 2d 571, 172 NW2d 161.	
Wyoming		Wyrulec Co. v. Schutt (1993, Wyo 866 P2d 756.	

Mr. HOLLINGS. I reserve the remainder of my time.

Mr. DORGAN. Mr. President, let me continue to inquire. I will not take much more time. I still do not understand the answer. Is the answer that the utilities essentially are providing services and are therefore not covered as products under this bill?

If that is the case—and that is what I thought was the case—then fine. But there is extra language here, where there needs to be a record in the Senate, that says here is exactly what this legislation means. If we have a circumstance where we are saying in 44 districts they have strict liability, the services of a utility are now put under the entire provisions of this law, that is a substantial change.

Mr. GORTON. Let me summarize a response to the general concern expressed by the Senator from North Dakota. Generally, at least in common law, the provision of electricity has been considered a service. The provision of the service is not governed by strict liability. Strict liability is a concept that applies to products.

A number of States have determined that there should be a standard of strict liability applied to electricity and, for that matter, to the delivery of blood, the subjects of the first subsection of that section. If a State treats as a product the delivery of electricity, or the supply of blood, and subjects it to strict liability, it is subject to the provisions of this act. It was meant to be subject to the provisions of this act by the bill as it was reported from the Commerce Committee. It is included as a part of the Commerce Committee report. It was noticed simply by someone on the staff that, for some reason or another, subsection (2) omitted the language that was in subsection (1), and it was added during the course of the drafting of the conference committee report. That was not intended to create any difference in the way in which the bill would have been interpreted, in any event. It was intended to bring it into conformity with the committee report, and it has done so. But if the fundamental question of the Senator from North Dakota is, if a State imposes strict liability under these circumstances and treats electricity as a product, it is subject to those provisions, and I say ought to be.

Mr. DORGAN. Imposing strict——

Mr. GORTON. If I can say one other thing, obviously, this question did not come up during the long debate we had a year ago. If it had, to the best of my ability, I would have answered the question of the Senator the same way I am answering now. That is what was meant. Had I memorized this footnote at the time? No, I had not. I would have had to refer to it, but I would have come up with the same answer.

Mr. DORGAN. The State deciding to adopt strict liability with respect to a utility does not put it in the category of products. I do not understand the mixing of the two.

Let me take it one step further then. If that is the case, what would the logic be in saying to a State that because it decides to impose a standard of strict liability on utilities—because potentially you have some very hazardous kinds of circumstances that can exist with respect to electricity, steam, natural gas, and so on. But because a State decides to impose strict liability on that, what would be the logic of saying, by the way, you decided to do that, therefore, we will put the utilities under the protection of this law. I do not understand the logic of attaching that.

Mr. GORTON. Exactly the same logic that applies to the entire bill. If the utility manufactured a toaster, which is clearly a product, and gave it as a bonus to its customers, that product would be subject to this bill. The whole

logic of the bill is to provide a degree of predictability to the law from State to State, which does not exist at the present time. That logic is every bit as applicable to a utility as it is to General Motors or to a small business that is engaged in retail sales.

Mr. DORGAN. Mr. President, I will not take this further. But I say there is a substantial difference between utilities and toasters. The reason I supported the bill is I think there has been too much litigation in this country; some of the litigation is totally inappropriate. I supported it on that basis, to create a reasonable response without abridging the rights of the people who want to sue, yet trying to reduce the number of lawsuits in our country. I felt that was appropriate.

I am surprised at the description of what the exclusion means on page 6 of the bill, as originally passed in the Senate. The answer to the question I am asking this afternoon is that the new language in the conference report does not alter what the old language intends to do. It was so clear on its face. It says "exclusions." The term "product" does not included electric and water delivered by utility, natural gas, or steam—period, end of section, end of story. There is nobody in my hometown who could misread this. And I did not misread it, I do not think.

The answer now, I guess, is that the added language of that section does not change the intended section because the section was intended to mean something that did not comport with the way it was read.

So I guess legislation is a strange process. I am trying to understand what exactly does this bill do as we move along. There is plenty in the bill I am satisfied with. I commend those who have created some provisions of this bill that I think advance the interests most of us want to find common interest on. But I think it is obvious from the discussion that there is a substantial amount of misunderstanding about what this exclusion means with respect to utilities.

Mr. GORTON. Let me try one other approach to this subject because it applies equally to the two subsections of this section. The whole concept of many of these damages, especially punitive damages, is a concept that is based on a company doing something wrong—in our case, and from some of the definitions, egregiously wrong. It is based on negligence or gross negligence. When a State or a given organization is subject to a standard of strict liability, it is liable for all of the damages that it causes to an individual—in this case, using whatever it is that the company produces, regardless of whether it is negligent or not. It may have engaged in the highest standard of safety available for such an organization. Yet, a legislature or a Congress has determined that, for some reason or another, the whole cost, all of the damages created by that organization, ought to be imposed on the organization, without regard to its having done anything wrong. That is what strict liability means.

You do not have to prove negligence or that there was anything wrong at all with what the particular organization did. You are still going to hold it liable. Well, that is the reason for the first subsection. Under those circumstances, it seems quite logical that you are not going to be required to pay for more than the damages that were actually created.

Mr. DORGAN. If I may finally say, you are absolutely correct about strict liability. But the reason for the standard of strict liability is that there are some kinds of activities that are sufficiently dangerous and contain sufficient risks that a strict liability standard has been determined to be in the public interest.

What I think you are saying is if, in the case of utilities, a State determines that a strict liability standard is appropriate, that is the same as a State defining a utility as a product. There is no relationship between the standard and the product. I think most of us believe——

Mr. GORTON. But it seems to me, I say to the Senator from North Dakota, there is a relationship between the standard and what kind of damages ought to be allowed over and above the actual losses suffered by the victim.

Mr. DORGAN. That is a different issue. The issue is under exclusion. The term "product" does not exclude what? The Senate has determined a product does not exclude utilities—the Senator has been patient. I am trying to understand exactly the consequences of this legislation. It is, while a boring subject for some, nonetheless a very important subject with a lot at stake for the American people.

Last evening, I read a fair amount about this. It is not fun reading. It is not a page-turner. But while I was struggling through it, I was trying to understand exactly what we have done and what the consequences will be. I personally think there is room for product liability reform, and I have voted that way and likely will continue to. I am very concerned about that, and I will continue visiting with the Senator about it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield 15 minutes to the distinguished Senator from Iowa.

Mr. HARKIN. I thank the Senator. I have listened very carefully to the preceding colloquy, and I must say that I read both the House and the Senate version of that, and I read what came in afterward in the conference report. Quite frankly, I was opposed to this bill before, and now even more so, because I think it is clear what happened in conference.

As we have said now, 44 States, as I understand it, have strict liability laws. Now those utilities will come under the purview of this bill and, therefore, it will cap damages to the extent that it is my understanding now that, under this bill, for example, the Seminole pipeline and natural gas facility in Texas, exploded in 1992, killed three, injured a lot, caused a lot of damage in two counties, and a jury awarded $46 million in punitive damages. It is my understanding that now, under this bill, that will not be able to happen after this.

So I thank the Senator from North Dakota for bringing that out. I had not focused on that before.

Mr. President, I want to say that the debate over product liability has been clouded by misinformation and anecdotal evidence, which is substituting for a careful consideration of the facts.

Mr. President, you know, every time a jury is impaneled, they are told by a judge they should consider only the facts, not hearsay, not speculation, but only the facts. Well, Mr. President, we are sort of sitting as a jury here. We ought to consider the facts. But what we have before us in this legislation—what we are hearing is hearsay, speculation, and a distortion of the truth. If, in fact, this Senate finds in favor of the conference report, and we were a jury, the judge would be well within his purview to dismiss the jury for not adhering to the instructions of the court and following the facts of the case.

It is wrong for a jury to decide on anything other than the facts, and it is wrong for us to legislate based on anecdote and misinformation, but that is what we are doing. This is not commonsense reform. This is nonsense regression. This bill ought to be called the caveat emptor bill of 1996, throwing us back to the old days when it was buyer, beware. If you bought something and it hurt you, tough luck—buyer, beware. That is what this bill is about. It turns back the clock years.

In the midst of all the legalese, it is hard to sort out what is really at stake here. It is really very simple. We are talking about people's lives. We are talking about their health, and we are talking about their happiness and about families.

This bill is about as antifamily, antihuman rights as I have ever seen. What the bill does is places economic worth on a higher plateau than individual work. I find that totally objectionable.

We have heard a lot of words about the need to promote values of greater responsibility and accountability. If you believe in those values, you ought to oppose this bill because it absolves wrongdoers from responsibility and does not hold them fully accountable for their actions.

We have heard a lot of talk about sending more power to the States. If you are for that, you ought to oppose this because this puts power in Washington. We have heard a lot of talk on the floor about putting more power in the hands of the people. If you believe in that, you ought to oppose this legislation because this takes power out of the hands of citizens and juries and puts it in the hands of big Government. Plain and simple, this bill is big Government, big business, and it is a big mistake.

Now, of course, most businesses do not set out to harm consumers with their products. Obviously not. But sometimes faulty products do make it to the market, and sometimes they make it to the market through carelessness or through sheer disregard of the public safety by those manufacturers. Sometimes people get hurt and die because of it. In the zeal to pass this conference report, let us not pass over the victims. There is a lot of talk about the victims. Let us talk about the victims—the children severely burned by highly flammable pajamas, women who die from toxic shock syndrome, women with silicone breast implants who have now lupus and scleroderma.

Again, I want to make it clear that most businesses are responsible. Most businesses take due care and concern. But there are those who do not. The current product liability system is based on a fundamental premise that we want to make sure that people—average citizens of this country—have the assurance that when they buy a product, when children consume a product, when they travel on our highway, they can be reasonably certain that what they are using, consuming, or buying is not going to harm them.

Part of that is our responsibility, and that is why we have health and safety and food inspection laws. That is why we have left untouched in our country the common law that we inherited from Great Britain that goes back several hundred years, the concept of tort feasor, the concept that someone must take due care or concern that his actions do not harm others, and if they do, that person must be held accountable and responsible. Those are the core values embodied in our Nation's laws. It is the essence of the common law. It goes back several hundred years.

My friend from North Dakota said we have too many lawyers in this country. I do not know about that, but I do believe that more knowledge of law and a love and respect of law—and especially the common law that we have inherited—makes us a more decent and a more law-abiding citizenry. That is what we are forgetting here. We are forgetting the history of tort feasance. For the life of me, I do not understand how people argue about we ought to be personally responsible and now saying we do not have to follow that admonition.

With this legislation, we all know that punitive damages awarded for grossly negligent behavior are capped. But in their efforts to make the product liability system uniform across the United States, supporters have fashioned a one-way preemption: This legislation strikes down only those aspects of State law that give citizens more protection from defective products. That is a one-two punch.

The bill passed by the Senate last year was bad, and this conference report is worse. It is far more extreme. It preserves some of the worst provisions of the Senate bill, like the elimination of joint and several liability and the cap on punitive damages, and expands other areas resulting in a bill that is the consumers' worst nightmare.

Let me talk for a couple of minutes about the elimination of joint and several liability for noneconomic damages. Again, it violates the golden rule of responsibility and accountability. You do not have to worry about being accountable and making sure the victim is wholly compensated unless the victim has a high-paying job. The Senator from Louisiana talked about that earlier. Eliminating joint and several liability for noneconomic damages eliminates the protections particularly for women, children, and elderly, because noneconomic losses constitute a greater proportion of their total losses.

So, again, this bill is antiwomen, it is antichildren, and it is antielderly. I do not understand that. We are supposed to be for individual workers. And, yet, what this says is that if you have a high-paying job, you are worth more than a child or worth more than an elderly person who has been a homemaker. You are worth more than they are.

Under current law, joint and several liability enables an individual to bring one lawsuit against the companies that are responsible for the manufacture of a dangerous, defective product and have the defendants apportion fault amongst themselves if the jury finds for the plaintiff. Under joint liability, victims are compensated fully for their injuries even if one or more of the wrongdoers is insolvent.

Our civil justice system is founded on the principle that the victim deserves the greatest protection. This bill turns that basic value on its head. It says we should protect the wrongdoer. This bill says they deserve protection.

Mr. President, consider one case, the Claassen family of Newhall, IA. Bill, Jeanne, his wife, and their 4-year-old son, Matt, were returning home from a family gathering on November 6, 1993, in their 1973 Chevrolet pickup. Another driver failed to stop at a stop sign and rammed into the passenger side of their pickup at a speed of about 30 miles an hour. Eyewitnesses confirmed that the Claassen's pickup immediately burst into flames on impact. The flames raced up the outside of the passenger door and engulfed Jeanne Claassen's face in flames.

The Claassen's son, Matt, was seated between Bill and Jeanne in the pickup. Bill struggled to get Matt out of the truck before returning to rescue his wife. He was unable to rescue her and was convinced that she had died in the fire. Witnesses who arrived on the scene immediately after the collision heard Bill telling his son that his mommy had died and gone to heaven.

Jeanne Claassen survived and is still recovering today. Her face and head permanently disfigured, she has not been able to return to her job as a medical technician. They are reluctant to take her back because of her appearance. She continues to undergo painful surgery to regain some semblance of her former self. Her young son Matt often relives that nightmare in his school drawings, once drawing an igloo engulfed in flames. He sometimes has trouble relating to the different way his mother now looks.

The Claassens are currently in litigation to recover damages from the two parties involved in this accident, the driver of the other car and the General Motors Corp. that manufactured the truck.

The driver of the other car has no personal assets, and her insurance will only cover some of Jeanne's many continual medical expenses. General Motors has been under criticism for refusing to recall the 1973 and later models of the C/K pickups. These model trucks have the fuel tanks outside of the frame rail of the vehicle, making them more susceptible to the type of accidents like Jeanne Claassen's.

By eliminating joint and several liability for noneconomic damages, this legislation will make it potentially more difficult for Jeanne Claassen to be compensated for her loss if the court rules in her favor. The driver of the other car is insolvent, and once the insurance money runs out, GM will not necessarily have to chip in to cover expenses. But Mrs. Claassen's pain and suffering will continue.

This legislation says that it really does not matter about her, it does not matter about the exploding fuel tank when awarding noneconomic damages. If one of them cannot pay, if one of the defendants cannot pay, we will just stick it to Mrs. Claassen. But—and here is the rub in this bill—if Mrs. Claassen was a CEO making millions of dollars a year for a major corporation, this bill would not hesitate to take care of her economic losses. She does not have a big economic loss, but she has personal losses. She has pain and suffering. She has a lot of loss in her life. This bill says, tough luck. If she had been the CEO of a major corporation making 20 million bucks a year,

this bill would have been for her. But not for this Mrs. Claassen. What kind of discrimination against human beings are we about to engage in if we approve this conference report?

Mr. President, there are a lot of things I object to in this bill, but that is what I find most objectionable—economic losses are more important than human losses, pure and simple. If you have money, this bill is for you. But if you suffer the loss of consortium, if you suffer the loss of one of your family, pain and suffering, disfigurement, sorry, you are out of luck. Under this bill, Mrs. Claassen would be out of luck.

The elimination of joint liability for noneconomic damages forces our legal system to make a value judgment based upon your economic worth, and that is why this bill is so antiwoman and antifamily.

Last, let me just talk about capping punitive damages. I think I heard earlier the Senator from Connecticut saying $250,000 is a lot of money.

Mr. President, I have here a list of the amount of money made by CEO's of our major corporations. I figured out how long it would take to reach the cap of $250,000.

The CEO of Boeing makes $1.4 million a year. It would take 9 weeks of his salary to reach this cap. Do you think that is going to be a deterrent to Boeing? IBM, it would take 5 weeks. Sears & Roebuck, it would take 1 month. That is not a deterrent.

When this bill first came to the floor, in good faith I offered an amendment which I thought would tend to balance things out. I am opposed to caps, but I said if you are going to have a cap, let us put the cap at twice the annual compensation of the CEO of the corporation. That way it protects small businesses because, if you are a CEO of a small business, you do not have much money every year so you would have less exposure, but if you are a CEO making $20 million a year, well, then twice that would be the limit on the cap.

I lost on that amendment, but to me it still makes better sense than what we have in this bill of saying $250,000 or twice the compensatory damages, whichever is greater. This defeats the purpose of the deterrent effect of the product liability laws. They have made a difference. Ford Motor Co. redesigned the Pinto only after a $125 million lawsuit was awarded in which a 13-year-old boy was severely burned when the Pinto he was riding in burst into flames.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. HARKIN. Yet evidence showed Ford Motor Co. knew it was a faulty design, but they went ahead anyway because they said it would cost less to have to pay it out in damages than to redesign the car.

Mr. President, what this bill does is it lets those tort feasors off the hook.

I know my time is up. I could go on and on. Quite frankly, we should not say that simply because you make a lot of money you are going to get awarded more damages, more punitive damages will be assessed against someone if you make more money than if you are a homemaker or a child or an elderly person. That is discrimination of the worst sort.

I hope and I trust we will not invoke cloture on this bill and that we can continue to abide by the principles of individual work and responsibility and accountability in our country.

I thank the Senator for yielding me this time.

The PRESIDING OFFICER. Who yields time?

The majority manager is recognized.

Mr. GORTON. Mr. President, I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first of all, in connection with the remarks of the distinguished Senator from Iowa, I point out there is an additur provision in this bill dealing with punitive damages. I do not want to debate that whole thing here; I only have 10 minutes, but I would stress that point of which perhaps the Senator was not aware.

Mr. President, yesterday, I briefly outlined the history of this legislation, which represents now 15 years—15 years; that is a long time—we have been debating this liability reform act. It started in 1981 when Senator Kasten, of Wisconsin, introduced the first bill.

Finally, here we are today with a fair and a reasonable bipartisan bill that not only has passed both Houses but did so with strong majorities. The House approved a broader bill, not this one but a broader one, which I presume those on the other side would find more offensive. They passed that 265 to 161, a very substantial majority. In the Senate, the bill that we passed had 61 votes in support of it, 61 out of 100.

So with a track record like that, you might think product liability reform would soon become law. But here we are faced with two major obstacles, a cloture vote this afternoon to protect against further filibustering on this issue, and, worse than that, a newly raised threat of a Presidential veto. If this bill does not make it past the procedural hurdle of cloture, or if the President does not reconsider his threat of a veto, this bill will not become law.

To be prevented from succeeding at this point, I must say, is particularly galling. After all, I suspect that this bill has seen more roadblocks in the last 15 years than any other bill we have seen here. Indeed, I venture to guess that product liability has been subject to more cloture votes than any other subject. There were 2 cloture votes in 1986, 3 in 1992, 2 in 1993, 4 in 1995, for a total of 11 cloture votes in all. Yet, it seemed in this new Congress we were going to win it; once and for all this gridlock would be ended.

Drafting of this bill was a bipartisan effort right from the beginning. It is not a Republican bill; it is a Republican-Democratic bill, a bipartisan bill. The White House was well aware of what was going on. The White House watched closely as the Senate took up the bill and began adding amendments. It is my understanding that it was the administration, during the Senate debate in May, that quite helpfully suggested the addition of the so-called additur provision to the final version.

So, as I say, it went sailing through here, 61 to 37. What happened to change the White House's attitude? Did the bill change dramatically in conference from what went through here in the Senate? The answer is, hardly at all. It was clear to all that the House's broad tort-reform bill would not be approved by the administration. Therefore, to their credit, the conferees, representatives from the House and representatives from the Senate meeting together, decided to stick closely to the Senate version that had passed so overwhelmingly and that seemed to have White House support. So the bill that we will vote on today, or the bill that we are dealing with, is virtually identical to the Senate-passed bill that won such strong approval.

I do not know why the President appears to have changed his mind. I cannot believe he is personally opposed to a Federal liability law for, as a Governor, as Governor of Arkansas, the President sat on the National Governors' Association committee that drafted the first National Governors' Association resolution dealing with Federal liability reform.

Here we have a copy of the letter from the President to Senator DOLE setting forth the reasons for the veto.

I ask unanimous consent the letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CHAFEE. We are told it is an "unwarranted intrusion on State authority." Yet, the National Governors' Association enthusiastically supports this measure.

We are told the bill would "encourage wrongful conduct because it abolishes joint liability." But joint and several liability, it has been pointed out, applies still to economic damages.

The letter accuses the bill of "increas[ing] the incentive to engage in the egregious conduct of knowingly manufacturing and selling defective products." I do not find this charge makes much sense. Then it goes on to

say that the "additur" provision the White House itself put in here, the provision being that the judge himself can increase the punitive damages—the White House had a hand in drafting that—now they say that is not adequate.

So I do not think any of these three statements that the President has in his letter represents what this conference report really would do. I think that is very, very unfortunate.

To my judgment, this bill is sound and reasonable. Under the bill, those who sell but do not make products—sell the products but not necessarily having made them—are liable only if they did not exercise reasonable care. If they offered their own warranty and it was not met, or if they engaged in intentional wrongdoing, obviously they will be liable. But they cannot be caught up in a liability suit where they did nothing wrong. I do not see much trouble with that.

If the injured person was under the influence of drugs and alcohol and that condition was more than 50 percent responsible for the event that led to the injury, the defendant cannot be held liable.

If plaintiff misused or altered the product—this is the one we see so often in the area I come from, people have altered machinery and equipment that they have purchased—in violation of the instructions or warnings to the contrary, or in violation of just plain common sense, then the damages are reduced accordingly. I just cannot understand why we ought to blame the manufacturer for behavior that everyone knows would place the product user at risk. That does not seem fair to me. Does that not contradict our notion of an individual's personal responsibility? The person has to have some sense of responsibility here.

The bill allows injured persons to file an action up to 2 years after the date they discovered or should have discovered the harm and its cause. For durable goods, the actions may be filed up to 15 years after the initial delivery of the product. These also seem to me to be fair.

Either party may offer to proceed to voluntary, nonbinding, alternative dispute resolution.

The most controversial element of the bill, I suppose, is the punitive damages. I remind my colleagues that these damages are separate and apart from compensatory damages. The compensatory damages are meant to make the injured party whole. The punitive damages are awarded where there is "clear and convincing evidence" proving "conscious, flagrant indifference to the right of safety of others." The amount of punitive damages may not exceed two times the amount awarded for compensatory loss or $250,000, whichever is the greater.

Again, I must say I have had trouble with punitive damages for a long time. I have great difficulty understanding the basis of that; certainly that the punitive damages go to the plaintiff instead of the State for retraining of those who are committing the errors. It might be manufacturers, it might be physicians, whatever it is. But I have great difficulty understanding why in the world punitive damages should go to the plaintiff.

In conclusion, I pay my compliments to Senators ROCKEFELLER, GORTON, PRESSLER, and LIEBERMAN for the work they have done on this. I certainly urge the President to reconsider his position and join the bipartisan coalition supporting this very important legislation.

I urge him to sign this bill into law.

EXHIBIT 1

THE WHITE HOUSE,
Washington, March 16, 1996.

Hon. BOB DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: I will veto H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996, if it is presented to me in this current form.

This bill represents an unwarranted intrusion on state authority, in the interest of protecting manufacturers and sellers of defective products. Tort law is traditionally the prerogative of the states, rather than of Congress. In this bill, Congress has intruded on state power—and done so in a way that peculiarly disadvantages consumers. As a rule, this bill displaces state law only when that law is more beneficial to consumers; it allows state law to remain in effect when that law is more favorable to manufacturers and sellers. In the absence of compelling reasons to do so, I cannot accept such a one-way street of federalism, in which Congress defers to state law when doing so helps manufacturers and sellers, but not when doing so aids consumers.

I also have particular objections to certain provisions of the bill, which would encourage wrongful conduct and prevent injured persons from recovering the full measure of their damages. Specifically, the bill's elimination of joint-and-several liability for noneconomic damages, such as pain and suffering, will mean that victims of terrible harm sometimes will not be fully compensated for it. Where under current law a joint wrongdoer will make the victim whole, under this bill an innocent victim would suffer when one wrongdoer goes bankrupt and cannot pay his portion of the judgment. It is important to note that companies sued for manufacturing and selling defective products stand a much higher than usual chance of going bankrupt; consider, for example, manufacturers of asbestos or breast implants or intra-uterine devices.

In addition, for those irresponsible companies willing to put profits above all else, the bill's capping of punitive damages increases the incentive to engage in the egregious misconduct of knowingly manufacturing and selling defective products. The provision of the bill allowing judges to exceed the cap in certain circumstances does not cure this problem, given Congress's clear intent, expressed in the Statement of Managers, that judges should do so only in the rarest of circumstances.

The attached Statement of Administration Policy more fully explains my position on this issue—an issue of great importance to American consumers, and to evenly applied principles of federalism.

Sincerely,

BILL CLINTON.

Several Senators addressed the Chair.

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

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I rise today to speak in opposition to the conference report on the Common Sense Product Liability Legal Reform Act. Supporters of this legislation have made the claim that this bill will benefit manufacturers, investors and business owners and workers. They also say it will benefit consumers. Yet, to my knowledge, this bill is opposed by virtually every group in the country that represents working people and consumers and children and the elderly.

One of the reasons for this is that the claims that have been made on behalf of this bill do not really add up. The people who support this bill claim the bill would set uniform Federal standards for product liability legislation. They claim uniformity is essential and that knowing the laws are going to be the same everywhere you go is absolutely critical for business interests that might be unsure of what the marketplace and a legal system of a particular jurisdiction will hold for them. That is the whole basis of this bill. That is the core concept, that you have to have this uniformity across the board, or businesses really will not know what to do in terms of location, business location decisions.

I would like to use my time to speak about two aspects of this notion of uniformity. First, let us remember that this legislation marks an unprecedented event. We are, for the first time, imposing the demands of the Federal Government in an area of law that has, for 200 years, been the sole domain, the sole province of the States. I thought this was a Congress devoted to devolution, not to the Government at Washington making mandatory rules.

I thought that was the mantra of the new Republican majority, that the States know best, that most of the time the best decisions are those that are made by the folks back home and not by the decisionmakers in Washington. I remember time and time again the majority leader coming down to the Senate floor and telling us it was time to "dust off the 10th amendment."

I remember when the Speaker of the other body went on national TV last spring and in an address to the Nation said the following:

This country is too big and too diverse for Washington to have the knowledge to make the right decisions on local matters. We've

got to return power back to you, to your families, your neighborhoods, your local and State governments.

Mr. President, what happened to those words? What happened to the 10th amendment? What happened to the need to address local problems on the local level? All this talk about States rights is about to go right out the window as we usurp over 200 years of State control over their tort systems.

We have a bill before us that has as its central premise the notion that the Federal Government is a better administrator of justice than the States and that the U.S. Senate is better suited to determine the outcome of a civil trial than are 12 average Americans sitting in a jury box.

How troubling that, at a time when Americans are so distrustful of their Government, we in Government are not willing to trust Americans to administer civil justice. But I suppose that for the sponsors of this bill, this is a reasonable price, so long as we get some uniformity in our laws.

Unfortunately—and I really want to stress this—this bill has about as much uniformity as a circus parade. Look at the new punitive damage cap contained in the bill. That provision caps punitive damages in most cases at the higher of $250,000, or two times compensatory damages. That sounds pretty uniform, does it not? But read the small print.

If a State has a law that is more restrictive—more restrictive—than the Federal cap, then that particular State law prevails. If a State has a law that is less restrictive than this Federal cap, then, and only then, the Federal cap prevails.

Moreover, under this bill, those States that currently simply prohibit punitive damages, do not allow them at all, they would be permitted to continue to not allow any punitive damages.

So what does this mean for American consumers? It means the consumers and children and the elderly living in different States with different sets of laws will have substantially different protections from injuries and defective products.

Mr. President, so much for the uniform Federal standards and so much for the idea that this bill is somehow fair and equitable and beneficial to consumers.

But what this really is is sort of a one-way preemption of State laws, and it is grounded on the premise that some States know better than others and that some Americans can properly serve on juries but others cannot. With this new concept of, let us call it, selective federalism, perhaps we should change the words above the Supreme Court so they read "Equal justice under the law, unless you live in the following States," and then list the appropriate States.

Mr. President, I also find it absolutely ludicrous that the supporters of this bill would suggest that we are providing uniformity when we are going to have completely different standards and rules throughout the 50 States. If I had to pick one provision of this bill that demonstrates how nonsensical this notion of uniformity is, I would have to choose the provisions seeking to reestablish a new Federal statute of repose.

This bill creates a new Federal standard for the number of years a manufacturer or product seller can be held liable for harm caused by a particular product. Known as a statute of repose, that period is 15 years under this conference report.

Why 15 years? Where did that come from? It is a good question. The product liability legislation considered in the 103d Congress, written by the same two principal authors, contained a 25-year statute of repose. Why? Well, a footnote in the committee report from that Congress justified the 25-year limit by pointing out that, according to testimony received by the Commerce Committee, and I quote, "30 percent of the lawsuits brought against machine tool manufacturers involve machines that are over 25 years old." Therefore, Mr. President, presumably the authors of this bill, last time around, selected 25 years as the life expectancy of all products manufactured in the United States.

So last May, we considered a product liability bill that the supporters tried to characterize as much more moderate and much narrower than the product liability bill considered in the 103d Congress. But in many cases, the bill we considered last May was worse than its predecessor. For example, they dropped the 25-year statute of repose to only 20 years. Why? Once again, good question. The committee report for the Senate-passed legislation conspicuously left out that footnote from last time about the machine tool testimony and just makes no mention whatsoever as to why 20 years was selected for that bill. Instead, the committee report promotes the consistency of the 20-year statute of repose with the General Aircraft Revitalization Act of 1994 that was passed by this body in 1994.

It also justifies a Federal statute of repose on the basis that Japan is poised to enact a short 10-year statute of repose. So now, apparently, the Japanese Government knows better than the State of Wisconsin how to properly administer civil justice in cases involving Wisconsin litigants. I wonder how the Framers of the Constitution would feel about that assertion, Mr. President.

What is too bad is, in this conference report before us, it does not end there because, as I said, the conference report before us does not have a 25-year statute of repose, does not have a 20-year statute of repose, it even has now a significantly shorter 15-year statute of repose. So we have gone from 25 to 20 to 15, and they call this a moderate bill.

Again, what in the world is that 15 years based on? It strikes me as being completely arbitrary and it seems less concerned with what the life expectancy of certain products should be and more concerned with making sure we pass as short a statute of repose as can possibly be done politically.

Finally, Mr. President, worse, this takes us back to the issue of selective preemption of State authority over liability laws. Under this conference report, if a State legislature has decided against having a statute of repose or has decided on a statute that is longer than 15 years, then this new Federal law will override the judgment of that State legislature.

Again, when you really look at this bill, it is not about uniformity at all. It will lock in a lack of uniformity and different treatment throughout the States and not provide the central purpose of the bill, as I understand it, which is to provide all the businesses in the country with some kind of uniformity.

So, Mr. President, on behalf of all the consumers who will be affected by this, as well as the concern about uniformity, I simply must say that this conference report should be defeated.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague. I will try to use less time than that, because I know my colleague from Washington has several requests for additional time.

First of all, let me commend our colleagues from West Virginia and from Washington for their tremendous work on this legislation. They have spent countless months, indeed years, working on this issue. I want to express my gratitude to them and the gratitude of my constituents in Connecticut. They have dealt with a complicated, sensitive issue in a forthright manner, allowing all to have a full say in what ought to be included in the legislation. I strongly urge our colleagues to support their effort, the Common Sense Product Liability and Legal Reform Act of 1996.

Mr. President, I am not new to this issue. During this debate, I have been playing a supporting role to the efforts of Senator ROCKEFELLER and Senator GORTON. But I began working on this issue 10 years ago, when I joined with our former colleague, Jack Danforth, and attempted to fashion a product liability bill. None of our efforts ever

made much headway through the legislative process, but I think we helped lay a foundation for the measure we are considering today.

Mr. President, when I ask the businesses in my State to list the single most important issue to them, they tell me that it is product liability reform, more so than taxes or any other issue. This is particularly true of my smaller manufacturers, the tool and die makers, and other industries that are supported by larger companies like United Technologies, Sikorsky, and Electric Boat. This is the issue they care more about than anything else.

Across this country, manufacturers are spending seven times more to prepare for product liability cases than they are on research and development.

Because of these costs, innovative products never make it to the market. There is no question, for example, that there would be more research into an aids vaccine if companies were not fearful of the current product liability system.

Additionally, the high costs of litigation raises the cost of many products. This so-called tort tax accounts for an estimated 20 percent of the cost of a ladder, 55 percent of the cost of a football helmet, and 95 percent of the cost of childhood vaccines.

The excessive costs of the product liability system also hurt the competitive position of American companies. Some American manufacturers pay product liability insurance rates that are 20 to 50 times higher than their foreign competitors.

Of course, if this system were working well for consumers, that would be an important argument for maintaining the status quo. But that is not the case.

As I mentioned earlier, consumers are denied innovative products and must pay higher prices for products. And what about people who are injured by the products that do make it to the marketplace? Do they benefit from the current system? The answer is no.

A General Accounting Office study concluded that it takes almost 3 years for a case to be resolved. That is 3 years that an injured person must wait to be made whole. Regrettably, this delay leads many injured people, particularly those with very severe injuries, to settle for less than their full losses.

Clearly, the present system is broken. We need to fix it and the conference report makes some important repairs. My colleagues have already discussed some aspects of the bill, but let me highlight some provisions that are particularly important.

UNIFORM SYSTEM

First, by providing Federal standards in certain areas, this measure will provide a more uniform system of product liability. These standards will add more certainty to the system, and help reduce transaction costs.

When you consider that 70 percent of all products move in interstate commerce, Federal standards make sense. The National Governors Association supports this approach. The association has testified:

> The United States needs a single, predictable set of product liability rules. The adoption of a Federal uniform product liability code would eliminate unnecessary cost, delay, and confusion in resolving product liability cases.

ALTERNATIVE DISPUTE RESOLUTION

The provision in the bill that encourages the use of alternative dispute resolution will also help reduce the excessive costs in the current system. Currently, too much money goes to transaction costs—primarily lawyers fees—and not enough goes to victims.

A 1993 survey of the Association of Manufacturing Technology found that every 100 claims filed against its members cost a total of $10.2 million. Out of that total, the victims received only $2.3 million, with the rest of the money going to legal fees and other costs. Clearly, we need to implement a better system in which the money goes to those who need it—injured people.

STATUTE OF LIMITATIONS

Consumers will also benefit from a statute of limitations provision that preserves a claim until 2 years after the consumer should have discovered the harm and the cause. In many cases, injured people are not sure what caused their injuries, and by the time they figure it out, they have often lost their ability to sue. This legislation will provide relief for people in such situations and allow them adequate time to bring a lawsuit.

This legislation will also improve the system for businesses—from large manufacturers to the hardware store down the street.

ALCOHOL AND DRUGS

Under this bill, defendants would have an absolute defense if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and the condition was more than 50 percent responsible for the plaintiff's injuries. This provision, it seems to me, is nothing more than common sense. Why should a responsible company pay for the actions of a drunk or a drug user?

PRODUCT SELLERS

The bill also institutes reforms to help product sellers. They would only be liable for their own negligence or failure to comply with an express warranty. Product sellers who are not at fault can get out of cases before running up huge legal bills. But as an added protection for injured people, this rule would not apply if the manufacturer could not be brought into court or if the claimant would be unable to enforce a judgment against the manufacturer.

PUNITIVE DAMAGES

In my view, the conference report also strikes an appropriate balance on punitive damages. There are reasonable limitations on punitive damages, but the judge could award a higher amount against large businesses if the limited punitive damage award is insufficient to deter egregious conduct.

BIOMATERIALS

The biomaterials provision also addresses a critical problem. It would limit the liability of biomaterials suppliers to cases where they are at fault, and establish a procedure to ensure that suppliers, but not manufacturers, could avoid unnecessary legal costs. This provision will help ensure that Americans continue to have access to lifesaving and life-enhancing medical devices.

My colleague from Connecticut, Senator LIEBERMAN, authored this proposal and I commend him for his excellent effort.

BALANCED LEGISLATION

The provisions I have outlined demonstrate the balance this legislation strikes between consumers and businesses. In the final analysis, the reforms in the bill should strengthen the product liability system for everyone.

Mr. President, I commend the conferees for staying so close to the Senate bill. In my view, the House bill went too far. It contained provisions that would have applied in a wide range of cases, including medical malpractice.

The stakes of legal reform, the rights and responsibilities of all Americans, warrant a more cautious approach. There are some areas of our legal system where problems must be addressed. Securities litigation and product liability are obvious examples, but we should avoid wholesale changes.

The conference report we are debating today takes the right approach. It is a moderate measure that makes modest reforms. It strikes a careful balance between the needs of consumers and businesses, and should help improve the product liability system for everyone.

Before closing, let me again commend Senator ROCKEFELLER and Senator GORTON for their excellent work on this legislation. As I discussed earlier, this conference report has very few changes from the Senate bill that they crafted so carefully. They have also done a superb job in keeping this legislation moving forward.

I urge my colleagues to vote for cloture and help pass this conference report.

Mr. President, I yield back whatever time I may have remaining to our distinguished colleague from Washington.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, before I yield to the distinguished Senator from Minnesota, I ask unanimous consent to have printed in the RECORD an article entitled "In Defense of Big

(Not Bad) Business" from the Washington Post.

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

IN DEFENSE OF BIG (NOT BAD) BUSINESS

(By Jerry J. Jasinowski)

Engaging in class warfare and anti-industrial rhetoric has become the favorite blood sport in this political year.

We have the unlikely duo of presidential candidate Pat Buchanan and Labor Secretary Robert Reich warning us about anxious workers and their stagnant wages. A seven-part treatise in the New York Times blames corporate callousness for the ills of society, while Newsweek recently threw the mugs of four leading American business executives on its cover under the headline "Corporate Killers."

How quickly perceptions change. Little more than a year ago I was invited to address an international gathering of corporate and political leaders in Davos, Switzerland, to talk about an American industrial renaissance that had restored the United States to the top spot among the world's economies for the first time in nearly a decade. And instead of warning of Japan's industrial might, a constant theme throughout the 1980's, I found myself describing a quality and productivity revolution that has led to record job creation in the United States.

No one in this country seems to know it or care, but while Americans have been busy berating our capitalist system with unbridled enthusiasm, the U.S. economy has become the envy of the industrialized world.

Indeed, the current anxiety over jobs and wages illustrates the verity of the notion that a big enough lie, repeated often enough, can take on the trappings of reality. I may be fashionable—and in some cases politically expedient—to argue that American workers are underpaid, underappreciated and on the brink of losing their jobs. Some are—and these concerns need to be addressed. But to suggest that this is the prevailing phenomenon taking place in our economy is wrong, or at the least, a very distorted view of reality.

While corporate downsizing gets the headlines, the American economy has quietly grown richer—gaining more than 8 million net new jobs since 1992 and putting our unemployment rate at an historically low 5.5 percent. In the past 25 years, U.S. employment has increased 59 percent and we have created more than five times as many net jobs as all the countries of Europe combined.

Even in areas like U.S. manufacturing, to take a favorite topic of media concern, the picture is not so bleak as news reports, or a cursory look at the data, might suggest. According to government statistics, around 1.7 million manufacturing jobs disappeared between 1988 and 1993. But many of the positions shed by manufacturers were never the assembly line jobs typically associated with manufacturing in the first place. Rather, a sizable portion of the eliminated positions were back-office jobs like payroll and accounting, which are now contracted out to companies that the Labor Department classifies as "service sector" firms. It's also worth remembering that millions of jobs are created in other sectors as a direct result of manufacturing. It happens when a new restaurant locates near a manufacturing plant, the so-called "multiplier effect." And it happens when jobs that were considered by the government to be manufacturing are spun off—the most common example being GM's transfer of its data-processing to EDS, a move that overnight classified thousands of jobs from manufacturing to service.

The data can be equally misleading when it comes to wages. It has by now been widely reported that median household incomes, adjusted for inflation, have been falling for nearly two decades, and by 7 percent since 1989 alone. But the wage decline doesn't take into account other factors that greatly mitigate its effect. First, the size of the average American family has been declining meaning the typical household paycheck is being spread over fewer people. And when the overstatement of inflation contained in the consumer price index is eliminated, income growth actually climbs by 15 percent.

Nor do such statistics take into account the fact that workplace compensation has undergone radical changes in recent years. As studies by the Federal Reserve and others have shown, employees nowadays receive a much greater share of their compensation in the form of various benefits—health care, paid vacation, pensions, incentive payments, bonuses, commissions and profit sharing. Using this broader measure of total compensation, workers are even better off than they were in the 1970s.

It is also important to remember that workers with the right skills and in the right fields are sharing handsomely in the economy's growth. A study by Princeton University economist Alan Krueger showed that employees who use computers on the job earn 15 percent more than those who don't. Indeed, a wage boom has been underway for some time in many high-tech firms. Assembly-line positions in the technology sector now typically pay anywhere from $50,000 to $75,000 annually, including bonuses. And in part because of automation that has raised the skill-level required to perform all kinds of jobs on the factory floor, manufacturing workers in any field now earn an average of $40,000 annually, for companies like Cypress Semiconductor in San Jose, Calif., compensation is even higher. The average worker in this 1,900-person company, including line workers and receptionists, earns $93,000 a year including benefits.

Even more important than what the numbers tell us about the present is what they tell us about our future. It is true that, while the wage picture is not as bleak as we've been led to believe, there is reason for concern. But a number of powerful trends suggest that several of the factors that have kept take-home pay lower than expected and job in security higher than desired are self-correcting. Others are well within our power to fix.

The baby-boom generation, combined with the influx of women into the workplace and high levels of immigration, has brought on the largest increase in the supply of labor in American history. Since 1968, the number of Americans seeking jobs has shot up by 52 million workers, a factor which has had the inevitable effect of slowing wage growth since so many more people were out in the market competing for jobs.

Currently there are still too many workers with inadequate skills struggling to fit themselves into an economy that increasingly demands higher levels of education. But demographics will be on the side of the workers in coming years. For one, four times as many Americans have college degrees today compared with just 50 years back. More importantly, the generation now entering the work force is one-third smaller than the baby-boom generation, which will inevitably push up employee compensation. A labor force that is older and more experienced also commands generally higher compensation, a factor that filters down through the entire labor market.

Meanwhile, many jobs are going wanting. Some manufacturers are so desperate for skilled assembly line workers that they've taken to hiring professional recruiting firms to help them find qualified applicants. The owner of one Northern Virginia firm told me that software developers who commanded $30,000 five years ago now demand, and get, $50,000 a year. And a newly released study of software programmers nationwide shows many veteran code writers can command salaries that exceed $100,000.

John F. Kennedy's oft-repeated maxim that "a rising tide lifts all boats" is as true today is it was 35 years ago. Unfortunately, the tide hasn't been rising very fast lately. Though much of the news about the economy is positive, it's also true that economic growth during the current expansion has been hovering around 2 percent, roughly half that of previous post-war expansions. Yet, given improvements in corporate productivity of late, both in manufacturing and more recently in the service sector, there is no reason our growth rate can't be lifted to at least 3 percent a year. If that happened, we would inevitably see substantial new economic activity and jobs gains for workers at all skill levels.

So why isn't the economy growing faster?

Pat Buchanan would have us believe that it's because our free-trade policies have allowed other countries to benefit at the expense of Americans. But if anything, the opposite is true. Exports, in fact, have been responsible for roughly one-third of U.S. economic growth over the past decade. According to a new report by the Manufacturing Institute and the Institute for International Economics, American firms that export goods or services have experienced a job growth rate almost 20 percent higher than comparable non-exporting firms. Exporters are 9 percent less likely to shut down, and they pay their workers as much as 10 percent more than firms that do not export, the study found. If anything, we should be figuring out ways to open up markets across the world, not stir tensions in a way that could set off a trade war.

It's also time we question whether the Federal Reserve is keeping interest rates unduly high, and whether we should continue allowing government to keep the tax burden so high. The median two-wage earner family carries total tax burden—federal, state and local—of 38.2 percent, up from 27.7 percent in 1955. This amounts to more than $5,000 a year for the typical family. Payroll taxes, which represent the largest single tax on millions of middle income Americans, have grown at four times the rate of incomes. While this last tax is technically paid by employers and employees alike, it amounts to a direct hit on employees because most companies simply pass on the burden in the firm of reduced wages and benefits.

So does all this mean business should be let off the hook? Certainly not. I would be the last to exonerate business completely of the charges coming at them of late. Take the issue of wages. It's true that many companies have done a lot to share their success with their workers. Last month, for example, while the press was busy maligning IBM for its layoffs, the computer maker announced it would spend more than $200 million increasing employee bonuses, not just for top executives but for the rank and file. And at Coca-Cola, where nearly one-third of the workers own company stock, each employees' holdings shot up in value by an average of $70,000 over the last 15 months.

The problem is that not enough companies are putting a priority on performance-related compensation. People should be paid based on the quality of their performance, at every company, and no matter how lowly the job appears. If only the top executives are sharing the largess—or if bonuses are climbing when profits are shrinking—something is wrong.

The other area that needs more corporate attention is education and training. Again, many companies are investing significant sums, but too many others aren't. In a constantly changing work environment, honing skills and keeping up with the latest technology is an essential priority for all companies that intend to remain competitive. Yet right now, the average company spends roughly 1.5 percent of its payroll on employee training and education. To my mind, that figure needs to double.

The United States still offers the best employment opportunities in the world. But if it is to stay that way, it will require a new social compact in the workplace. That doesn't mean guaranteed job security—which is impossible in today's highly competitive world. But it does mean employment security; ensuring that workers acquire the training and skills to move up the ladder, if not at one company, then at another.

For employees, it means that instead of thinking of themselves as victims, they should be investing in their own futures. And, in exchange for their hard work, they should insist that corporations keep up their end by helping to fund the cost of training, and by rewarding financially those who help themselves.

Mr. HOLLINGS. This particular article refutes the statement by the Senator from Connecticut. Big business is doing fine. They are not worried about new products. They are competitive. They are making the biggest profits. It goes right back to the official hearings we had with the conference report, risk managers. Over 432 risks managers sat there and said it was less than 1 percent of the cost of the product.

So we can hear these statements that this is the No. 1 thing they are worried about, and everything of that kind and holding things back, but under the Cornell study, product liability cases are diminished by 44 percent in the last decade and, yes, industries are suing industries like Pennzoil suing Texaco for a $10 billion verdict. Those things occur.

But this is not the No. 1 interest of business. The No. 1 interest of business, that I have been trying to defend in the Commerce Department and ask what they are interested in, they say they are interested in capital gains. "We are not going to really spread our influence around. On the contrary, we are going to fight for capital gains and let the Commerce Department and the President take care of that."

I yield 7 minutes to the distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague. I thank the Senator from South Carolina.

Mr. President, I ask my colleagues to consider the faces of people who will be hurt by this provision. Think of LeeAnn Gryc from my State of Minnesota who was 4 years old when the pajamas she was wearing ignited, leaving her with second and third degree burns over 20 percent of her body. An official with the company that made the pajamas had written a memo 14 years earlier stating that because the material they used was so flammable the company was "sitting on a powder keg."

This bill contains a cap on the punitive damages a plaintiff could receive. How would this affect LeeAnn? We are talking about people, we are talking about consumers. They may not be the heavy hitters, or the big players, but that is who we are talking about.

It all depends on what kind of compensatory damages the jury awards. Are we really willing to sit here in Washington and dictate to LeeAnn and other victims of defective products how much is enough to punish and deter the people who hurt them?

The jury's role. By capping punitive damages this bill takes power out of the hands of the jury. This particularly confounds me. People on juries are fine when they are electing Members of the Senate to their jobs. But apparently some of my colleagues do not trust them to sit in judgment of their peers. They sit in judgment of us, do they not? Are they not usually the finders of facts? How is it that they lose their competence in the short trip from the ballot box to the jury box?

Elimination of joint liability. In Minnesota we struggled with this problem and we have come to a middle ground. Joint liability only applies to wrongdoers who are over 15 percent responsible. But this bill would say that Minnesota's solution is not good enough. This bill would preempt Minnesota's law with an extreme measure, one that my State at least has chosen not to embrace.

Again, Mr. President, real people, faces I would like my colleagues to see before they vote. Nancy Winkleman, a Minnesotan I met last year who was in a car crash. Because a defective car underride bar failed to operate properly, the hood of her car went under the back of a truck and the passenger compartment came into direct contact with the rear end of the larger vehicle. Without the benefit of her car's own bumper to protect her, she was severely injured, losing part of her tongue and virtually all of her lower jaw. Despite reconstructive surgery, her face and ability to speak will never be the same.

I cannot imagine the pain that Nancy must have undergone or the pain that she undergoes every day, nor can my colleagues. If one of the responsible parties in her case was unable to pay their fair share, should she go uncompensated for some of that pain or should the other responsible parties have to make it up? Unless you are certain, colleagues, that it is more important to protect those other parties, who usually have been found to be negligent, than to compensate Nancy for her pain, you should not support this bill. If you do, you will be hurting real people, you will be hurting real people.

Statute of repose now cut down to 15 years. Jimmy Hoscheit was a boy at work on his family farm when he was hurt. I met Jimmy last year when he was in my office telling me his story. He was using common farm machinery, consisting of a tractor, a mill, and a blower, all linked together with a power transfer system, much like the drivetrain on a truck. The power of the tractor was transferred to the other equipment by way of a spinning shaft, a shaft covered by a freely spinning metal sleeve. The sleeve is on bearings so if you were to grab the sleeve, it would stop moving, while the shaft inside would continue to powerfully rotate at a very high speed.

Apparently when Jimmy leaned over the shaft to pick up a shovel, his jacket touched the sleeve and got caught on it. However, instead of spinning free on the internal shaft, the sleeve somehow was bound to the shaft, became wrapped in Jimmy's jacket and tore Jimmy's arms off. His father found him flat on his back on the other side of the shaft. The manufacturer could have avoided all of this if it just provided a simple and inexpensive chain to anchor the shaft to the tractor.

I ask you, should Jimmy be able to bring suit against the manufacturer? What if the product was over 15 years old? Does that make his injury and his pain any less severe?

A similar question can be asked about 6-year-old Katie Fritz, another Minnesotan whose family I was privileged to meet when we began consideration of the bill. This is about real people. Katie was killed when a defective garage door opener failed to reverse direction, pinning her under the door, and crushing the breath out of her.

We do not know how long some of these machines can last. If that garage was at a business and was over 20 years old, Katie's family could not have sued the manufacturer. There would not be any question of capping punitive damages or having joint liability for noneconomic damages. They simply would not be allowed to the courthouse door.

Mr. President—the big picture—on behalf of people like LeeAnn, Jimmy, Katie, Nancy, real people, consumers, I urge my colleagues to reach into their hearts and do the right thing, and to reject this bill. I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated only yesterday from Mothers Against Drunk Driving in opposition to the bill.

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

MOTHERS AGAINST DRUNK DRIVING,
Irving, TX, March 19, 1996.

Re H.R. 956 Conference Report.

Members of the U.S. Senate, Washington, DC.

DEAR SENATOR: On behalf of the more than 3 million members and supporters of Mothers Against Drunk Driving (MADD) and the thousands of victims of drunk drivers crashes in this country, I urge you to oppose the H.R. 956 Conference Report (The Common Sense Product Liability Act of 1996). While it may not have been the intent of the sponsors and supporters of this legislation to limit or restrict the rights of drunk driving crash victims to be fully compensated for the harm they have suffered, this will be one of the unintended consequences of this bill in its present form.

It is clear that alcoholic beverages will fall within the meaning of "product" in this bill and the term "product liability action" in the bill means "any civil action brought on any theory of harm caused by a product or product use." The limitations and restrictions imposed by this legislation will limit recovery by victims of drunk driving crashes against sellers who irresponsibly serve intoxicated persons or minors who subsequently cause drunk driving crashes killing or seriously injuring innocent victims. Defendants in these dram shop cases will be able to use the defenses and protections provided to them by this legislation to prevent these innocent victims from being fully compensated for the harm they have suffered.

The caps on punitive damages contained in this reform legislation will directly benefit those who irresponsibly serve alcoholic beverages to obviously intoxicated persons and minors in violation of existing laws and in total disregard for the safety of the citizens who drive on our highways. In 1994, 16,589 people were killed and an estimated 950,000 were injured in drunk driving crashes in this country. Punitive damages have historically been allowed against defendants as a means of "protecting the public" and "deterring dangerous conduct." I know of no more appropriate case for the imposition of punitive damages without limitations than drunk driving and dram shop cases. The limitations on recovery of non-economic damages and joint and several liability are additional roadblocks this legislation puts in front of drunk driving crash victims.

For the reasons outlined above, MADD urges you to oppose the H.R. 956 Conference Report. The defects and unintended consequences of this bill can be corrected and we can avoid this rush to judgment which will have a devastating impact on drunk driving crash victims.

Sincerely,

KATHERINE PRESCOTT,
National President.

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I thank my colleague for this opportunity to rise in opposition to the conference report to H.R. 965, the Commonsense Product Liability Legal Reform Act of 1996.

Before I lay out my reasons for objecting to this conference report, I would like to express my dismay that while appointed as a conferee, I was never invited to participate in the conference. I am very disappointed that the legislative process has deteriorated to this level where diverse views are no longer welcome.

A critical analysis of the conference report to H.R. 965 reveals that the balance tips in favor of product producers at the expense of injured women, children, retires, and the poor.

This measure provides a series of limitations on the ability of victims to recover from the manufacturers of defective products, while it expressly exempts the big businesses who support this bill from those requirements.

For example, if company A purchases a piece of factory equipment from company B, and that piece of equipment is defective and explodes, company A can sue company B for all of its lost profits caused by the disruption of company A's business. On the other hand, the family of the poor worker who is operating the machine at the time it exploded must face the limitations in the bill to recover. Further, if the piece of machinery is 15 years old or older, the worker or his family cannot recover at all while the business faces no such limitation.

The punitive damage limitation in this bill causes me tremendous concern. I find it ironic that in the punitive damage section of the bill, it clearly indicates that punitive damages may only be awarded in the most serious cases. Yet later in that same section it provides that the amount of damages that can be recovered for these most serious cases is limited to the greater of 2 times the economic and noneconomic damages of $250,000. That same section further limits the ability to recover damages by creating a special rule protecting individuals of limited net worth and business or entities with a small number of employees. The construction of this section is facially inconsistent with its intent.

I would also like to debunk the myth that punitive damage awards threaten the viability of many business. The evidence indicates otherwise. Punitive damages are rarely awarded in product liability cases. In "Demystifying the Functions of Punitive Damages in Products Liability: An Empirical Study of a Quarter Century of Verdicts" (1991), author Michael Rustad concludes that consumer products are responsible for an estimated 29,000 deaths and 30 million injuries each year. Between 1965 and 1990, punitive damages were awarded in only 353 product liability cases—91 of which involved asbestos claims. In addition, he states that approximately 25 percent of these awards were reversed or remanded upon appeal. It is apparent that punitive damage awards do not threaten the viability of businesses.

In addition, this measure discriminates against women, children, and retirees. Women are most likely to be victims of such dangerous products as Dalkon shields, Copper-7 intrauterine devices, high estrogen birth control pills, super-absorbent tampons and silicone gel breast implants. These products all were justly held liable for punitive damage awards and were removed from the market. Had this bill been in effect, punitive damage awards in these cases would have been severely limited and the impetus for these companies to remove these dangerous products from the market may not have been as strong.

H.R. 956 also makes noneconomic damages more difficult to recover. Again, women, children and the poor are disproportionately impacted. It fundamentally alters the traditional concept of joint and several liability by eliminating joint liability. H.R. 956 places the harm caused by defective breast implants, or a women's loss of her ability to bear children, or the disabling of a child, in a secondary position to that of the lost salary of a corporate executive.

The corporate executive who misses work because of an injury caused by a product is unfettered in his ability to recover millions because he can easily establish his economic damages. However, if a young woman loses her ability to ever become a mother because of a defective contraceptive device, she is made to endure additional difficulties to recover compensation and, under the bill, faces the risk of not being able to collect her damages at all since these are noneconomic. This is inherently unfair.

On a very personal note, if I may, Mr. President, thank God that provisions of this law were not part of the American military laws at the time I had the privilege of serving this country in uniform. On May 30, 1947, I was retired, not as a general, not as a colonel, but as a small captain. I was awarded at that time the sum of $175 a month for the loss of my arm. I would like to believe that my arm is worth much more than that. But Uncle Sam did not forget us. That amounted to $2,100 per year. Today, Uncle Sam, understanding the rising cost of living, is now awarding me $19,140 a year tax free.

In addition to that, Uncle Sam sees to it that if I desire, I can receive medical services for the rest of my life. The same thing for my spouse. I have received free education as a result, receiving my law degree. If this provision was in effect at that time, I would end up receiving $175 a month, if I am lucky, for the rest of my life. In other words, Mr. President, Uncle Sam has paid me in damages, and never once did they ask me, is this the most serious of cases? They did not ask me about strict liability. It made no difference whether I fell off a jeep or was struck by a shell. I received in excess of $383,000. I think the least that can be

done is to do the same for fellow citizens.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Tennessee.

Mr. FRIST. Mr. President, I yield myself 5 minutes.

Mr. President, I rise today to speak in support of the Commonsense Product Liability Legal Reform Act of 1996. This piece of legislation has been crafted carefully. It is tempered. It is moderate. It is bipartisan.

We now live in the most litigious country on Earth, and we are paying a huge price as a result. Year after year, companies are forced to lay off workers or shut down entirely because of the staggering cost of product liability insurance or because of the threat of outrageous damage awards that in many cases bear no relation whatever to the underlying claims. This bill will help stem that tide. It will help preserve jobs, particularly manufacturing jobs, and it will help create jobs.

At a time in our country when there is so much focus on worker unrest, so much focus on the loss of good manufacturing jobs, when there is so much talk about finding ways to stimulate the economy, this is an easy call. It is a bipartisan bill. It is supported by 90 percent of the American public. We all know that the only real group that opposes it is a small band of plaintiff's attorneys who have become wealthy at the expense of the public at large. It is the trial lawyers and a few special interest groups that are preventing this bill from becoming law.

Mr. President, critics of the House-Senate compromise are concerned about the violation of States' rights. This is one area where a federalism argument simply does not hold water. The Framers of the Constitution valued local decisionmaking and they wanted to avoid an overly centralized Federal Government. However, one important exception they recognized was the need to have Federal control over interstate commerce and trade.

Alexander Hamilton, in Federalist No. 11, wrote about his concerns that diverse and conflicting State regulations would be an impediment to American merchants. Today, the abuses in our product liability system have reached the point where they are, indeed, a major impediment to interstate commerce. The Commerce Department had reported that over 70 percent of the goods manufactured in a particular State are shipped out of that State and sold. Moreover, the National Governors' Association, the obvious protector of States' rights, has adopted three resolutions calling on Congress to enact a uniform Federal product liability law, most recently in January of 1995.

Opponents of this legislation have also argued the so-called hard cap on punitive damages. But there is no hard cap on punitive damages. The bill permits punitive damages to be awarded against large businesses up to the greater of $250,000 or two times the claimant's compensatory damages. It is critical to note that it is two times compensatory damages, not just economic damages. Two times compensatory damages will still permit huge punitive damages awards in almost all product liability cases where such punitive damages are appropriate.

The damage awards in this country will still be astronomically higher than in any other industrialized nation, but at least there will be some limits that businesses can hang their hats on. If that were not enough, the trial judge is given the discretion to award even more if he or she thinks it is appropriate. This is not a hard cap. All it does is inject an element of predictability into our legal system.

If you asked most citizens in this country whether or not they think it is fair to cut off lawsuits 15 years after a product was manufactured, most would agree that is eminently reasonable. And even this modest limit does not apply in cases involving motor vehicles, vessels, aircraft, passenger trains, or in any case involving toxic harm.

At the end of the day, when you finish sifting through the opponents' concerns with this bill, it is clear that the trial lawyers are exercising an inordinate amount of political muscle. Their opposition to this bill is clearly in their own interest. But it is bad politics, and it is terrible policy.

American workers and American businesses need this bill. Industry trade associations report that today 30 percent of the price of a step ladder, 33 percent of the price of a general aviation aircraft, 95 percent of the price of a childhood vaccine are all due to costs of product liability.

I urge my colleagues to support this bill, and I urge the President to rethink his position.

I yield the floor.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes, 22 seconds.

Mr. HOLLINGS. I yield 7 minutes, 22 seconds to the distinguished Senator from California.

Mrs. FEINSTEIN. Mr. President, I supported the Senate-passed product liability bill, and I am very proud of that. I think the findings in the conference report very clearly state why there needs to be a product liability bill, not the least of which is some uniformity all the way across the broad consumer market, known as the United States of America. While I supported the Senate-passed bill, the conference report, I believe, raises some new questions, points of controversy that, since I am not a lawyer, I cannot resolve. I ask one party and they say one thing; I ask another party and they say another. This may mean clarification is needed. It may mean that substantive changes need to be made. But surely, it means, I believe, that we should send this bill back to conference.

I want, very briefly, in the time afforded me, to make five points. The first is the section, or the move of the section, on negligent entrustment. Negligent entrustment, as it was presented in the Senate bill, applied to the entire bill, and now, in this bill, it has been placed in a section on "Liability Rules Applicable to Product Sellers, Renters, and Lessors." This move, I am told, also then places a cap on punitive damages in negligent entrustment actions, and subjects them to the limitations on joint and several liability.

This is a problem to me because, in the event of automobiles and drunk drivers, guns sold or given to people who misuse them, this could have an impact on the kinds and types of suits and the amount of judgments derived therefrom. Therefore, my belief is that this entire issue of negligent entrustment needs to be clarified so that we are certain that the exception applies throughout the entire bill.

Second the statute of repose. California has no statute of repose. The proposed statute of repose in the Senate bill was 20 years, and now it is down to 15 years in the conference report. The bill provides, however, that any State with a statute of repose that is under 15 years prevails. California, with no statute of repose, cannot have a higher standard and maintain no statute of repose. But a State with a lesser standard of, let us say, a 10-year statute of repose, can prevail. To me, this is unsatisfactory. For my vote, I would have a very difficult time having a statute of repose in a bill which is less than 20 years.

I believe it sends a wrong signal to U.S. manufacturers. I believe it sends a message to manufacturers all across this great land that they can, in fact, manufacture less durable and perhaps even less safe products, because their time for liability is cut dramatically, certainly from no statute of repose to a 15-year statute of repose. This is a dramatic change in the bill.

The third point is the definition of durable goods. Durable goods are subject to the statute of repose. In the definition on page 4 of the conference report, section 101, subsection 7, one comma has been deleted and one has been added. I must say that what could be just grammatical has caused a maelstrom of interpretation and misinterpretation. And I, frankly, do not know who to believe.

This may be a drafting error, or it may be an intentional change in meaning. But many people point out to me that this change of a comma could change the definition of durable goods.

The fourth point I would like to make has to do with the additur provision, and this relates to punitive damages. I believe it needs further clarification. As I understand the additur provision in this conference bill, it provides that if a State has a cap on punitive damages and does not authorize an additur, then a judge is unlikely to have the authority to award punitive damages above the State cap. I believe this needs to be cleared up by the conference committee.

My fifth point has to do with biomaterials. I come from a State with many responsible companies who are very concerned about the possibility of losing their supplies of raw materials. They need this legislation because they produce lifesaving devices, whether they be pacemakers, or heart starters. I was visited by a very young woman who had a condition in which her heart periodically would just stop, and she had an implanted device that would restart her heart. Her heart would sometimes stop when she was asleep. The people that made some of the materials that went into this device essentially would not provide it absent some release from liability.

But, as presently drafted, biomaterials suppliers—including suppliers of component parts—can be liable only if they fail to meet their contract specifications, or if they fail to properly register their materials with the FDA.

First, I think we need a better definition of what is a "component part" in the bill to ensure that this does not sweep too broadly, and to ensure that this language would not allow certain manufacturers of devices to escape liability. I believe it is also very important that raw materials suppliers who know that their products pose a potential hazard and fail to disclose such harm should be held liable for knowing behavior.

I thank the Chair.

Mr. PRESSLER. Mr. President, this should be a great day. It should be a great day for small business. It should be a great day for employees of those businesses. It should be a great day for consumers. It should be a great day for those unfortunate enough to be injured by defective products.

As chairman of the Committee on Commerce, Science, and Transportation I am extremely pleased and proud to see the Senate take up consideration of the conference report to H.R. 965, the Commonsense Product Liability Legal Reform Act of 1996. This is historic. Never in almost two decades of work have we gotten this far. I am deeply saddened, however, by the President's announced intention to veto this important legislation.

I am also quite puzzled. You see, as Governor of Arkansas, Bill Clinton in August 1991, sat on the committee that drafted and unanimously approved the National Governors Association's [NGA] first resolution supporting product liability reform. Governor Clinton also went on record in support of the second resolution favoring product liability reform passed by the NGA.

Mr. President, America is plagued by frivolous lawsuits. Every day, our economy is victimized by ridiculous damage awards, both real and threatened. This conference agreement represents a substantial reform of the legal system that allows this abuse. It is tragic some have allowed this effort to formulate meaningful policy to be overtaken by political posturing. It is election year politics at its worst. The sad thing is the posturing is being done for the benefit of certain special interests. Tragically, if the special interests win, the American people lose.

BRIEF HISTORY OF THE STRUGGLE FOR REFORM

Mr. President, over the past 15 years the Commerce Committee has held 23 days of hearings on product liability reform. In this Congress, the companion measure to H.R. 965—S. 565—was reported by the Commerce Committee on April 6, 1995. The bill marked the seventh reform bill reported by the Commerce Committee since 1981. I have been involved deeply in the product liability reform movement since that time. I was an original cosponsor of the Risk Retention Act that became law in 1981. This legislation provided for liability insurance pools—so-called risk retention groups—for businesses. I chaired Small Business Committee field hearings in Sioux Falls and Rapid City, SD, on this issue in 1985.

Over the years, I sponsored numerous product liability reform bills with some of the great leaders in this area including Senators Kasten and Danforth. These gentlemen are no longer Members of this body, but this legislation is their legacy. I want to commend them for their excellent work. They truly pioneered much of this effort. It has brought us to this point. We would not have gotten this far without them.

Let me also take a moment to commend two of our current colleagues—Senators GORTON and ROCKEFELLER—for their hard work and dedication to this process. They have given years of labor to a cause in which they both are committed and have done so in an extraordinarily bipartisan fashion. I also know Jeanne Bumpus and Trent Erickson of Senator GORTON's staff and Tamera Stanton, Jim Gottlieb, and Ellen Doneski with Senator ROCKEFELLER have given much of the past year, and in some cases more time than that, to this effort. On my own staff, I want to commend Tom Hohenthaner, deputy chief of staff for the Commerce Committee, who has worked this issue for years and in this Congress managed what has often been a tortuous process. I also thank Lance Bultena, counsel for the Consumer Subcommittee, for his dedicated efforts.

Let me next pay tribute to House Judiciary Committee Chairman HENRY HYDE who also served as chairman of the conference. HENRY and I were in the same freshman class in the House back in 1974, and I have been honored to serve with him over the years. At the first meeting of the conference, I likened Chairman HYDE to a beacon shining brightly in a field. I would say that his light never wavered in this process and without his fine leadership we would not be here today. Chairman HYDE was assisted in this process by Alan Coffee, general counsel and staff director for the House Judiciary Committee and a savvy veteran of many legislative battles over the years. Diana Schacht and Peter Levinson, both counsels to the Judiciary Committee, and both consummate professionals, also put in a great many hours in this process. Finally, the House Commerce Committee shared jurisdiction over this measure, and I think and commend Chairman BLILEY for his leadership. Robert Gordon, counsel to the House Commerce Committee, proved a dedicated and significant member of the team of staff—all of whom worked so hard on this conference agreement and legislation that preceded it. Again, I thank them all.

I know many—including many of our colleagues in the other body—would have liked to see much broader reform. Indeed, many in this body wanted more. So why this fairly narrow and moderate approach? The short answer is: expansion was not possible. We tried. Last April 24 the Senate began consideration of the legislation. Over the next 2½ weeks—and some 90 hours of debate—the Senate considered and voted on over 30 amendments.

Ultimately, the Senate passed a bill very similar to the legislation reported by the Commerce Committee. In the following months, we negotiated with our colleagues in the other body who had passed a much broader bill. Again, activity centered around the possibility of expanding the scope of the Senate bill. Mr. President, the bill that has emerged from conference is—virtually—the Senate-passed bill. It is extraordinarily close to the legislation we sent out of the Commerce Committee last spring. The Senate should pass it again.

The conference agreement is narrower than many of us would like. However, while limited in scope, it is an excellent piece of legislation. This bill is fair, balanced, and well reasoned. Indeed, it is a moderate package of reforms. It also keeps faith with what we set out to accomplish—it provides substantial reform to a legal system that is broken.

HIGHLIGHTS OF THE CONFERENCE AGREEMENT

Mr. President, let me highlight some of those much-needed reforms:

Punitive damages. The conference agreement provides that punitive damages may be awarded in a product liability case if a plaintiff proves, by

"clear and convincing evidence," that his or her harm was caused by the defendant's "conscious, flagrant indifference to the safety of others." This language is to make clear that punitive damages are only to be awarded in the most serious of cases.

Mr. President, a fact all too often overlooked in this debate is that punitive damages are not intended as compensation for injured parties. They are punishment. Punishment of defendants found to have injured others in a conscious manner. They are used much as fines in the criminal system. However, currently there are two big differences. First, unlike the criminal system, there are virtually no standards for when punitive damages may be awarded. Second, when awarded, there are no clear guidelines as to their amount. This agreement addresses both problems. It brings uniformity to the punishment and deterrence phase of product liability law by providing a meaningful standard for when punitives are to be imposed and at what level.

Under the conference agreement—except in cases against small businesses—punitive damages in a product liability case may be awarded up to two times compensatory damages or $250,000, whichever is greater. An additur provision permits the judge to award punitive damages beyond this limit if certain factors are met, but the judge cannot exceed the amount of the jury's original award.

When the defendant is a small business—or similar entity—with less than 25 full-time employees, punitive damages may not exceed $250,000 or two times compensatory damages, whichever is less. The additur provision does not apply to small businesses.

Finally, either party can request the trail be conducted in two phases, one dealing with compensatory damages and the other dealing with punitive damages. The same jury is used in both phases.

Joint and several liability. Joint liability is abolished for noneconomic damages—such as pain and suffering—in product liability cases. Joint liability is a concept allowing one defendant to be held liable for all damages even though others also were responsible for the damage caused. What are the consequences? Too often, it means one person is held responsible for the conduct of another. True wrongdoers are not held liable. Indeed, consumers ultimately pay these claims—either through higher prices, loss of service, or higher insurance premiums.

Therefore, as to noneconomic damages, under this bill defendants would be liable only in direct proportion to their responsibility for the claimant's harm—so-called several liability. This section goes a long way toward correcting one of the most often abused aspects of our current civil legal system. It would ensure defendants would be held liable based on their degree of fault or responsibility, not the depth of their pockets.

Mr. President, this is an issue on which I have worked for many years. In 1986, I fought to strengthen proposed product liability legislation, S. 2760, with an amendment regarding joint and several liability. My amendment—which passed the Commerce Committee—also abrogated joint and several liability for noneconomic damages in product liability cases. I am proud the spirit of my amendment of a decade ago lives on in this legislation.

Alcohol and drugs defense. Under this bill, the defendant in a product liability case has an absolute defense if the plaintiff was under the influence of intoxicating alcohol, illegal drugs, or misuse of a prescription drug and as a result of this influence was more than 50 percent responsible for his or her own injuries.

The philosophy behind such a provision is simple. A society working hard to discourage alcohol and drug abuse must not sanction such abuse by allowing individuals to collect damages when their disregard of a vital societal norm is the primary cause of an accident.

Misuse and alteration defense. Under this legislation, a defendant's liability in a product liability case is reduced to the extent a claimant's harm is due to the misuse or alternation of a product. Why should the manufacturer of a machine pay for injuries I sustain because I remove safety guards put on in the factory?

Statute of limitations. The statute of limitations for product liability claims is established as 2 years from when the claimant discovered or reasonably should have discovered both the harm and its cause. A plaintiff may not file suit after this time.

This is an excellent example of how this legislation would benefit victims. Under current law, some States establish the time of injury as the point at which the time for bringing a claim begins to run. Often this is not a problem. However, in cases in which the harm has a latency period or manifests itself only after repeated exposure to the product, the claimant may not know immediately if he or she has been harmed or the cause of the harm.

This bill thus would reduce the number of victims who, having otherwise meritorious claims, are denied justice solely on the basis of the statute of limitations in the State in which they file their claim.

Statute of repose. A statute of repose of 15 years is established for certain durable goods. A durable good is defined by the bill as one having either: a normal life expectancy of 3 or more years, or a normal life expectancy that can be depreciated under applicable IRS regulations; and is: first, used in trade or business; second, held for the production of income; or third, sold or donated to a governmental or private entity for the production of goods, training, demonstration or any similar purpose.

No product liability suit may be filed for injuries related to the use of a durable good 15 years after its delivery unless the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than 15 years. In such a case, the statute of repose does not apply until that warranty period is complete. The statute of repose section does not apply in cases involving toxic harm.

States would be free to impose shorter statutes of repose and to cover more than just durable goods. For instance, the House-passed version of this bill would have applied the statute of repose to all goods.

The need for a Federal statute of repose was presented well by a fellow South Dakotan, Art Kroetch, chairman of Scotchman Industries, Inc., a small manufacturer of machine tools located in Philip, SD. Last year during hearings, Art told the Commerce Committee how vital product liability reform is to the ability of American manufacturers to compete in the global marketplace.

Art told me that under the current patchwork of liability laws, his company pays twice as much for product liability insurance as it does for research and development. Mr. President, the system is broken.

Workers compensation subrogation standards. This provision preserves an employer's right to recover workers compensation benefits from a manufacturer whose product harmed a worker—for instance, the manufacturer of a machine used in a business which injures an employee—unless the manufacturer can prove, by clear and convincing evidence, that the employer caused the injury—for example by maintaining an unsafe work environment or taking safety guards off the machine.

This section of the bill makes no changes to the amount of damages an injured worker can recover in such cases. It merely provides the insurer or employer will not be able to recover workers compensation benefits it paid to an injured employee if the employer or a coemployee is at fault.

Biomaterials Access assurance. In certain actions in which a plaintiff alleges harm from a medical implant, title II of the legislation allows biomaterial suppliers to be dismissed from the action without extensive discovery or other legal costs. The term "biomaterial" refers to the raw materials—such as plastic tubing or copper wiring—used as part of an implantable medical device.

The legislation does not affect the ability of plaintiffs to sue manufacturers or sellers of medical implants. However, it releases biomaterials suppliers

from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterials supplier cannot be classified as either a manufacturer or seller of the medical implant.

During our hearings last year, the Commerce Committee heard compelling testimony that without such changes in the law, the millions of Americans who depend upon a variety of implantable medical devices will be at grave risk. Suppliers of biomaterials have found the risks and costs of responding to litigation related to medical implants far exceeds potential revenues from the sale of the components they manufacture.

Indeed, several major suppliers of raw materials used in the manufacture of implantable medical devices have announced they will limit—or altogether cease—shipments of crucial raw materials to device manufacturers. Each of the suppliers indicated these were rational and necessary business decisions given the current legal framework.

PRODUCT LIABILITY AND SMALL BUSINESS

Mr. President, during the last Congress it was my privilege to serve as ranking member of the Committee on Small Business. As a member of that panel for many years, I know product liability reform is essential to the future health and success of America's small businesses. Indeed, according to a Small Business Administration study, small firms may be affected more negatively than large firms by nonuniform product liability laws.

This is because small businesses do not enjoy economies of scale in production and litigation costs. In addition, they are less able to bargain with potential plaintiffs. Finally, their limited assets make adequate insurance much more difficult to obtain. The cost of product liability insurance in the United States is 15 times higher than that of similar insurance in Japan and 20 times higher than in European countries. We simply cannot compete.

America's small businesses need rationality and uniformity in the product liability system if they are to compete effectively in the global marketplace. As I explained previously, this point was at the heart of the testimony given by Art Kroetch of Scotchman Industries in Philip, SD, at committee hearings last year.

It also was the point made to me by Jim Cope of Morgen Manufacturing in Yankton, SD. Jim calls product liability reform a jobs issue for our State. Morgen has had to lay off workers and has been unable to give raises to other employees because of losses due to product liability claims—claims that never have resulted in a verdict against his company. Nevertheless, Morgen Manufacturing is forced to spend tens of thousands of dollars defending itself.

To Jim Cope—and many small business owners just like him—tort reform means more jobs for South Dakota and the Nation.

PRODUCT LIABILITY REFORM AND CONSUMERS

Mr. President, opponents of this legislation tell us it would hurt the American consumer. Don't you believe it. Aside from the jobs issue, product liability reform would benefit consumers in numerous ways.

It would lower the cost of U.S. goods. The current product liability system accounts for 20 percent of the cost of a ladder, 50 percent of the cost of a football helmet, and up to 95 percent of the cost of some pharmaceuticals.

Reform also would foster competition and provide consumers with a greater selection of products from which to choose. Studies tell us 47 percent of U.S. companies have withdrawn products from the market and 39 percent have decided not to introduce products due to liability concerns. As a result, Americans depend on single sources to provide such vital needs as vaccines for polio, measles, rubella, rabies, diphtheria, and tetanus.

This bill also would encourage safety improvements. By contrast, the current system actually discourages companies from engaging in research. Many fear research aimed at improving an existing product will be used against them to demonstrate they knew the product was not as safe as it could be. Certainty in the legal system would reduce this counterproductive effect.

In addition, the legislation would encourage wholesalers and retailers to deal with responsible and reputable manufacturers. This, in turn, would lead to better products for consumers. Under the conference agreement, product sellers would be legally responsible for products manufactured by companies that are insolvent or do not have assets in the United States. This should increase the quality of the products found on the shelves of U.S. businesses.

Mr. President, I have just outlined five ways this bill benefits consumers. First, it will mean more jobs. Second, it will lower the cost of the goods they purchase. Third, it will mean a greater selection of goods from which to choose. Fourth, it will encourage testing to make goods safer. Finally, it will help to maintain and, in some cases, improve the quality of products available to consumers.

A bill that is bad for consumers? How can they say that with a straight face?

PRODUCT LIABILITY REFORM AND THE INJURED

Mr. President, we also have been subjected to a great deal of nonsense that this bill would limit the rights of victims. Opponents paint the picture of injured victims being harmed further when the courthouse door hits them in the face.

Not only does this conference agreement leave intact a full range of victims rights, it actually improves the current system in at least two very critical ways. First, the system we have today is plagued by delay. Second, compensation that eventually is received often is inequitable. Curtailing frivolous lawsuits—all this legislation really seeks to achieve—would significantly improve both problems.

Currently, product liability suits take a very long time to process. A General Accounting Office study found, on average, that product liability cases took 2½ years to move from filing to trial court verdict. Other studies indicate it is more like 5 years. Most product liability cases are settled before trial, but even these cases suffer from delay. One plaintiff's attorney explained that "most settlement negotiations get serious only a week or so before trial is scheduled to begin."

Delay often results in undercompensation of victims. Many victims are forced to settle their claims for less than their full losses so they can obtain compensation more quickly. These individuals often are forced into this decision because of inadequate resources to cover medical and rehabilitation expenses while their case drags on.

Another way in which the current system inequitably compensates victims concerns proportionality. Numerous studies demonstrate the current tort system grossly overpays people with small losses, while underpaying people with the most serious losses.

A bill that limits victims rights? Try a bill that strengthens them.

THE TRUTH ABOUT PRODUCT LIABILITY REFORM

There you have it, Mr. President—the truth about what it is we are trying to accomplish. The truth about how this bill would help consumers, small businesses and, yes, even those injured in the use of a product.

The truth is, we would not change anything that is right with America's current civil justice system. Rather, we would curb the abuse of frivolous lawsuits that cost each and every one of us in a wide variety of ways each and every day. The courthouse doors stay open. Consumers retain a full complement of rights. Lawsuits would continue to provide a strong check on corporate behavior. Concepts such as contingent fees would continue to allow citizens with limited means to bring suit.

The truth, Mr. President, is that election year politics threaten to kill this effort. The truth is, we all lose if that happens. The truth is the American people know the current system is broken and want us to fix it. A recent poll conducted in my home State found 83 percent of South Dakotans responding feel "the present liability system has problems and should be improved," while only 10 percent said "the present liability lawsuit system is working well and should not be changed."

The truth is, that out there in the real America, this is not viewed as a

partisan issue. Seventy-eight percent of Democrats, 83 percent of independents, and 88 percent of Republicans in South Dakota responding to the survey I just quoted say there are problems that need to be fixed. Mr. President, the message is clear. Our constituents do not believe this should be a political fight. I cannot for the life of me understand why some among us wish to make it so.

We should adopt this conference agreement. This body approved a virtually identical bill last year. Nothing done in conference should change anyone's reasoning. This is a moderate and reasoned bill. Let us do what is right. Adopt the conference agreement and send it on to the President. Hopefully, he will remember the strong commitment he demonstrated to product liability on two separate occasions just a few short years ago. Hopefully, he will not allow special interests to continue playing politics. The stakes are simply too high.

THE NEED TO ADDRESS LIABILITY FOR BIOMATERIALS

Mr. MCCAIN. Mr. President, this bill contains a very important provision ensuring the availability of raw materials and component parts for implantable medical devices. This provision is necessary if Americans are to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers. To address this issue, Senator LEIBERMAN and I cosponsored the Biomaterials Access Assurance Act of 1994, which has been incorporated in the Product Liability Fairness Act which we are debating today.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal liability for selling relatively small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Due to their small profit margins and large legal vulnerability for these sales, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement, and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in nonmedical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life-enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The product liability concerns that are causing the unavailability of raw materials and component parts for medical implants is part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of raw materials and component parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve one important aspect of our broken medical product liability system.

This issue came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about daughter Tara who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example that our medical liability system is out of control. It is tragic, but not surprising, that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Addressing this issue by enacting the Product Liability Act would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act today to ensure the continued availability of biomaterials to ensure that the lives of Tara and thousands of other Americans are not jeopardized. I ask unanimous consent that a column from the Wall Street Journal entitled "Lawyers May Kill My Daughter" be printed in the RECORD. In this column, Tara's mother eloquently describes her daughter's condition and the need for this legislation.

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

[From the Wall Street Journal]

LAWYERS MAY KILL MY DAUGHTER

(By Linda Ransom)

Our daughter Tara was diagnosed at birth with hydrocephalus—sometimes called "water on the brain." In the old days, there was no treatment for hydrocephalus. Most babies diagnosed with it died within months. The lucky few who survived were severely handicapped. These days, the only medical intervention that works is a surgically implanted device called a shunt, made of silicone. The shunt is a tube and a pump that diverts excess fluid from Tara's brain.

Kids outgrow shunts, which is why Tara has already had five shunt surgeries. She will need more. There are no guarantees that there won't be complications from the surgeries—she's already had meningitis, hypotonia and temporary blindness. But before the new flexible silicone plastics were developed, shunts were not successful. We know that there are no guarantees even with a silicone shunt, but at least we have something that works.

Tara has come a long way. Eight years old, she has mastered skipping, jumping rope, roller skating and all the other things that kids do at her age. Until this year, she didn't even need glasses. She never read the "risk" statistics because she has been too busy reading the original 14 books of the Wizard of Oz series. Tara is currently in the third grade at Magnet Traditional School in Phoenix. She has been the top student in her class for the past two years, with most of her skills well above the fifth grade level.

More importantly, Tara is the perfect example of hope—hope in the skill of her surgeons, in advances in medical technology, and improvements in the shunt itself. She is also the symbol of our faith—faith in our belief that God's miracles are the hands of the surgeons and the minds of the scientists who make the discoveries and create the devices.

Without a shunt, however, she faces increased pressure in her brain leading to progressive retardation, blindness, paralysis and death. In the U.S., there are approximately 50,000 hydrocephalics like Tara depending on shunts to stay alive. That is about the same number of Americans who died in Vietnam. Hydrocephalics will never get their own wall in Washington, but they would leave behind just as many devastated families.

Although scientists are working on new and better shunts, no one can guarantee that a shunt will be available the next time Tara needs one. Because of lawsuit abuse, the silicone from which the shunt is made may no longer be available.

Dow Corning, the only manufacturer of raw silicone used in shunts, last year filed for bankruptcy as a result of thousands of lawsuits against their silicone breast implants. (These implants were recently found to be safe in numerous studies, including a Harvard report released in the current Journal of the American Medical Association.) Despite a preponderance of evidence that silicone products are safe, lawyers have signaled that they will now make all silicone devices a focus of their next big class action.

Because of liability and legal blackmail, chemical companies are no longer willing to sell the raw materials that go into these desperately needed products—from pacemakers and heart values, to knee joints and cataract lenses. For Tara's shunt, there are no alternative materials or suppliers that can be used.

No one denies there should be just compensation for gross errors, like the man in Florida who had the wrong leg amputated. But how can anyone be for speculative lawsuits against all silicone products when people desperately need these devices to live? How can anyone put the interests of a small group of trial lawyers seeking the next big class action lawsuit over the lives of children?

This lottery system creates big winners, but it also creates new losers. In Sara's case, no amount of money can buy a product that may no longer be manufacured because of a lack of raw materials—even if it is a life-saving device.

Lack of availability is creating a black market for medical devices in other countries. Tara's neurosurgeon told us that shunts are so scarce in Russia today, they are removed from bodies during autopsies and then used in new patients. Would you want a used device if you needed a pacemaker? Would you want to buy a shunt on the black market? Would you want your child to be on a waiting list for one?

The good news is there are reform efforts under-way in Arizona and at the federal level. The Senate is planning to vote, as early as today, on legislation to place reasonable limits on punitive damages and eliminate unfair allocations of liability in all civil cases. This would protect all Americans—not just the manufacturers of medical products but also small businesses, service providers, local governments and nonprofit groups. Above all, it would save children like Tara. Unfortunately, even if the bill passes, President Clinton has said he will veto it.

I'm not a legal expert. I'm just a desperate mother. But I know that reasonable changes must be made to protect everyone. Enact civil justice reform. Don't take hope away from Tara.

Mr. BURNS. Mr. President, I rise today in support of the conference report to H.R. 956, The Commonsense Product Liability Legal Reform Act of 1995.

This is an important piece of legislation that is the result of more than a decade's worth of effort. I would like to congratulate the members of the Conference Committee, led by Senators GORTON and ROCKEFELLER, on their diligence in coming up with a final conference report.

This bill will help to reign in unnecessary, costly, and time-consuming product liability cases. There is a lot of talk in this town about cutting regulations and making American companies more competitive. But when the talk is over nothing much has changed.

The product liability bill originally passed the Senate more than 10 months ago after prolonged debate. The final conference report is similar to the Senate-passed bill in scope and focus rather than the wide-sweeping reform found in the House bill.

This bill is conspicuous not for what is in it, but for what is missing. The House approved sweeping legal reform last year that would have addressed other civil cases, besides products, including lawsuits against doctors, charities, and volunteer organizations.

However, it does have important provisions on punitive damages, joint and several liability, statute of limitations, statute of repose, workers' compensation subrogation standards. It also covers product sellers and States rights.

This bill does not work against consumers; nor is it for manufacturers. In fact many proponents of products liability reform who had hoped and worked for broader reform are disappointed in its narrow scope. H.R. 956 merely attempts to block the free-for-all that has taken hold of our court system.

Everybody wins under this bill. Consumers will see products ranging from football helmets to life-saving new drugs become more widely available and less costly.

And it will not limit the legitimate rights of victims to sue or to receive full compensation for their injuries.

This legislation is a good step in the right direction. It will not stop lawsuits, but it will put some restraints on the out-of-control legal battles we have seen in recent years.

That is why it is so frustrating to hear President Clinton say that the reforms included in the bill go too far. This was a bipartisan effort to get a bill that would be enacted into law.

Negotiations between the House and the Senate were tempered with caution to ensure that it would get the support needed to be passed by the Senate.

Once again efforts by reform-minded folks in Congress is threatened by a President that has put plaintiff lawyers interests above those of regular Americans. Politics once again rears its ugly head. The losers are consumers, manufacturers, and true victims who find themselves locked in a case-clogged court system.

Mr. President, once again I ask my colleagues to take a close look at this legislation and vote in support of cloture.

CONTINGENCY-FEE LAWYERS' NONSENSE ABOUT THE COMMONSENSE PRODUCT LIABILITY AND LEGAL REFORM ACT OF 1996

Mr. GORTON. Mr. President, a document being circulated by the Association of Trial Lawyers of America [ATLA] and their allied professional interest groups makes the accusation that the conference report on H.R. 956, the Commonsense Product Liability and Legal Reform Act of 1996, is radically different than the bill passed by the Senate. The contingency-fee lawyers' argument about commonsense product liability reform is unfounded.

Anyone who reads the conference report and compares it to the Senate bill can see for themselves that, except for change in the time period, not the narrow scope, of the statute of repose and two slight modifications to the additional amount provision, the conference report is virtually identical to the Senate bill. All familiar with the history of this bill also know House Members delayed going to conference, and then agreeing on a conference report, for almost a year until it became apparent that Senate allies of the trial bar would not support legal fairness legislation going beyond the Senate bill.

Facts are a stubborn thing for these lawyers, because as hard as they try to avoid them or argue around them or simply ignore them, as is often the case, the facts never change. And, the fact is that the product liability conference report is a narrow and limited proposal that almost mirrors the Senate's version of H.R. 956.

STATUTE OF REPOSE

H.R. 956, contains a narrow statute of repose, which places an outer time limit on stale litigation involving a limited category of products, workplace durable goods, that is, machine tools used in the workplace, that are over 15-years old. If the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than the period of repose—15 years—then the statute of repose does not apply until that warranty period is complete. The provision does not apply in any case involving a toxic harm, or in any case involving motor vehicles, vessels, aircraft, or trains used primarily to transport passengers for hire.

The only difference between the conference report and the Senate bill is the conference report's 15-year period; the Senate bill contained a 20-year limitation. Otherwise, the provision, including the limited category of products covered, is unchanged.

Approximately one-third of the States have enacted statute of repose legislation; no State provides a more liberal time period or is more favorable to potential plaintiffs in terms of its scope that the narrow provision in H.R. 956. Support is also found by comparing the proposed 15-year period to the laws of industrial nations which directly compete with the U.S. to provide jobs. The EC Product Liability Directive, implemented by 13 European nations and Australia, and Japan's new product liability law, which became effective July 1, 1995, each adopt a 10-year statute of repose which applies to all products. H.R. 956 will help level the playing field against foreign competitors

abroad which put American jobs at risk.

The contingency-fee lawyers argue that the conference report extends the statute of repose to virtually all goods. This statement is wrong. Section 101(7) of the conference report narrowly defines the term Durable good as follows:

DURABLE GOOD.—The term "durable good" means any product, or any component part of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 *and which is*—

(A) *used in a trade or business;*

(B) held for the production of income;

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose. (Emphasis added).

Both the conference report and the Senate bill only apply to goods which have either a normal life expectancy of 3 or more years or are of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and are used in a trade or business, held for the production of income, or sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose. A machine tool is an example of product with a long life expectancy, subject to depreciation, which is used in trade or business.

The contingency-fee lawyers are misleading the public to believe that the workplace use limitation has disappeared from the conference report. It has not.

THE ADDITIONAL AMOUNT OR ADDITUR PROVISION

Recognizing that a flexible approach to punitive damages is likely to deliver strong bipartisan support for legal reform, opponents have challenged the constitutionality and content of the provision in H.R. 956 which permits a judge a safety valve to go beyond the proportionate limits set for punitive damages against larger businesses and award additional punitive damages (up to the amount of the jury verdict) in cases of egregious conduct in a desperate effort to shake support. The provision is constitutional and represents good public policy.

The conference report additional amount provision, as mentioned, contains two slight modifications to the Senate bill. First, a controversial provision in the Senate bill that would have allowed the defendant the right to a new trial if the court used award an additional amount of punitive damages has been removed from the legislation and does not appear in the conference report. This change was made in response to requests from the administration and several Senators just before the final Senate vote. The absence of the new trial language does not affect the constitutionality of the provision. Research by the U.S. Department of Justice indicates that the safety valve provision in H.R. 956 is constitutional.

Second, the Senate bill language was modified in the conference report to clarify that the additional amount which can be awarded may not exceed the jury's initial award of punitive damages. The jury is not informed of the statutory limit. This language strengthens the constitutional foundation of the provision. Opponents' seventh amendment right to jury trial arguments are without merit.

PRODUCT LIABILITY DOES NOT EXTEND TO NEGLIGENT ENTRUSTMENT

Once again opponents are trying to mislead and confuse product liability actions, which are covered by the conference report, with negligent entrustment cases, which are not covered by the legislation. As in the past, they use attention-getting, but irrelevant examples, such as drunk driving cases and gun violence.

The trial lawyers' hollow argument is based on the applicability section of the conference report, which says that the act applies to any product liability action brought in any State or Federal court on any theory for harm caused by a product. The reason for this broad definition is to assure that the bill covers all theories of product liability, that is, negligence, implied warranty, and strict liability. The argument then looks to the section dealing with product sellers, which imposes liability when a product seller fails to exercise reasonable care with respect to a product. The argument continues that a product seller's failure to exercise reasonable care in selling a gun to a minor, convicted felon, or mentally unstable individual would not be actionable, because the product seller was negligent with respect to the purchaser and not the product.

This argument reflects an obvious misconstruction of the bill. To make this clear, one only need look to the acts covered by product sellers in the conference report. This appears in the definition of product seller. The bill says that it is applicable to product sellers, but only with respect to those aspects of a product, or component part of a product, which are created or affected when before placing the product in the stream of commerce. The definition then addresses those things where the product seller produces, creates, makes, constructs, designs, or formulates * * * an aspect of the product * * * made by another. See §101(14)(B). This is classic product liability.

To make the point crystal clear, the product seller section specifically provides that the conference report does not cover negligent entrustment or negligence in selling, leasing or renting to an inappropriate party. Section 103(d) expressly states: A civil action for negligent entrustment shall not be subject to the provisions of this section but shall be subject to any applicable State law.

For these reasons, the bill would not cover the situation described by the trial lawyers. It also would not cover a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive.

In sum, the product liability bill covers product liability, not negligent entrustment or failure to exercise reasonable care with regard to whom products are sold, rented or leased.

TRIAL LAWYERS' OTHER ARGUMENTS ARE SIMILARLY WITHOUT ANY MERIT

The trial lawyers' desperate attempt to portray the conference report as to the right of the Senate bill includes a couple of other minor points which are so hollow and petty that they deserve only brief attention. First, the notion that the conference report expands the product seller section beyond the Senate bill, changes burden of proof rules for persons who irresponsibly misuse or alter products or seek punitive damages is completely meritless. The falsity of these arguments is apparent from the language of the conference report and the Statement of Managers. Second, the argument that the findings in the legislation are not supported is foolish. The subject of Federal product liability reform has been reviewed by Congress for 15 years and been the subject of hundreds of hours of hearings and floor debate.

Mr. SPECTER. Mr. President, I am voting for cloture on the conference report on product liability legislation because I believe, on balance, that the issue should be decided by a majority vote of the Senate.

In deciding to support cloture, I am significantly influenced by the fact that the conference report corrects my principal concern: punitive damages on egregious cases.

A decision on whether to support cloture depends upon a variety of factors such as whether there should be more debate to fully air the issues or whether a constitutional issue or some other fundamental matter is involved which warrants a super-majority of 60.

In the past, I have voted for cloture on product liability legislation in circumstance where I thought the matter should reach the Senate floor for a majority vote.

On this state of the record on this bill, I think there should be a majority determination, so I am voting in favor of cloture.

Mr. COATS. Mr. President, I rise today to urge my colleagues' support for this very important product liability reform legislation. This legislation is a conservative, but significant attempt to begin the process of curbing a civil justice system gone awry, a system that has been overwhelmed by the logistical burdens and economic costs of unnecessary and unwarranted litigation.

Mr. President, it is very appropriate that Congress begin to address this broad problem in the area of product liability reform. For it is this area of law that has become, perhaps, the most unruly, and which is having an increasingly adverse impact on the U.S. economy. There are several important provisions contained in this bill. However, I will limit my comments to the section dealing with biomaterials.

The purpose of this section is to provide a defense to the suppliers of biomaterials, or parts, which are used in the manufacture of implantable medical devices. What this section will do is insure the continued availability of the raw materials that are absolutely critical to the development of implantable medical devices. Under the current legal system, claimants who sustain harm from a medical device are encouraged to go after the company with the deepest pockets, the one they can get the most money from. Often times, this entity is the innocent supplier of the raw, biomaterials, that are utilized in the manufacturing of the device. This, in spite of the fact that the biomaterials supplier did nothing to cause the injury or harm.

Mr. President, the result of this vicarious liability on the part of the biomaterials supplier is that, economically, they cannot afford to supply the materials to the manufacturer because the risk of being innocently swept up into litigation is too high. You see, the volume of material they provide to the bio-manufacturer represents such a small percentage of their total sales that it is simply not cost effective to take the risk. They are driven out of the market by the risk of litigation.

Located in my home State, Mr. President, in Bloomington, IN, there is a very special company: Cook International. This company truly represents what is great about our economic system. Unfortunately, it also represents how a system gone awry can harm both business and the consumer.

Cook International manufactures medical devices. One product line is medical catheters. These catheters are high precision devices used for various medical procedures.

A true American success story, Cook International began operating out of the founder's home. It has rapidly grown into an international corporation manufacturing the very finest in precision medical catheters. Vital to these instruments is teflon. However, under the threat of potentially being swept up in a product liability law suit, Cook's suppliers have served notice that they will soon cease to provide the vital materials for the manufacture of these life saving catheters.

Without this legislation, Mr. President, companies like Cook will be forced to find new suppliers of biomaterials or simply cease to manufacture these products. The costs of this result can be measured in lost time, lost jobs, and lost lives.

Mr. President, this is a very simple provision. If a company meets all specifications of the manufacturer; if they are in no way involved in the actual manufacturing or sale of the biomedical device; if they have acted in good faith in meeting their contractual obligation to the manufacturer; they cannot be swept up in a product liability lawsuit simply because they have deep pockets. This is fundamentally fair.

I urge my colleagues to support this very responsible effort at reforming our product liability legal system. I urge them to do so in order to preserve and ensure the growth of the American manufacturing industry. I urge them to do so because it is absolutely vital to our biomedical industry.

Ms. MIKULSKI. Mr. President, today, I will vote against cloture on the Product Liability Reform Act conference report. I believe the Senate should have a careful and thorough debate on the consequences of this conference report.

We should not close the courthouse door to those with legitimate grievances. Nor should we close debate on an issue as serious and far-reaching as product liability reform. I particularly do not want to close debate when there is disagreement on the consequences on this conference report.

Mr. President, I voted for the Senate's version of the product liability bill. I absolutely believe Congress should enact a reform measure to reduce frivolous law suits and have national uniform product liability standards. I also believe that when it comes to public health and safety, those who are responsible must be held accountable for their actions.

The Senate bill achieved a balance which addressed the valid concerns of the business community while protecting the rights of citizens with legitimate cases. That's why I voted for it.

I made it clear at the time that moving beyond the Senate bill was unacceptable to me. I said, "To move beyond the Senate bill would be a mistake. The scales on this are delicately balanced. If those scales are tipped, it is unlikely I will support this bill."

Mr. President, over the past several days, I have carefully assessed the conference report on product liability. I have weighed the arguments made by its supporters and its opponents. Always I have asked whether the conference report represents the same bill I voted for in 1995, or whether it was changed, tilting the delicate balance I talked about last spring.

Let me be clear. I do believe we need reform in this area. My job as a U.S. Senator is to save jobs, to save lives, and to save communities. I do want to reduce frivolous lawsuits. I want to remove barriers which stifle innovation. I want us to be economically competitive.

At the same time, public health and safety are paramount with me. I want consumers to have some assurance that the products they use are safe. And if products are defective and cause harm, consumers should know they can seek justice and redress through our courts. I do not want to shut the courthouse door to people with legitimate claims.

That's why I have grave concerns about this conference report. This conference report does, indeed, tip the balance.

Let me tell you why:

First of all, under the conference agreement, consumer products not covered by the Senate bill will now be covered. The caps and other restrictions under the conference report apply to a wide range of consumer products and appliances, not just to those used in trade or business.

Second, the conference report adds another barrier to people who are seeking punitive damages. Under its provisions, an injured person will now have to demonstrate that the wrongdoer's conduct was the proximate cause of harm instead of merely resulting in harm. This is a much more difficult standard.

Third, the bill could unacceptably shift the burden of proof in cases where the alcohol and drug defense is used. Under our Senate bill, a defendant was required to prove the plaintiff was under the influence of drugs or alcohol. This conference agreement leaves this issue entirely up to the States.

Finally, the conference report fails to specifically state that the 2-year statute of limitations will be suspended in cases where a court has issued a stay or injunction. The Senate bill was quite clear on this point. I fear the conference agreement's silence on this issue will result in injustice.

For instance, in cases similar to the Dalkon Shield case, a court could issue a stay, and the statute of limitations could run out for people who have legitimate claims. I fear this defect in the conference report will prevent women who have suffered from defective products from seeking justice.

Mr. President, I know there are disagreements on each of the points I have just outlined. I know that people interpret the conference agreement's language on these and other issues in very different ways.

But, I must say that these very differences of opinion have reinforced my conclusion that I must oppose cloture and this conference agreement. When there are such deep and serious differences about the impact of this legislation, I must lean on the side of protecting consumers. I must place my obligation to protect public health and safety first.

Therefore, I will oppose cloture today. And I will oppose this conference report.

Mr. President, before concluding my remarks, I must acknowledge the tremendous work done by my esteemed colleague, Senator ROCKEFELLER, on this legislation. He has fought diligently to uphold the Senate's position on product liability reform. And, I must say that he has succeeded on a number of issues. His fight has been a valiant one, and I regret that I am not able to stand by his side today.

Let me just say, this year is not over yet. Many of us want genuine reform we can all support. Although I cannot support the conference agreement before us today, I hope we can go back to the drawing board. I want us to produce a bill which reflects the balance that is needed between the concerns of business and those of consumers. I would be proud to support such a bill.

Mr. HATCH. Mr. President, I rise in strong support of the conference report to the Product Liability Fairness Act.

I would first like to commend and congratulate my distinguished colleagues, Senators GORTON, ROCKEFELLER, and PRESSLER for their longstanding leadership on this issue and on this bill. They have labored long and hard over several Congresses to come up with a bill that is measured and fair, and that will accomplish meaningful and important reforms of our product liability system.

This bill will benefit American workers and consumers. The only people who may be truly hurt by this bill are some of the Nation's trial lawyers.

I hope this bill will not fall victim to election year politics. It is a good bill and one that we have needed for a long time.

When this bill was on the Senate floor last spring, I supported efforts to broaden it so that its key provisions on punitive damages and joint and several liability would apply to all civil lawsuits.

We succeeded in passing a Dole-Exon-Hatch amendment to broaden the punitive damages provision. Unfortunately, the bill with that provision in it could not survive cloture and the amendment was removed.

While I continue to support broader civil justice reforms—and would particularly like to see this Congress at least enact a bill to protect religious and nonprofit organizations and volunteers from excessive punitive damage awards—I offer my enthusiastic support to this product liability bill.

Even though it is a modest bill, it represents a significant step in the right direction toward removing some of the outrageous litigation abuses in our system.

Anyone who has looked at the substance of this bill will realize that this is a limited, reasoned effort that is long overdue. This bill should not even raise the question of a Presidential veto.

But unfortunately, it has.

The ink was barely dry on this compromise bill before the President, coming to the defense of a limited and narrowly focused interest group—trial lawyers—and at the expense of American competitiveness, American jobs, and American consumers, declared he would veto this bill.

For the sake of our constituents across the Nation, we should be crystal clear about where the opposition to this sensible bill comes from. It does not come from the American people, and it does not come from American workers and consumers.

Product liability reform is supported by the overwhelming majority of Americans. They have indicated their frustration with crazy lawsuits, outrageous punitive damage awards, and abusive litigation. They see a complete lack of common sense in our civil justice system.

They want change from a status quo that has been unfair and that has encouraged irresponsible litigation in this country. It is our responsibility to deliver that change. And it should be the President's responsibility to sign this bill.

Given the President's last-minute veto of the securities litigation reform bill, which came following appeals from a few well-placed, well-heeled trial lawyers, we probably should not be surprised by the President's obstructionist position on this bill.

Despite the sincere, tireless efforts of a leading member of his party, Senator ROCKEFELLER, to work out a bipartisan position, the President has apparently opted to defend the status quo.

Senator ROCKEFELLER should take some heart in the fact that while he may be no more successful in selling this bipartisan bill to the White House than his colleague Senator DODD was in selling the securities litigation bill, Senator DODD ultimately crossed the finish line.

We should at least be clear that the President's opposition to this bill comes only from the well-heeled trial lawyers who have taken advantage of our litigation system for their own benefit.

For too long, our citizens have been the ultimate victim of lawsuits and threats of lawsuits that go beyond the bounds of common sense. It often is not fair, and it often is very extreme.

By some estimates, nearly 90 percent of all companies can expect to become a defendant in a product liability case at least once. Estimates of the costs of product liability litigation range from $80 to $117 billion per year. That is simply too high.

Our national resources should not be misdirected to pay for extreme and unproductive litigation costs. We heard many, many references to these costs when this bill was on the floor last spring. We heard that 20 percent of the price of a ladder goes to pay for litigation and liability insurance, that one-half of the price of a football helmet goes to liability insurance, and on and on. Just who does President Clinton think is paying these additional costs?

This bill seeks to reduce the litigation tax burdening our economy and stifling innovation and job-growth. At the same time, it aims to ensure that those individuals who are harmed by defective products are compensated by the parties who rightfully should bear responsibility for wrongdoing.

This is an important point given the disinformation circulating about this bill. This legislation does not deprive any American of his or her right to sue.

We need these reforms because it has become evident that we cannot address these problems comprehensively without a uniform, nationwide solution to put a ceiling on at least the most abusive litigation tactics.

Products produced in one State move in interstate commerce. Manufacturers, product sellers, and individuals from one State may find themselves being sued in another State.

We need to protect citizens of some States from the product liability litigation costs imposed on them by other States' legal systems.

We need to assist those affected by laws in States where the legislatures have attempted reforms only to be thwarted by some State courts.

This bill does that by encouraging commonsense, responsible, and fair litigation.

For one, this bill reforms joint and several liability. I have spoken before about a case against Walt Disney World in which Walt Disney World was judged to be only 1 percent at fault for injuries a woman suffered when her fiance rammed into her on a grand prix ride at Disney World. Under principles of joint and several liability, Disney World was forced to pay 86 percent of the damages. (*Walt Disney World Co.* v. *Wood*, 515 So.2d 198 (Fla. S. Ct. 1987).)

This bill strikes a sensible balance by limiting joint and several liability to economic damages. This fairness approach means that defendants will be chiefly responsible for the harm that they cause rather than the harm caused by other defendants.

Other provisions also promote fairness. It is 100 percent wrong to paint them any other way.

Take the 2-year statute of limitations. That gives parties a reasonable time in which to take legal action after they know, or should have known, of an injury and its cause, at the same time that it prevents late-in-the-day lawsuits.

Who can argue with these commonsense provisions, except some of our Nation's trial lawyers who benefit from the increased fees they receive from unfair recoveries?

The bill imposes liability on product sellers only under certain circumstances in which the product seller is responsible for the safety of the product it sells. A product seller should not be held hostage to a lawsuit if the manufacturer caused the damage and the plaintiff can and should be suing the manufacturer.

The bill similarly provides that those who rent or lease products should be liable only where they themselves have actually been negligent or otherwise responsible for the harm—not where they are simply in the supply chain and have done nothing wrong.

The bill provides a defense if the plaintiff was intoxicated or under the influence of drugs and if that accounted for more than 50 percent of the responsibility for the harm caused. What is wrong with that provision?

The bill reduces damages payable by a manufacturer if harm is caused by any misuse or alteration of the product.

The bill includes a limit on punitive damages in product liability cases of two times the amount of economic and noneconomic losses. That permits an adequate punishment where punishment is called for, but puts some restraint on runaway punitive damages.

We did make some accommodations in this provision, including an exception allowing judges to go beyond the limits of the bill. This provision was tightened up in conference, and I think it was improved somewhat. Although I continue to have some reservations that the additur provision represents a weakening of the bill's punitive damages provision, I support this bill.

The provision that we added on the floor to protect small businesses has remained in the conference report. That provision applies to small businesses having less than 25 employees and individuals whose net worth does not exceed $500,000. In cases involving either of those as defendants, punitive damages cannot exceed the lesser of $250,000 or two times economic and noneconomic losses.

This worthy provision prevents small businesses and individuals from facing punitive damages in excess of $250,000.

The conference report adopts the House version of the statute of repose, which sets a 15-year limit beyond which manufacturers could no longer be sued in a product liability action. Of course, other parties having physical responsibility for the product, like product sellers or renters, would continue to bear responsibility.

I believe it is important to stress that punitive damages are in addition to make whole, compensatory relief. The administration produced its policy with respect to the Gorton substitute product liability bill on April 25, 1995, and was critical of the punitive damage limitations in the bill.

In the President's statement this past weekend indicating that he would veto this legislation, the President again criticized the punitive damages provisions—even though those provisions have since been modified in an attempt to address his concerns.

On May 2, 1995, I received a letter from Prof. George Priest of the Yale Law School responding to the administration's policy. I think he gets to the heart of why the administration's concerns then and now are misplaced, in error, and an excuse to veto this bill.

Let me read from that letter.

Professor Priest—responding to the bill's then punitive damages limit of three times economic damages or $250,000, whichever is greater—writes:

> The Administration opposes the cap on punitive damages on the grounds that the cap "invites a wealthy potential wrongdoer to weigh the risks of a capped punitive award against the potential gains of profits from the wrongdoing.

I note that the administration used that exact same phraseology in its statement of administration policy issued on March 16, 1996.

Professor Priest went on to write:

> Meaning no disrespect, the administration's position displays a naivete unworthy of the serious problems created for consumers and low-income consumers, in particular, by the current absence of limits on potential punitive damages awards.
>
> The administration appears to criticize and to want to prevent the calculation by potential defendants of future potential damages. That position cannot be sensibly maintained because it ignores the only purpose of punitive damages, which is to deter. There can be no deterrence without a calculation of a possible future penalty. The entire system of punitive damages is premised on the hope that potential wrongdoers will engage in such calculations and decide against engaging in harm-causing behavior. If there were no such calculations, there would be no deterrent effect. The issue, thus, is what the level of potential punitive damages ought to be in order to obtain appropriate deterrence.
>
> Although the administration does not address the issue, it is well established in the analysis of modern tort law (and hardly controversial within the academy) that the calculation of compensatory damages alone is sufficient to create the appropriate deterrence of loss. Additional punitive damages awards surely reinforce the deterrent effect of compensatory damages, but at a cost: Where punitive damages awards are excessive or unpredictable (which the administration seems to want), producers are deterred from sales altogether and withdraw products and services from markets. Excessive or unpredictable punitive damage awards, thus, harm consumers and low-income consumers most of all because low profit margin products and services are the first to be withdrawn.
>
> Many scholars believe (and I am among them) that the current problems created by excessive punitive damages are so severe that a cap of three times economic damages is still too high and that consumers—again, especially the low income—would benefit from a stricter cap.

I think that statement accurately and precisely sets out the reasons that I and so many others have come to the conclusion that punitive damages must be limited to benefit consumers. It is simplistic and inaccurate for opponents of this bill to claim that unlimited punitive damages benefit consumers. They do not.

I note that the proportionality limit in the current bill was moderated to two times the sum of economic and noneconomic damages.

Simply put, all of the provisions in this bill are commonsense provisions that level the playing field and encourage fairness in our product liability system. They are changes that Americans want and deserve.

I could go on and on about ridiculous product liability cases that Americans are sick of hearing about.

Everyone has heard of the McDonald's coffee case, but remember the McDonald's milkshake case? I spoke at length about that on the floor last spring.

A man had purchased a milkshake at the McDonald's drive-through, put it between his legs, spilled it all over himself, and got into an accident with another driver. That driver sued McDonald's on a product liability theory and claimed that McDonald's should have warned the milkshake drinker not to drink milkshakes and drive. (*Carter* v. *McDonald's Corp.*, 640 A.2d 850 (N.J. 1994).)

Or how about the president of the Dixie Flag Manufacturing Co. who testified before the Commerce Committee last April. His company was sued by a man who stopped to help some employees at another company lower a flag. The man claimed that, while holding the flag, he was blown off the ground by a strong gust of wind and that the flag ripped, causing him to fall and hurt himself. He sued the flag company, claiming that the flag was unreasonably dangerous. That is bad enough, but what is worse is that there was no evidence that Dixie Flag had even sold the flag at issue.

We have just got to restore some common sense into our legal system.

The examples and the abuse go on and on.

Our large and small businesses and our consumers and workers are being overwhelmed with litigation abuse.

The vice president of the Otis Elevator Corp. provided us with information indicating that his company is sued on the average of once a day. Once a day.

Although Otis wins over 75 percent of its cases, on average over the past 3 years it has spent $20 million per year on liability costs, about half of which has gone to attorneys' fees.

These are staggering costs that should take our breath away. They represent resources which could be going to create new jobs or undertake new advancements. Our national resources should be going to productive uses—not to unnecessary and overblown litigation and insurance costs.

In short, I hope the Senate will stand up for what is right and what the American people want and need. We should send this bill to the President.

And, the President should sign it.

Mr. DOLE. Mr. President, there is a broad bipartisan consensus that we must do more to curb lawsuit abuse in America—the kind of abuse that has turned suing your neighbor into the newest American pastime.

This bipartisan compromise bill is an important first step: It will restrain outrageous and costly lawsuits that inhibit economic growth, threaten small businesses, and inflict a litigation tax on American consumers of $152 billion a year—that's right, $152 billion a year.

I want to congratulate Chairman PRESSLER, and particularly Senators GORTON and ROCKEFELLER for their hard work—years of hard work, really—on this important legislation. I also want to thank Senator LOTT for his assistance in resolving the differences between House and Senate.

But despite all the work, all of the bipartisanship, all of the sweet whispers of support out of the White House, suddenly we are voting on a bill that is under a threat of veto.

Why? Well, let us take a look at what President Clinton said last Saturday when he issued his veto threat. President Clinton said that he was concerned about federalism and an "unwarranted intrusion on State authority." But this argument was long ago dismissed by such concerned parties as the National Governors Association. In fact, the Governors, including then-Governor Clinton, called for a uniform national standard, stating that it would "greatly enhance the effectiveness of interstate commerce."

In other words, this sudden attack of States rights fever is misplaced.

President Clinton also said last Saturday that he was concerned the bill would "prevent injured persons from recovering the full measure of their damages." But compensatory damages are not affected by this legislation at all. And punitive damages are available for exactly those situations for which they were intended—situations which involve wrongdoing or egregious conduct.

That is what the President said.

What the President did not say however was that he has been under enormous pressure to veto this measure from the wealthiest and most powerful special interest lobby in America: the trial lawyers.

Mr. Clinton has been one of the most-favored recipients of their largess. The Center for Responsive Politics found that lawyers and lobbyists funneled a grand total of $2.6 million to Mr. Clinton's 1992 campaign. That of course vastly understates the real number, since it is often impossible to identify the source of the real donors. In just the first 9 months of 1995, lawyers and law firms have pumped another $2.5 million into the President's campaign coffers.

If money talks, this money screams. And what it screams is very simple: kill each and every attempt at legal reform. Now, I'm not one to assume just because someone gives you money, they call the tune. But this message has apparently been heard down at the White House loud and clear.

Consider the record: President Clinton instigated a filibuster to stop legal reform that covered small business and charities and volunteer organizations last year.

President Clinton pulled a much-publicized flip-flop and vetoed the securities litigation reform late last year. Fortunately, Congress overrode his veto.

President Clinton now threatens to veto a modest and bipartisan bill that he once suggested he would support.

This is unfortunate, but how it happened is worse.

Before he said he would veto this bill, President Clinton's allies did something very cynical. Mr. Clinton's friends on the Hill made sure that the protections from lawsuit abuses in this compromise bill would not be extended to charities and nonprofits.

Why would they do that? Everyone professes to want such protections passed into law. Yet, they insisted.

Well, obviously, it would have been more difficult to veto a bill that offered protections for charities and volunteer organizations. It would have interfered with posturing as the defender of the little guy. So, those protections had to go. And 2 days after those protections were deleted by his allies, President Clinton issued his veto threat.

I don't intend to play this game. Charities and volunteer organizations deserve relief, not cynical politics as usual.

Elaine Chao, president of the United Way of America, recently wrote a passionate plea calling for protections for charities, so caseworkers in family counseling agencies, literacy tutors, and volunteer fundraisers won't be chased away by the threat of liability.

All Americans should be outraged, as Elaine Chao puts it, by "the proliferation of frivolous lawsuits that treat charities and nonprofits as pinatas, as so many bags of goodies to be plundered."

That's why Senator HATCH and I have introduced a bill that provides such relief. Our bill would protect charities and nonprofits like the Little League and Girl Scouts. I intend to bring it to the floor for consideration as soon as possible.

The President and his allies will then be asked to make a simple choice between protecting charities or enriching trial lawyers.

President Clinton, please do not block this measure again. Do not let the heavy hand of special interests stay the helping hand of charities.

Mr. President, with nearly 19 million new suits filed per year—1 for every 10 adults—no one is immune from the lawsuit epidemic. The cost of defending yourself in an average, nonautomotive case is about $7,500. That is money you lose even if you win your case.

The lawyers, of course, never lose. It is time that this stopped.

I hope President Clinton will reconsider his ill-advised veto threat. In the meantime, I urge my colleagues to pass this bill.

Mr. ABRAHAM. Mr. President, I rise today in support of H.R. 956, a bill to reform product liability law.

A few months ago, the 104th Congress took the first momentous step toward legal reform. Over President Clinton's veto, we passed H.R. 1056, a bill to reform securities litigation.

This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

In passing H.R. 956, the Senate will be taking an equally important second step on the road toward a sane legal regime of civil justice.

Our current legal system, under which we spend $300 billion or 4.5 percent of our gross domestic product each year, is not just broken, it is falling apart.

This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

This is a system in which neighbors are turned into litigants. I was particularly struck by a recent example reported in the Washington Post. This case involved two 3-year-old children whose mothers could not settle a sandbox dispute—literally, a preschool altercation in the sandbox—without going to court.

Something must be done about this situation and this litigious psychology, Mr. President, and this bill puts us on the road to real, substantive reform.

It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries.

It provides product manufacturers with long-overdue relief from abusers of their products.

And it protects these makers, and sellers, from being made to pay for all or most noneconomic damages when they are responsible for only a small percentage.

First, as to punitive damages. No one wants to see plaintiffs denied full and fair compensation for their injuries. And this bill would do nothing to get in the way of such recoveries.

Unfortunately, punitive damages have come to be seen as part of the normal package of compensation to be expected by plaintiffs. George Priest of the Yale Law School reports that in one county, Bullock, AL, 95.6 percent of all cases filed in 1993-94 included claims for punitive damages.

Punitive damages are intended to punish and deter wrongdoing. When they become routine—one might say when they reach epidemic proportions—they end up hurting us all by increasing the cost of important goods and services.

For example, the American Tort Reform Association reports that, of the $18,000 cost of a heart pacemaker, $3,000 goes to cover lawsuits, as does $170 of the $1,000 cost of a motorized wheelchair and $500 of the cost of a 2-day maternity hospital stay.

We can no longer afford to allow this trend to continue. I am glad, therefore, that this bill begins to cap punitive damages—although in my judgment it only makes a beginning in that area.

I am particularly glad that the bill imposes a hard cap of $250,000 on punitive damages assessed against small businesses—the engine of growth and invention in our Nation.

Of course, punitive damage awards are not the only things increasing the costs of needed products.

Throughout the debate over civil justice reform I have been referring to the case of Piper Aircraft versus Cleveland. I use that example because it shows how ridiculous legal standards can literally kill an industry—as they did light aircraft manufacturing in America—and cost thousands of American jobs.

In Piper Aircraft, a man took the front seat out of his plane and intentionally attempted to fly it from the back seat. He crashed, not surprisingly, and his family sued and won over $1 million in damages on the grounds that he should have been able to fly safely from the back seat.

These are the kinds of decisions we must stop. Drunken plaintiffs, plaintiffs who abuse and misuse products—plaintiffs who blame manufacturers and sellers for their own misconduct—should not be rewarded with large sums of money. They may deserve our concern and sympathy, but we, as a people, do not deserve to pay for their misconduct through the loss of entire industries.

I am happy that this bill establishes defenses based on plaintiff inebriation and abuse of the product because I believe these defenses will benefit all Americans.

Finally, it seems clear to me that no manufacturer should be held liable for noneconomic damages which that individual or company did not cause.

In its common form, the doctrine of joint liability allows the plaintiff to collect the entire amount of a judgment from any defendant found partially responsible for the plaintiff's damages.

Thus, for example, a defendant found to be 1 percent responsible for the plaintiff's damages could be forced to pay 100 percent of the plaintiff's judgment.

This is unfair. And the unfairness is aggravated when noneconomic damages are awarded.

Noneconomic damages are intended to compensate plaintiffs for subjective harm, like pain and suffering, emotional distress, and humiliation.

Because noneconomic damages are not based on tangible losses, however, there are no objective criteria for calculating their amount. As a result, the size of these awards often depends more on the luck of the draw, in terms of the jury, than on the rule of law. Defendants can be forced to pay enormous sums for unverifiable damages they did not substantially cause.

This bill would reform joint liability in the product liability context by allowing it to be imposed for economic damages only, so that a defendant could be forced to pay for only his proportionate share of noneconomic damages.

As a result, plaintiffs would be fully compensated for their out-of-pocket losses, while defendants would be better able to predict and verify the amount of damages they would be forced to pay.

This reform thus would address the most pressing concerns of plaintiffs and defendants alike.

Mr. President, problems will remain with our civil justice system after this bill is made into law—if this bill is signed by President Clinton and made law.

Charities and their volunteers will remain unprotected from frivolous lawsuits.

Our municipalities will remain exposed to profit-seeking plaintiffs.

And the nonproducts area of private civil law in general will remain unreformed—3-year-olds and their mothers may still end up in court over a sandbox altercation.

In the last session I and some of my colleagues fought for more extensive, substantive, and programmatic reforms to our civil justice system. These were consistently turned back.

I believe at this point it is time for us to consider more neutral, procedural reforms, such as in the area of Federal conflicts rules, to rationalize a system we cannot seem to tame.

But I am certain, Mr. President, that this bill marks an important step toward a fairer, more reasonable and less expensive civil justice system.

This is why I am frustrated that President Clinton has threatened to veto this bill.

The President has stated repeatedly that he would support balanced, limited product liability reform. He has been singularly unhelpful in his opposition to more far-reaching reforms that would do more for American workers and consumers. But he has claimed that he would support product liability reform.

Now the President is claiming that this legislation is somehow unfair to consumers.

Mr. President, is a system in which fifty seven cents of every dollar awarded in court goes to lawyers and other transaction costs fair to consumers of legal services?

Is it really pro-consumer to have a system in which, as reported in a conference board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

Please tell me, Mr. President, are consumers helped by a system in which, according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

The clear answer, I believe, is that consumers are hurt by our out-of-control civil justice system, a system which makes them pay more for less sophisticated and updated goods.

I respectfully suggest that President Clinton look beyond the interests of his friends among the trial lawyers to the interests of the American people as a whole.

If he looks to that interest he will find a nation hungry for reform, yearning to be freed from a civil justice system that is neither civil nor just, seeking protection from egregious wrongs, but not willing to sacrifice necessary goods, important public and voluntary services, and the very character of their communities to a system that no longer produces fair and predictable results.

If we in this chamber consult the interest of the people, Mr. President, we will pass this bill. If President Clinton consults that primary interest, he will sign the bill and make it law.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, today's vote marks the return of the product liability issue to the Senate. It was about 1 year ago, May 10, 1995, when I voted for final passage of the Senate version of the product liability bill.

Yet before final passage, I voted against cloture four times. I voted against cloture because I had reservations about some of the provisions in the bill, including the absolute punitive damage cap and one way preemption clauses within the bill. However, after cloture was achieved, I voted in support of final passage in the hopes that the Senate and House conferees, working in conjunction with the White House, would reach a reasonable, balanced, and fair compromise.

Unfortunately, the conference report, rather than improving the bill, raises more questions and concerns. In the Senate bill, the language made it clear that the following would be excluded from the definition of product, electricity, water delivered by a utility, natural gas, or steam. However, the conference report adds an exception that in application, swallows the exclusion. The exception provides that if electricity, water delivered by a utility, natural gas, or steam is subject under State law to strict liability, the provisions of the product liability conference report apply. This is an expansion of the Senate bill.

Also, in the Senate bill, the provision regarding negligent entrustment was found in the applicability section and it provided that nothing in the title, the products liability bill, would apply to negligent entrustment cases. However, in the conference report, the negligent entrustment language is moved to the seller liability section and therefore negligent entrustment actions are not excluded from the provisions of the bill. Does the Senate really want to send a signal to those who, for example, serve alcohol to minors that their liability is substantially reduced?

The conference report language changes the Senate bill's provision on statute of repose by reducing the number of years and inserting ambiguity on the scope of products covered under statute of repose. The statute of repose is reduced from the Senate bill's period of 20 years to the conference report's period of 15 years. Changes in the definition of durable goods have raised ambiguity over whether the statute of repose remains applicable to only durable goods used in the workplace.

Finally, my concern remains about provisions which change State law only when that law is unfavorable to negligent manufacturers. If the goal is to create a uniform Federal law, the conference report should not make exceptions for States in the areas of statute of repose and punitive damage cap formulas.

I regret that I am unable to vote for cloture on this conference report. I remain supportive of reasonable and balanced product liability reform. My vote for final passage of the Senate bill on May 10, 1995, is a testament to my position.

Mr. BAUCUS. Mr. President, I rise in opposition to this conference report.

Like most Americans, I believe we would all be better off with fewer lawsuits. But, as we vote on this legislation, we must also ask ourselves if we are being fair to average Americans who are injured by dangerous products.

As I will discuss in more detail in just a moment, I believe my home State of Montana has done a fine job of discouraging unnecessary litigation and excessive damage awards. We have found a balance—a fair balance—that works for Montana and I believe other states should be allowed to the same.

BILL INTRUDES ON STATE RESPONSIBILITIES

This past December, I supported welfare reform legislation. My reason, in essence, was that a Federal program was broken and could be managed better by State governments.

The product liability bill before us now does just the opposite. It takes State laws which are not broken and subordinates them to a Federal law. It preempts the civil law of all 50 States and expands Federal powers into an area which, for two centuries, has been governed by the States. That is a very grave decision, and it is one we should not take unless there is absolutely no alternative.

Now, I am not an absolutist on this point. In some unusual cases—in particular, when States are violating the rights of individuals—the Federal Government should step in. For example, the Federal Government was right to intervene and eliminate segregationist Jim Crow laws through the Civil Rights Act and the Voting Rights Act.

But in this case, State governments are exercising their tort law responsibilities perfectly well. There is no reason for the Feds to take over.

THE MONTANA CASE

Let us look at the case of Montana to see why.

Our Chief Justice, the Honorable Jean Turnage, summed it up in a letter he wrote to me in 1994 in his capacity as President of the Conference of Chief Justices. In that letter he said:

> Federal preemption of existing State product liability law at this point is an unwise and unnecessary intrusion upon the principles of federalism.

Justice Turnage is on very firm ground. Over time, Montana has drafted and amended our State laws to make sure they reflect our needs. For example, our legislature has imposed a punitive damage cap in medical malpractice cases. We also let small businesses register as limited liability companies to reduce their exposure to civil suits.

And Montana has already solved many of the other problems this product liability reform bill attempts to address.

LIABILITY ALREADY REFORMED IN MONTANA

First, we strike a fair balance between plaintiffs and defendants. The doctrine of joint and several liability is a good example.

Montana applies joint liability only when defendants are more than 50 percent responsible for a person's injury. Defendants who are less than 50 percent liable are accountable only for the amount of injury directly attributable to their wrongdoing.

This makes sense. Defendants should not be held jointly liable when they are only minimally responsible. Conversely, the injured should not go uncompensated when a defendant is more than half responsible.

So we have found a balance on liability. And this bill would destroy the balance. Because if it passes, Federal law would void Montana's joint and several liability statute completely.

MONTANA COURTS FAIR IN PUNITIVE DAMAGES

Second, look at Montana's treatment of punitive damages.

Again, we looked at the issue and found a solution that meets our needs. Our courts award punitive damages only in limited circumstances where a corporation clearly acts in a reckless way that endangers public safety.

We allow juries to award punitive damages only when a product manufacturer or seller is guilty of actual fraud or malice. Montana juries awarded these punitive damages a grand total of three times since 1965. And under H.R. 956, Montana juries would have great difficulty awarding punitive damages even when the defendant has shown total disregard and disrespect for the health and welfare of the consumer.

PROTECTING MONTANA WORKERS COMPENSATION LAW

Last but not least, I am deeply concerned about how this legislation could seriously harm Montana small businesses.

I recently asked Prof. David Patterson of the University of Montana School of Law to review this conference report and advise me of its potential impacts on Montana business. Professor Patterson is an acknowledged expert in Montana workers compensation law. He is also chairman of the State Bar Ethics Committee.

Professor Patterson has advised me that this conference report could have unfavorable, perhaps unintentional impacts * * * on Montana employers.

Specifically, he points to its provisions overriding existing Montana workers compensation law. As it is today, Montana workers compensation law protects employers from virtually all workplace-related products liability suits. But Professor Patterson believes the legislation before the Senate would eliminate or significantly errode these protections for Montana employers. I find that deeply troubling.

Mr. President, I ask that the full text of Professor Patterson's letter to be printed in the record immediately following these remarks.

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

(See exhibit 1.)

Mr. BAUCUS. Now, I believe that many companies have legitimate grievances with some of the State tort laws. But they should take the complaints to the States and do the job there. It is simply unnecessary—and really, it is wrong—to bring in Federal law enforcement and Federal courts to nationalize the tort laws. And its potential impacts on Montana workers compensation law show how dangerous—and

costly for small businesses—this can become.

As Chief Justice Turnage said, it is unnecessary and unwise for Congress to try and take over these State responsibilities. Montana has managed its liability laws for over 100 years. We have exercised our rights in a responsible and balanced way. And we should be able to do so for the next hundred years.

And Congress, for its part, should get back to its real business and what the people expect—working together to balance the budget, raise the minimum wage, and help our families provide themselves and their children with a secure future.

EXHIBIT 1

THE UNIVERSITY OF MONTANA
SCHOOL OF LAW,
Missoula, MT.

Re H.R. 956 counterproductive for Montana employers.

Sen. MAX BAUCUS,
Senate Hart Building, Washington, DC.

DEAR SEN. BAUCUS: As a Montana law professor who teaches workers-compensation courses, I urge you to consider, before voting on H.R. 956, the "Common Sense Product Liability Legal Reform Act of 1996," how surely and severely Section 111 of that bill would impact Montana employers and their workers compensation insurers.

Section 111(a)(3) of H.R. 956 clearly rewards manufacturers and sellers of defective workplace equipment who blame employers for injuries to their employees. Consequently, even employers who are otherwise immune from liability under Montana's workers compensation scheme will frequently be dragged into costly lawsuits between injured workers and the manufacturers or sellers of defective machinery.

H.R. 956 will also increase workers compensation premiums in Montana by forcing Montana employers and their workers compensation insurers to pay for workplace injuries which are currently the responsibility of manufacturers and sellers of defective products. Whatever its other merits, H.R. 956 undeniably shifts additional costs of workplace injuries caused by defective products onto Montana employers.

Finally, and perhaps most dangerously, H.R. 956 seriously jeopardizes the core immunities historically enjoyed by Montana employers. H.R. 956 forcibly injects the issue of employer fault into a previously no-fault state workers compensation scheme. The bill also expressly preempts all inconsistent state statutes—including those guaranteeing exclusive-remedy protection to employers. If (as seems likely) the Montana Supreme Court, in any of several pending appeals, finds limits to such a faultbased workers compensation system under Montana's Constitution, then H.R. 956 will automatically preempt the exclusive-remedy statutes now taken for granted by Montana employers.

Please consider carefully the unfavorable, perhaps unintentional, impacts of H.R. 956 on Montana employers. Please contact me if I can provide additional information or assistance. Thank you.

Respectfully,

Prof. David Patterson.

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

Mr. GORTON. Mr. President, I yield 2 minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank my colleague from the State of Washington.

Mr. President, we are about now to vote on what I think is an enormously important bill in terms of human beings and in terms of the prospects for a better growing economy. However, I will be specific in my closing remarks.

There has been so much confusion about what is and what is not covered under product liability in the conference report, and I think that is because there has been a very deliberate attempt to mislead people during the course of this debate and prior to it.

There is one example I hope will enlighten my colleagues. Yesterday I received a letter from MADD, Mothers Against Drunk Driving, which incorrectly quoted the legislation and, from that, concluded that drunk driving cases would be protected. That is totally wrong. Drunk driving cases will not be covered by this bill. Here is what MADD said. The bill covers "harm caused by a product or product use". Here is the correct quote, Mr. President. The bill covers "harm caused by a product." It is product liability that we are talking about—not product use but product. There is a huge difference.

Mr. President, many other well-meaning workers and people have been totally mislead about what this bill covers. The issue of what is covered and what is not covered is this: Is it the product that causes harm? If yes, then it is covered in the bill. However, if the person using the product that causes harm—such as the driver of a car—the case is not covered by this bill.

Mr. HOLLINGS. Mr. President, I read the law, and it is properly quoted by MADD. We doublechecked because we heard some rumors. So checking it out, we found that the MADD position in opposition to this legislation is the same as I included in the RECORD, you can read the exact language which says "any several action brought, or any theory of harm caused by a product or product use"—period, end quote. So they know what they are talking about.

Now to the confusion. You saw that 30-minute demonstration we had out here about strict liability and utilities. They wrote that in the double negative fashion because they did not want to say we are going to exempt strict liability. So they have done so by covering it in this bill.

Right to the point, they tell the gas company to go ahead and get reckless and not worry about punitive damages for the simple reason that now, having been written that way, you have to have malice.

I could cover a plethora of things. The solution is within the States. The Senator from Rhode Island was correct. We have been on it for 15 years. The State of Tennessee has acted. The State of South Carolina has acted. When we say it is a moderate, bipartisan bill, the opposition is moderate and bipartisan. There is bipartisan opposition because this goes totally against the grain. When I was sent up here some 29 years ago standing for States rights, here comes the crowd finally saying let us have education back to the States; Medicaid, let us have it back to the States; crime and block grants back to the States; welfare, the Governors say, come, give it to us, back to the States. The States are doing the job. The majority leader runs around with a tenth amendment in his pocket and pulls it out, and says we have government going back to the States. But the business crowd downtown wrote this sorry measure. It is not bipartisan with respect to the conference. We were never asked into that conference; never considered. That had not happened. That had not happened.

I found out about this on CBS when they talked about the silly case of women going into the men's room.

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

Who yields time?

The Senator from Washington.

Mr. GORTON. Mr. President, this debate can come down to an example involving one individual, a young girl, and one company. The young girl is Tara Ransom, whose story is told in today's Wall Street Journal, and who with her parents has come to my office. Tara is one of 50,000 hydrocephalics in the United States with a condition that previously could not be treated at all and was a literal terror to its victims and to their parents.

She has, nonetheless, led a normal life, almost a normal life, due to a series of silicon shunts which have to be replaced every year or so due to her growth rate.

It is now becoming next to impossible for Tara to get such a silicon shunt because the one company, Dow-Corning, that is willing to manufacture it, is in bankruptcy largely due to product liability litigation and is threatened with class actions.

Dow-Corning simply manufactures the silicone. In one of these shunts its net return is $1 or $2. As the Presiding Officer as a physician knows, not every medical device works perfectly at all times and under all circumstances. I think it is almost inevitable that among those 50,000 hydrocephalics, or the numbers of thousands who use these shunts at some point or another, one of them is going to die, and there will be a threat of a lawsuit against every one who had anything to do with the shunt. The manufacturer of the material itself would be brought right into that lawsuit. Its liability, even if it wins, the cost of its attorney's fees will be far more than the gross sales price of all of the silicone it sold. So it

will not sell the material. We now in some parts of the world have a black market in these shunts for exactly this reason.

So to save the trial lawyers, to deal with all of the abstractions we heard from here today, Tara Ransom and others like her may soon not be able to get the very devices that have allowed them to lead reasonably normal lives. If this bill passes—and I refer you to the statement of Senator MCCAIN—that will no longer be the case. It is one of the harms, one of the outrages, in our present legal system which will be controlled by this bill.

Mr. President, the Cessna airplane company—in the late 1970's general aircraft in the United States was being manufactured and shipped at the rate of more than 17,000 a year. By 1982, it was down to almost just more than half of that. By 1986, claims hit $210 million a year. By 1991, Piper went into bankruptcy. By 1993, 100,000 jobs had been lost in general aviation largely due to our present product liability system. By that time, fewer than 1,000 planes per year were being manufactured in the United States as against 17,000. In August 1994, this Congress passed the General Aviation Revitalization Act. All it consisted of was a statute of repose at 18 years for aircraft. That is all that was in that reform. Already there has been a rebound. The very next year more aircraft were manufactured than were manufactured before, and this year Cessna is building a $40 million plant to hire 2,000 people to get back into this business.

That, Mr. President, is what this debate is all about—whether or not young people and older people will be able to get medical devices that they need without the manufacturers being frightened out of the business by liability costs, and whether or not industries in the United States will be able to operate successfully to hire people to produce goods that people would like to buy.

We have a legal system now which has hurt our competitiveness, has driven up prices, has reduced the choices that the American people have, all to oblige a handful of trial lawyers. This bill is a modest beginning to create a redress in that balance and to restore the economy of the United States and to provide better products for more people at a lower cost more of the time. It is just as simple as that, Mr. President.

Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-four seconds.

Mr. GORTON. I yield the remainder of my time.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. They are automatic.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 956, the Product Liability Fairness Act:

Slade Gorton, Trent Lott, Hank Brown, Chuck Grassley, Craig Thomas, Larry E. Craig, Frank H. Murkowski, Nancy L. Kassebaum, Mark Hatfield, Larry Pressler, Bob Smith, Jon Kyl, John H. Chafee, Conrad Burns, Pete V. Domenici, John McCain.

VOTE

The PRESIDING OFFICER (Mr. COHEN). The question is, Is it the sense of the Senate that debate be brought to a close? The yeas and nays are mandatory under rule XXII. The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 60, nays 40, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—60

Abraham	Glenn	Mack
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Bond	Grams	Moseley-Braun
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Campbell	Hatch	Nunn
Chafee	Hatfield	Pell
Coats	Helms	Pressler
Cochran	Hutchison	Pryor
Coverdell	Inhofe	Rockefeller
Craig	Jeffords	Santorum
DeWine	Johnston	Smith
Dodd	Kassebaum	Snowe
Dole	Kempthorne	Specter
Domenici	Kohl	Stevens
Dorgan	Kyl	Thomas
Exon	Lieberman	Thompson
Faircloth	Lott	Thurmond
Frist	Lugar	Warner

NAYS—40

Akaka	Feingold	Mikulski
Baucus	Feinstein	Moynihan
Biden	Ford	Murray
Bingaman	Graham	Reid
Boxer	Harkin	Robb
Bradley	Heflin	Roth
Breaux	Hollings	Sarbanes
Bryan	Inouye	Shelby
Bumpers	Kennedy	Simon
Byrd	Kerrey	Simpson
Cohen	Kerry	Wellstone
Conrad	Lautenberg	Wyden
D'Amato	Leahy	
Daschle	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 40. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

CLOTURE MOTION

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Senate Resolution 227 shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 53, nays 47, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

NAYS—47

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	Wyden
Feingold	Levin	

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from Arizona be permitted to speak for 15 minutes as in morning business.

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

READY TOMORROW: DEFENDING AMERICAN INTERESTS IN THE 21ST CENTURY

Mr. McCAIN. Mr. President, as we near the end of this century, we must be prepared to deal with the changing realities of the post-cold-war world and to meet the new challenges of the 21st century. My purpose in speaking today to the Senate is to open a debate on the continuing need to reshape our national security strategy and military force structure to address those new challenges.

We have already made several attempts to deal with these new realities. The Base Force and Bottom Up Review processes were laudable early efforts. However, we have not yet made the difficult decisions to adapt to the challenges created by the collapse of the Soviet Union and the Warsaw Pact. Our current strategy and force plans are not structured to meet the challenges of the future.

The potential threats to our national security interests today and in the future are different from those of the cold war; they are less deterrable by traditional means and often less easily defeated. We no longer face a superpower threat from the former Soviet Union, although we must be "prepared to prepare" to defend against an emerging major power threat. We must deal with a wide range of lesser threats throughout the world, including: regional and ethnic conflicts in which the United States could easily become involved; the rise of extremist and radical movements; the proliferation of weapons of mass destruction and the means to deliver them; the increasing capability of individuals and nations to attack us through our dependence on technology, particularly information and communications systems; and finally, both domestic and international terrorism.

As has been all too common in the past, our military planning focuses on maintaining the force structure that proved effective in winning the last war, while too little attention has been given to the changing and uncertain nature of future conflicts.

We must now undertake another effort to reshape our strategy and force structure, an effort which is innovative and forward-thinking rather than constrained by the accepted principles of the past. A key focus of this effort must be ensuring that our defense strategy and military forces are flexible and capable of quickly evolving to meet any new threats.

In this effort, we cannot ignore the fiscal realities of our debt-ridden Federal Government. Planning for our future military capabilities must be tempered by a realistic view of fiscal constraints on future defense budgets, without allowing those constraints to become the dominant factor in our decisions about future defense requirements. We must be prepared to accept the cost of being a world power. In short, we must focus on the most cost-effective means of maintaining the military capabilities necessary to ensure our future security.

Mr. President, we now face a significant gap between our force plans and the resources available to implement them. By 1995, the defense budget had been cut by more than 35 percent in real, inflation-adjusted dollars in just 10 years. Independent assessments of the cost of the BUR force show that it exceeds the funding levels dedicated by the current administration in the Future Years Defense Program [FYDP] by $150 billion to $500 billion.

As a result, we have been confronted by a series of Hobson's choices. We have had to choose among cutting force strength, maintaining readiness, or funding force modernization within the constraints of continually declining defense budgets. The result has been reductions in all three areas.

Over the past 5 years, we have reduced our military manpower levels by more than half a million people. After a dangerous trend 3 or 4 years ago of declining military readiness, there is now broad agreement that we have restored current levels of operational activity and readiness of the smaller BUR force. However, we have done so by foregoing the modernization programs required to ensure the effectiveness of that small force.

The Chairman of the Joint Chiefs of Staff has repeatedly warned that procurement accounts are seriously underfunded, and the Vice Chairman has said we face a "crisis" in weapons procurement.

Because of the modernization crisis, the Chairman of the Joint Chiefs has set a procurement funding goal of $60 billion per year. However, the President's fiscal year 1997 defense budget includes only $39 billion for procurement—nearly $5 billion less for procurement than was projected in the previous year's budget and far short of the Chairman's target. The administration now projects the $60 billion procurement funding goal will not be reached until the year 2001—3 years beyond the Chairman's target.

Mr. President, there is a dangerous long-term impact of postponing essential force modernization programs. America's future military readiness hinges on our ability to retain technological superiority over any potential adversaries. We have already seen some reduction in United States capabilities to fight in a single contingency such as the Persian Gulf. The continuing failure to invest wisely in military modernization programs has put our future readiness at risk.

We must reverse the alarming practice of postponing essential weapons modernization programs. To do this, we need to do one of two things—either increase the overall defense budget, or spend our available defense resources more wisely.

Last year, the Congress added $7 billion to the President's request for national defense and projected adding $14 billion to the planned fiscal year 1997 defense budget. However, the President requested $9 billion less for defense in fiscal year 1997 than Congress provided in fiscal year 1996.

Mr. President, I strongly support much-needed efforts in Congress to slow the too-rapid decline in defense spending. However, with continuing pressure to balance the Federal budget and alleviate our Nation's long-term fiscal crisis, there is, in my view, little realistic prospect of significant, sustained increases in defense spending in the future.

Therefore, it is imperative that we—the Congress and the administration—begin a debate to develop new ideas to ensure the best possible U.S. military force, capable of meeting the challenges of the future, within the fiscal constraints of today's defense budgets. Today, I want to offer my thoughts on the issues that must be considered in that debate.

Mr. President, our national security strategy must complement a credible foreign policy. The United States can and should use diplomacy to guide the course of world events, rather than simply observing and acquiescing in them. Indecision, hesitation, and vacillation in the conduct of our foreign policy only encourage aggression by our potential adversaries, possibly leading to conflict.

A strong military force is essential to maintaining the credibility of our foreign policy. The existence of capable and ready military forces, combined with the credible threat of their use when necessary to defend our national security interests, serves to deter the outbreak of conflict. If deterrence fails, those forces must be prepared to react early and decisively to prevail in war. Without both a credible foreign policy and a strong military force, the ability of the United States to shape the future course of world events is severely hampered.

As I noted earlier, our Nation's fiscal situation makes it likely that the defense budget will, at best, remain at the current level, despite recent efforts in Congress to increase the defense budget. This level is widely recognized as inadequate to fund the force structure necessary to support our current strategy of engagement and enlargement, based on a capability to fight and win two nearly simultaneous major regional contingencies [MRCs].

Further, the two-MRC strategy is focused too narrowly on large conventional conflicts in the Persian Gulf and

Korea. It must be broadened to ensure attention to all possible conflict scenarios, not just the current military capabilities of Iraq and North Korea.

Current fiscal reality, which makes unlikely future significant increases in defense spending, as well as an overly narrow focus of our current strategy demand that we reassess both our strategy and our force structure. Therefore, many U.S. planners, including senior planners on the Joint Staff and the military staffs of the Armed Services, are already in the process of considering a single MRC strategy in which the United States would only be able to fight one major conflict at a time.

In conducting a reassessment of our future force requirements, we should focus on a flexible contingency strategy supported by an affordable, flexible force. Our force planning should provide, at a minimum, sufficient levels to decisively prevail in a single, generic MRC. At the same time, we must recognize the existence of many lesser threats and maintain the capability to inflict unacceptable damage on an adversary should one or more of these threats materialize.

This more realistic approach to future force planning will eliminate the gap between our current strategy and fiscal reality. While planning for a flexible force with the ability of fighting a single MRC, possibly together with one or more lesser threats, may necessitate the acceptance of some additional risk in certain areas, it is far better than to plan for forces and capabilities that will never materialize within the limits of likely future defense budgets.

FUTURE FORCE STRUCTURE

The nature of foreseeable conflicts requires that we continue to provide for a force structure containing air, land, and see elements that are flexible enough to adapt quickly to unforeseeable situations. Our warfighting forces must be capable of responding quickly and effectively to any potential challenge and should be designed to supplement the military forces of our allies in order to provide the greatest military capability in the future at the lowest possible cost.

Very briefly, let me describe the principal warfighting capabilities that must be maintained to ensure our readiness in the future.

Naval forces: Our naval forces are at the forefront of our forward presence, crisis response, and power projection capability. They are among the most likely to be called to respond to a crisis and the most likely to be used in the early phases of any regional conflict.

Naval vessels should be self-sustaining and have significant offensive capability while providing for their own defense. Automation of weapon systems and support equipment aboard these vessels should be pursued to minimize the number of personnel required to produce an efficient, lethal fighting platform.

Much of our power projection capability will continue to be provided by carrier-based air power, increasingly supplemented by cruise missiles and other long-range strike systems. Political uncertainties, making the use of forward air bases problematic, mean that we cannot always rely upon these assets in a crisis situation. One only has to remember the United States bombing of Libya in 1986, and the restrictions on over-flights of certain countries, to realize that we must maintain a sufficient force of aircraft carriers if we want to provide the capability of ever-ready air power.

Marine expeditionary forces will continue to fill a critical role in any future force structure because of their flexibility and the ease with which they can be dispatched to regional hot spots. These forces must be supported with sufficient lift, mine warfare capability, and shore fire support.

Our submarine force will continue to play an important role. We must, however, re-examine the numbers and mix of the planned post-cost war realities. Today's threats make it possible to scale back plans to replace the current, very capable attack submarine force with an all-new class of stealthy, high-technology submarines.

Air power: Air power that can be quickly deployed and engage the enemy with devastating effect is a critical element of any future force structure. Our air assets must be maintained at the forefront of technology in order to pose a viable threat to our enemies.

Our tactical aircraft must have the capability to deliver precision weapons on enemy targets. Multimission platforms and maximum firepower per platform should be absolute requirements, as the cost of aircraft continues to climb at an enormous rate. Precision-guided stand-off weapons, such as cruise missiles, will increasingly become the weapon of choice for their ability to attack enemy targets without endangering air crews and expensive platforms.

Procurement of self-protection equipment is both necessary and cost-effective. Every effort should be made to build upon existing electronic and other countermeasures, including expendables.

At the same time, we should explore opportunities to increase the use of remotely piloted vehicles [RPVs] and unmanned aerial vehicles [UAVs]. Both RPVs and UAVs offer great potential to provide a cheaper, more effective means of gathering information and delivering ordnance, while minimizing risk to our air crews.

We must act now to resolve the issue of strategic versus tactical bombers. We must maintain a viable offensive capability at an affordable cost. Therefore, we must carefully consider cost versus capabilities in assessing the effectiveness of our strategic and tactical bombers in a conventional role. Current information supports a decision to cap the B–2 bomber program at its present fleet size and give higher priority to precision-guided munitions and improved tactical fighter/bomber forces.

Ground forces: As our overseas basing continues to decline, we must reassess our requirement for large ground-based forces. This will require greater emphasis on allied capabilities for ground combat missions. U.S. ground forces must be readily deployable, requiring a reassessment of the balance between heavy and light forces. Greater emphasis and reliance on smaller, lighter, and more automated systems may be appropriate.

We need to retailor both our active and reserve forces to concentrate our resources on forces we can rapidly deploy or move forward within a few months. We do not need units, bases, reserves, or large stocks of equipment that we cannot project outside the United States without a year or more of mobilization time.

Information technology will continue to revolutionize the battlefield, giving ground commanders unprecedented levels of situational awareness on the battlefield. We must ensure that resources are dedicated to providing these essential technological enhancements.

Our ground forces must be properly equipped to maintain superior offensive and defense capabilities. Increased night warfighting capabilities, increased survivability of tanks and heavy artillery, and improvements in antiarmor defenses are particularly important. Increased capability to detect, defend, and survive in a biological or chemical warfare environment is absolutely essential.

Special Operations Forces: We must continue to maintain the capability to conduct special military operations in a variety of missions. Special operations forces expand the range of options available to decisionmakers by confronting crises and conflicts below the threshold of war. These forces must be able to respond to specialized contingencies across the conflict spectrum with stealth, speed, and precision.

Strategic Lift: We must continue to focus on improving our ability to move personnel and equipment overseas. The limits we face on the forward deployment of our forces, in a world where our forces could be required in any region of the globe, means that strategic lift has become increasingly important. We must increase our efforts to procure the necessary lift capacity to maximize the mobility of our forces.

National Guard and Reserves: The Reserve and Guard components of the Armed Forces should be tasked primarily with those mission areas which

support rapid power projection and require little training prior to deployment. Combat arms units in the Guard and Reserves that cannot be mobilized within a very short period of time cannot play a decisive role in conflict resolution. By restricting the Guard and Reserves to those areas where proficiency can be maintained with minimal unit training time, we can minimize the risk that essential military forces will not be prepared if they are called upon in a crisis situation.

The missions most appropriate to the Guard and Reserves, commonly referred to as combat support or combat service support, are those directly related to a civilian occupation, such as transportation specialists, medical support, public affairs, and computer and information specialists.

There are, however, certain military missions which should not be assigned to the Reserves or Guard. These missions, such as heavy armor and infantry, require constant physical conditioning and training in large unit exercises, and are best left to the active forces which can be maintained in a ready state for rapid deployment.

Other force capabilities: Other high-priority force capabilities include cost-effective theater and national missile defense systems, effective counter-proliferation and proliferation detection capabilities, safe and reliable nuclear deterrent forces, and technologically superior, maintainable space-based systems.

These essential force capabilities will not exist in the future without sufficient investment in modernization programs. Our ability to counter future threats will not depend on stealthy submarines or more long-range bombers. Instead, we should emphasize the capabilities most effective in likely future conflicts; namely, adequate strategic sea and air lift, enhanced amphibious capability, next-generation tactical aircraft, deployable light ground forces, and improved command, control, and communications systems. Investment now in these high-priority programs will ensure our future readiness.

TIERED FORCE READINESS

Mr. President, during the 1970's, the United States allowed its military to become hollow by failing to dedicate adequate resources to the day-to-day operational readiness of our Armed Forces. Defense budget increases in the 1980's restored the readiness and morale of our forces and provided much-needed investment funding.

Because of the continuous decline in defense budgets since the mid-1980's, however, we heard warnings from our highest-ranking military officers of a similar readiness crisis in the early 1990's. We heeded those warnings and managed to reverse the alarming trends toward another hollow force by dedicating increasing shares of our smaller defense budgets to the readiness of our forces.

Today, we are permitting our forces to become hollow in a different way. We are shortchanging military modernization, as we did in the 1920's and 1930's. Then, our military forces were antiquated and inadequately equipped, requiring several years and many millions of dollars before they were prepared to fight our enemies in World War II. Because of our failure to adequately fund the investment accounts, our forces today face a future armed with rapidly aging equipment which is difficult and expensive to maintain and operate.

We must stop postponing essential modernization programs. To maintain the force capabilities I have described, and to keep them modernized, we must look for savings elsewhere in the defense budget.

There are many approaches to streamlining defense operations and activities that could result in cost savings and which should be done to ensure the best value to the American taxpayer. We should consider revisiting our infrastructure requirements, modernizing and making more efficient cross-service activities, and greater privatization on nonmilitary activities. However, the magnitude of savings from these efficiencies is negligible in comparison to the funding required to modernize and maintain a ready military force.

Another approach we should consider, which would save scarce defense resources and make available needed funding for critical modernization programs, would be to reevaluate the readiness requirements of our military forces. Although, to a limited extent, the Military services currently maintain forces at varying readiness levels, a comprehensive, force-wide review must be performed to ensure the future overall readiness of our forces.

Criticality of forces in any future crisis should be the determining factor of the degree of day-to-day readiness that each military unit should maintain. An evaluation should include two key factors: First, the likelihood that forces will be called upon to respond to a military crisis, and second, the timeframe in which those forces would be deployed. Forces could then be categorized by readiness tiers based on the degree of day-to-day readiness at which they should be maintained.

It is important to differentiate this proposed tiering of readiness requirements from the current fluctuations in unit readiness which are caused by training or operational deployments. For example, our Navy carrier forces are maintained at the highest readiness level while on cruise, fall back to a very low level when they first return to homeport, and then gradually regain their readiness as they prepare for the next deployment. The proposal outlined above for tiered force structure readiness would categorize units based on their criticality to a crisis situation, not on these normal training fluctuations.

The following delineation of our forces at three different levels of military readiness is proposed as the starting point for a discussion of the concept of tiered readiness.

Tier I—Forward-Deployed and Crisis Response Forces: In peacetime, our forward-deployed military forces support our diplomacy and our commitments to our allies. Our forward military presence takes the form of fixed air and ground bases that are home to U.S. forces overseas, and our forward-deployed carriers, surface combatants, and amphibious forces. Some special operations forces are also forward-deployed, both at sea and ashore. Reserves become part of the equation through our military exercise programs.

In the event of a crisis, these forward-deployed forces are most often called upon to respond first to contain the crisis. In addition, our crisis response forces must be able to get to the region quickly and be able to enter the region using force, since we cannot assume that ports or airfields will be available. These qualifications limit the types of forces that must be ready to respond quickly in a crisis:

Air forces are limited to aircraft that can make a round trip from a secure base.

Land forces include airborne units.

Sea forces include carriers, surface combatants, and amphibious forces within a range of a few days.

The Army afloat brigade and naval maritime prepositioning forces can respond quickly and, supported by airborne and amphibious forces, can expect to have a secure port and airfield in the region when they arrive.

Because they must be able to respond effectively within a matter of days, forward-deployed and crisis response forces must be maintained at the highest state, or tier, of readiness.

Tier II—Force Buildup: History shows that crises can usually be resolved or contained by the deployment of only a small portion of our military capability. In the past 50 years, the United States has responded militarily to crises throughout the world over 300 times, but we have deployed follow-on forces in anticipation of a major regional conflict only 5 times. These include the forward deployment of United States troops in Europe at the onset of the cold war; the deployment of forces to Korea in 1950; the deployment of forces in response to the Cuban missile crisis in 1962; deployment to Vietnam in the 1960's; and deployment to Southwest Asia in 1990.

Although follow-on forces have been used only rarely, we must still maintain the forces necessary to halt an escalating crisis.

Buildup forces are those that can deploy and achieve combat-ready status within a matter of weeks rather than days. These follow-on forces require permissive access to the theater of operations. There must be airfields available for land-based tactical aviation, ports available to receive land forces and logistics support, and property available for assembly and training areas and supplies and maintenance activities.

Unlike initial response forces, these forces may be maintained at a lower level, or tier, of readiness since they will not be required in the theater of operations until after the initial stages of the conflict. They must, however, maintain the ability to return to a high state of readiness within a short time.

Tier III—Conflict Resolution: In only three of the cases mentioned above—Korea, Vietnam, and Southwest Asia—were we engaged in sustained conflict, requiring a large-scale deployment of United States forces.

Forces that seldom deploy must be maintained and available to ensure that we have the force superiority to prevail in any conflict. Conflict resolution forces include those that deploy late in the conflict because of limited airlift or sealift, and the finite capacity of the theater to absorb arriving forces. Also included are the later-arriving heavy ground forces, naval forces that have not already deployed, and air forces that become supportable as airfields and support capability in theater expands.

These combat units should be maintained at a third, or lowest, tier of readiness. They would not be required in the theater of operations until after about the sixth month of the conflict and would, therefore, have sufficient time to make ready for deployment.

Finally, we must reexamine the practice of maintaining combat units for which there is either no identified requirement under our national military strategy, or which cannot be deployed to a theater of operations until after a time certain following the outbreak of a conflict—perhaps 9 months to a year. We should not be spending scarce defense funds on combat forces which do not significantly enhance our national security.

Adjusting the readiness requirements of our military forces requires a thorough reassessment of our warfighting strategy and tactics. We must recognize that maintaining force readiness at different levels, or tiers, may increase the potential risk in the near term. However, the alternative is an antiquated force of the future which would not be capable of effectively protecting our national interests. The resources saved by tiering readiness could be reinvested in modernization and recapitalization of most needed capabilities. The long-term result of tiered readiness may very well be a more capable force for the future, and a force which is affordable under foreseeable fiscal constraints.

The ideas presented in this paper are designed to spur a much-needed debate about U.S. national security strategy and military force structure for the 21st century. The President and the Congress share in the responsibility of providing adequate military forces, properly trained and equipped to deal with whatever consequences a changing world holds for the United States.

We have an opportunity to chart a new course for national security, and we cannot afford inaction when offered a chance to abandon "business as usual." If we ignore the difficult issues facing us today, we will fail in our most basic responsibility—protecting the security of the American people.

I thank my friend from New Mexico, my neighbor. I know how important the issue is that he brings before the Senate. I appreciate his indulgence.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I say to Senator McCAIN, might I just comment that not only what he spoke of is vitally important but, as I reviewed the President's budget—not for the details as it pertains to these areas where the Senator finds deficiencies but in terms of the funding—I find that it is $14 billion in budget authority under what was requested in our budget resolution after long negotiations between the House and the Senate. I do not believe that would help any of that. It would only make it somewhat worse. But I wanted to make that comment.

PUBLIC RANGELANDS MANAGEMENT ACT

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate, S. 1459, the Public Rangelands Management Act.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes.

The Senate proceeded with the consideration of the bill.

Mr. DOMENICI. Mr. President, let me try to talk to the Senate about where we are.

We have before us a public lands reform act that deals with grazing and other multiple uses, principally with grazing as one of the multiple uses, and the reform in that for those who are ranching on public domain.

There are a number of Senators on our side and certainly on the Democrat side who want to speak to this issue. There are a number of Senators who have amendments. Let me make a few observations about that.

First, I want to thank the Democrat leader, Senator DOLE, my friend Senator BINGAMAN, and other Democrats who are working on this bill because, as I gather, we are going to try to accommodate each other and in the next couple of days get this matter to a final vote.

The Republican leader has graciously given us the rest of today, most of tomorrow, and tomorrow night as long as is necessary to get this bill finished. For that we very much appreciate his generosity of the Senate's time. But I would say there has also been some comment about our leader about not having any votes on Friday. I would suggest he has also indicated to me that he would like to see this bill finished Thursday night, if we are going to have a Friday without votes to be followed by a Monday, as I understand it, without votes.

So I ask that anyone who has an amendment to this bill—I only know of two at this point, and I have not seen one of them, but the other I am pretty familiar with—I hope they will accommodate us by getting to their manager and to the floor whatever amendments they might have. We do not need any surprises, and there will be none because there are no time agreements on the amendments.

So, if we need a couple of hours to look them over, we can either do it in advance, or we will do it while the Senate is in session here on the floor.

I understand Senator BUMPERS has an amendment that changes the grazing fees. I say to all the Senators present that I have not seen it yet. We are asking that it be presented as soon as possible. When I sit down, I will go try to find out where it is.

AMENDMENT NO. 3555

(Purpose: An amendment in the nature of a substitute to the Public Rangelands Management Act of 1995)

Mr. DOMENICI. Mr. President, I have, in behalf of a number of Senators—myself, the chairman of the committee, Senators MURKOWSKI, CRAIG, THOMAS, BURNS, KYL, CAMPBELL, HATCH, BENNETT, KEMPTHORNE, SIMPSON, PRESSLER, and DOLE—a substitute for the pending measure. It is understood that it will be the first thing tendered to the Senate.

On behalf of those Senators and myself, I send an amendment to the desk and ask for its immediate consideration

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. BURNS, Mr. KYL, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, Mr. KEMPTHORNE, Mr. SIMPSON, Mr. PRESSLER, and Mr. DOLE, proposes an amendment numbered 3555.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOMENICI. Mr. President, on the floor right now I see four Senators on our side who might want to speak. I would like to propose the following: Senator BINGAMAN is here, and he would like to speak. I would like to yield to my fellow colleagues on this side for some opening remarks and intersperse that between Republicans and Democrats. Is Senator CAMPBELL prepared to make opening remarks?

I propose that Senator BINGAMAN go first. Then, if he is ready, for him proceed, and then we will go over to our side in which two Senators will speak.

I am going to leave the floor. Let us say that after Senator BINGAMAN, Senator BURNS will make his own agreement as to which one would go first. Senator BUMPERS will not be ready until at least 4:30 or a little later.

So why not handle it that way?

Mr. President, Senator STEVENS has been waiting patiently on the floor. I ask unanimous consent that he be given 2 minutes as if in morning business to introduce a bill, after which we will follow the informal format that we just agreed to.

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

Mr. STEVENS. Mr. President, I thank the Senator from New Mexico.

Mr. President, I, too, have to leave the floor. I thank my colleagues for permitting me to make this statement.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 1629 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that two members of my staff, Charles Hunt and Sharon Miner, be given floor privileges during the entire proceedings on S. 1459.

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

The Senator from Colorado is recognized.

Mr. CAMPBELL. Thank you.

Mr. President, I rise today to voice my support for the Public Rangelands Management Act, and for the courageous efforts of my distinguished colleague and neighbor, Senator DOMENICI.

While I was sitting here, I was just reading a disparaging ad that was taken out in the Wednesday, March 13, 1996, issue of the Albuquerque Journal, the largest city in New Mexico. I have to tell you, nothing could be farther from the truth than this ad. It accuses the Senator from New Mexico of trashing the public lands, of drying up the streams, of driving people off the land, and practically everything except raping the West.

I thought it was very unfortunate that the shrillness of the debate has gotten to that point. But I guess that is what we all face when we try to make changes around here—that we have to face some pretty angry people.

But, from my perspective, the Senator from New Mexico has shown great courage in trying to solve the problem that we have been dealing with for decades here in the U.S. Congress.

As many of you know, the showdown in the West over cattle and grazing rights has been going on for a long time. In the old days, the differences were simply settled over a shot of whiskey or with a shot from the Winchester. But today, with our elevated laws and regulations, we attempt to settle our differences using the power of legislative language and administrative rulemaking. However, it is clear when you read ads like that, that the raw passions and emotions over the management of livestock on public lands often persevere and drive these very strong debates. Unfortunately for the family rancher whose very livelihood is dependent on the fate of these laws and regulations, our debates have reached such emotional heights that we have almost forgotten what actually happens to the family that has to make a living on the land.

But this issue should not be about emotions or politics. It should not be driven along partisan lines.

The debate today should not be about who is right and who is wrong, on whichever version of rules and regulations we are looking at. It should not be about the environmentalists versus the ranchers. The debate should be about how to best nurture sustainable ecosystems on the public lands in the West while still maintaining a consistent, healthy, and viable environment for ranchers and farmers to make a living on the public lands.

I believe the bill of the Senator from New Mexico does that. He has worked on it with a number of us from the West for many months. We have gone through trial and error and met with a great resistance. I think perhaps we finally have something that can pass.

I ask my colleagues for a moment to put themselves in the shoes or boots, as the case may be, of the western rancher today. There is a lot of mystique over who they actually are and what they do. Oftentimes we hear debates in the Senate about the so-called welfare ranchers or the rich CEO's or tycoons or perhaps surgeons who bought some land out West, and have some grazing permits but do not actually know how to ranch. We hear these stories of people taking advantage of the system. But I am here to tell you most of us who really believe in the West and ranching in America are not here to defend them. We are here to try to defend our friends, and neighbors. These are the people we know who have helped build Western America and who have a very strong belief in taking care of the land.

Contrary to perception that these folks somehow make a mint off the public lands, most independent cattle ranchers today are struggling with weak and unpredictable markets and increasing instability of rules and regulations that govern the way they do their daily chores. The uncertainty of Federal legislation often puts ranchers in a precarious position when they have to borrow money from their local bank. They have no idea what to tell the banker regarding the stability of their permit, given the inability of Congress to resolve this issue.

Raising livestock is a tough business, and I venture to say that those who have survived the back breaking work, the tough climate, the market fluctuations and the political pressures, too, are simply in it because they love the land and animals that subsist off it. These are people who care about the land not only because they have to, but because they want to.

I think I can tell you with certainty that any rancher who does not take care of the land simply does not stay in business. I know for a fact that they are better stewards than they are often given credit for.

Over the last few years, the Department of Interior, in my opinion, has engaged in kind of a deceitful and arrogant attempt to override westerners and our ability to make decisions for ourselves. The underlying message of the Department of Interior's rangeland reform basically states that we are not smart enough to figure out what is good for us. Indeed, according to the regulations promulgated last summer by the Secretary of Interior, we apparently need the assistance of beltway bureaucrats, national environmental groups, and virtually everyone else in the country with a peripheral interest in our business in order to make even the smallest decisions on our ranches, including where to put a water holding tank or a cattle guard.

Unlike the administration's proposal, the Public Rangelands Management Act, which Senator DOMENICI has introduced will empower local people to make the decisions that affect them directly. This bill does nothing to prevent broader public participation in management plans or recreational activities on the public lands.

Under S. 1459, affected interests are given the opportunity to comment on seven different kinds of proposed decisions affecting grazing allotments. By managing the public participation process, S. 1459 will provide much needed relief for permittees and Federal land managers from frivolous protests from out-of-State activists who oppose any use of the public lands whatsoever.

I believe that the Department of the Interior's rangeland reform is an undermining effort to overturn a lifestyle that has been part of the history of this Nation. In its zealous attempt to increase the diversity of the biological

life on the range, it is threatening that lifestyle and operation that is already endangered. As I mentioned earlier, ranching is a tough business and it has become increasingly more difficult. Literally hundreds of ranchers in the West who were in business just 5 or 6 years ago, have already gone into bankruptcy.

In my own State of Colorado, many real estate developers are taking advantage of the unstable market and buying ranchers out to split up their land and subdivide the property into small units and tracts. Ironically, by attempting to increase diversity on the range, the rangeland regulations as they are promulgated by the Secretary of the Interior will only assist the paving over of the brush, the grassland, and the fields, putting them all under concrete and plywood. I think even the most ardent environmentalists would prefer to see cattle in those meadows and fields rather than pavement and condominiums.

In fact, if we look at the Department of the Interior's own reports, we can see evidence that indicates that the rangelands are in some of the best conditions they have ever been and continue to improve. For example, according to the Deer and Elk Management Analysis Guide published in 1993 by the Colorado Division of Wildlife, Colorado's elk population is estimated to have increased from 3,000 animals in 1900 to 185,000 in 1990. That report also indicates that Colorado's deer population is estimated to have increased from 6,000 animals in 1900 to 600,000 in 1990.

As a western Senator who has worked closely with grazing for many years, I truly understand the difficulty of trying to achieve a consensus on this issue. I have to say that the time has run out, and S. 1459 presents us with the best and I think perhaps the last chance to balance the concerns of the environmentalists with the concerns of the ranchers in a constructive manner. If you take away all the rhetoric, you will find that this bill has been crafted from collaboration and compromise.

In closing, Mr. President, I submit for the RECORD two resolutions. One was passed by the Colorado State Joint House and Senate Memorial Committee supporting the Public Rangelands Management Act. The second is a resolution from Club 20 which is an organization built from 20 counties in western Colorado which also declares their support for Senator DOMENICI's bill. I ask unanimous consent to have those printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

COLORADO SENATE JOINT MEMORIAL 96-3

Whereas, The federal rangelands are currently in the best condition that they have ever been in; and

Whereas, The condition of the federal rangelands has improved and continues to improve through the efforts of holders of federal grazing rights; and

Whereas, As a consequence of the efforts of holders of federal grazing rights, the improvement of the federal rangelands has resulted in stabilized and increasing populations of big game and wildlife, and further efforts will continue to provide long term benefits to big game and wildlife; and

Whereas, The western livestock industry is a vital component of the economy of Colorado and the economy of the United States, providing the people of the nation and the world with a reliable and healthy source of food; and

Whereas, Fees for grazing on federal lands must reflect a fair return to the federal government; and

Whereas, The Public Rangelands Management Act (S. 1459) has been introduced in the United States Congress; and

Whereas, The objectives of the Public Rangelands Management Act are to promote healthy sustainable rangelands and to enhance the productivity of federal lands while at the same time facilitating the orderly use, improvement, and development of those lands; and

Whereas, The Public Rangelands Management Act gives consideration to the need for stabilization of the livestock industry, scientific monitoring of trends, the environmental health of riparian areas, and the needs of wildlife populations dependent on federal lands; now, therefore,

Be It Resolved by the Senate of the Sixtieth General Assembly of the State of Colorado, the House of Representatives concurring herein:

That we, the members of the Colorado General Assembly, strongly urge the Congress of the United States to pass the Public Rangelands Management Act (S. 1459).

Be it further Resolved, That copies of this Memorial be sent to the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, and the Secretary of the United States Department of Interior.

RESOLUTIONS BY VOICE OF THE WESTERN SLOPE, SINCE 1953

PUBLIC RANGELANDS MANAGEMENT ACT

Whereas: 73% of the Western Colorado is owned by the federal government, mostly in the form of BLM and Forest Service lands, and

Whereas: The use of these lands for grazing is critical to the economic viability of Western Colorado's livestock industry and to the communities supported by that industry, and

Whereas: The Interior Department's recently-adopted revised grazing regulations provide an unfair and unacceptable environment for the livestock industry to operate in, specifically in terms of the makeup of local grazing advisory councils, lack of incentives for investment in the range resource by the permitees, lack of provisions to encourage stability through the use of extended permit terms, and lack of needed efficiencies in the administration of grazing management on these public lands, and

Whereas: The formula for determining the livestock grazing fee needs to be established in an equitable manner, in law, in order to provide fair return to the public and a reasonable rate for permitees, now therefore be it *Resolved* by the Board of Directors at its 1995 Fall Meeting that CLUB 20 supports the concepts embodied in S. 852 and H.R. 1713 as introduced, specifically:

Addition of public representatives on local grazing advisory councils while still allowing majority representation by those with an economic interest at stake,

Adoption of a new formula for establishing the public lands grazing fee in order to ensure a fair return to the public and a reasonable rate for permitees,

Provisions to ensure proper management of public lands resources through NEPA-documented land use plans, range monitoring and enforcement.

Streamlining of the NEPA documentation process to allow for full public participation in the development of area land use plans without unnecessarily encumbering local agency officers and preventing them from carrying out sound range management.

RESOLUTION BY VOICE OF THE WESTERN SLOPE, SINCE 1953

RANGELAND REFORM 1994

Whereas: Interior Secretary Bruce Babbitt has proposed grazing reforms which contain many administrative changes unacceptable to the West, and

Whereas: CLUB 20 has always supported the multiple use of public lands, and food production, as a component of the multiple use of public lands, contributes significantly to the total food production of the United States, and

Whereas: As a whole, ranchers have been excellent stewards of the rangelands, benefiting both livestock and wildlife, and

Whereas: CLUB 20 believes Secretary Babbitt's proposed regulatory rangeland reform will ruin the livestock industry and substantially affect the total economy of Western Colorado, and

Whereas: It is not in the best interest of Western Colorado for affected ranches to be subdivided and sold in small parcels, and now therefore be it

Resolved by the CLUB 20 Board of Directors at its Fall Meeting, September 10, 1993, the CLUB 20 cannot support the administrative changes suggested in the proposed "Rangeland Reform '94".

Mr. CAMPBELL. In addition, I ask unanimous consent to have printed in the RECORD a Denver Post editorial of March 13 of 1995. Although I will not read the whole thing, which endorses S. 1459, I wish to read the first paragraph which states under the headline, The Domenici Grazing Bill Fosters Better Stewardship:

Some Eastern-based environmental groups have been waging a political holy war against the Public Rangelands Management Act authored by New Mexico Senator Pete DOMENICI, but it seems clear that both the long-term environmental and economic interests of the West would be well served by this legislation to provide some badly needed stability and balance to the management of the public lands.

This is from one of our State's largest newspapers.

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

DOMENICI'S GRAZING BILL FOSTERS BETTER STEWARDSHIP

Some Eastern-based environmental groups have been waging a political holy war against the Public Rangelands Management Act authored by New Mexico Sen. Pete Domenici. But it seems clear that both the long-term environmental and economic interests of the West would be well served by this legislation to provide some badly needed

stability and balance to the management of public lands.

Domenici's bill is basically a response to new rangeland management rules proposed in February by Secretary of the Interior Bruce Babbitt after many hearings and much debate. Critics of the Domenici bill are now trying to kill it in the belief that it is less favorable to the environmental lobby than Babbitt's rules. While they are undoubtedly right on that point, the critics are overlooking a crucial fact: What a liberal Democratic administration can arbitrarily impose, the next conservative Republican administration can arbitrarily repeal.

Administrative mandates without the permanence of law thus raise the specter of wild oscillations in policies that lock everything up after one election, then encourage short-term plunder after the next. That's the opposite of what the West needs—a policy that fosters long-term stewardship of the land, rewarding users who manage it carefully and punishing the greedy or stupid who abuse it for short-term gain. Both Babbitt and Domenici are aiming at that goal, but only Domenici is trying to cast it into long-term law.

The swinging-pendulum policies of recent years clearly have been bad for all concerned. Ranchers who aren't sure they can continue leasing land have no incentive to make expensive investments to control erosion or other problems. Likewise, past policies have been too slow to punish the small minority of ranchers who have neglected the land. In contrast, Domenici's bill, S. 852, encourages the Department of Interior to enter into cooperative agreements with permit holders for "the construction, installation, modification, maintenance, or use of a permanent range improvement or development of a rangeland."

Importantly, the Public Rangeland Management Act would allow grazing leases to be issued for up to 15 years—encouraging lessees to make long-term improvements and to carefully nourish the land. And while it would increase grazing fees approximately 30 percent from existing levels, the PRMA would also establish future fees by a formula keyed to the actual value of such leases as reflected in the price of the animals that can be raised on them. Again, by assuring a fair return to taxpayers and ranchers alike, the Domenici bill would reduce the risk of radical "windfall or wipeout" oscillations in fees which could themselves encourage overgrazing or other misuse of the land.

Some of the more hysterical opponents of the bill have claimed it would ban hiking, fishing or hunting from the public lands. The simplest answer to that charge is that it is an outright lie. The bill in fact encourages conservation, control of soil erosion and "consideration of wildlife populations and habitat, consistent with land-use plans, multiple-use, sustained yield, (and) environmental values."

The bill does give an important role to ranchers themselves in establishing grazing policies, recognizing that families who, in some cases, have managed public lands for more than a century are obvious sources of expertise and concern for their long-term welfare. But local citizens, public officials and environmental groups are also given seats at the policy table.

The Public Rangeland Management Act isn't perfect, and we welcome efforts to improve it as it wends its way through Congress. But it is a good start toward the wiser stewardship the public lands so clearly require.

Mr. CAMPBELL. So with that, Mr. President, I will yield the floor and simply urge my colleagues to support this well-crafted legislation. Under the leadership of Senator DOMENICI, it has taken many of us much time and effort.

I thank the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to once again repeat and inquire as to whether or not we might see and be able to read the Bumpers amendment with reference to increased grazing fees. If it is prepared, I hope somebody would let us see it. We would like to have a vote as soon as possible and that would be the one we would vote on.

Mr. President, I am going to very quickly yield to my friend, Senator BINGAMAN, and then to the Senator from Wyoming.

Could I just take 3 minutes? I yield myself 3 minutes.

Mr. President, when I became a Senator 24 years ago, I knew nothing about grazing, nothing about rangeland, nothing about public domain. I traveled New Mexico and met some of the finest people in the world. It just so happens that more times than not they were ranchers or ranching families. They had their house out there on a little piece of private property and some of their own property and then they had permit land. Some of them had been there for two generations, maybe in succession in their family. I can guarantee you that I never met finer folks, nor have I ever met folks who are more dedicated to maintaining the public domain and their stewardship. They just reeked in stewardship of this land. They always talked about it in terms of how they preserved it, how it maintained their families and how so long as they could keep that together and keep the rangeland in good condition, they could be there and enjoy this lifestyle and this manner of living.

We are in danger of many things in the western public domain lands. Some say the West is gone and urbanization shall take over. I do not really believe that. There is so much public domain and open space that the Federal Government is going to have to decide now and for decades to come how they want the people of this country to utilize it. Many, many years ago, order was made out of total chaos and the Taylor Grazing Act was passed for America.

It recognized multiple uses, and a simple proposition that you could graze cattle, pay a reasonable fee to the Government, do maintenance on that land to be able to tend to those cattle, and in addition have hunting, fishing, recreation, and the other things that go with it—namely, multiple use. Nothing, in my opinion, has changed. We ought to have multiple use. But we do not have to destroy the lifestyle of ranchers in our State and across the West, in an effort to maintain this multiple use.

If anyone would like to go to New Mexico and visit the ranchers today, he would see there are no rich ranchers. For those who worry about us representing rich ranchers, if they are rich they were rich before they got on the ranch. They are not getting rich on the ranch. As a matter of fact, there are more ranchers in New Mexico close to bankruptcy than any time in our history. After 3 years of drought and incessant demands made upon them by the Secretary of Interior and his rules and regulations, and excessive demands made upon their stewardship every time they turn around, we have them on the brink of disappearing without us having to pass laws that will make them disappear, or even without enforcing Secretary Babbitt's rules, which will surely, within a decade, even without droughts, see to it that ranching is a disappearing way of life.

In addition, I suggest, just to add to all the fury, cattle prices have come down half—is that correct, I say to my friend?

Mr. BURNS. A third.

Mr. DOMENICI. A third. So, look out where the rancher has 500 head. It is worth a third less this year than last year. With the drought setting in, they are cutting back. So they do not have any great shakes for those who are worried about rich ranchers and those of us in the West who are representing them, representing rich ranchers. We are trying to represent a way of life. In northern New Mexico, hundreds and hundreds of Hispanic Americans, in the third and fourth generation, have small ranches with few, maybe 100, 200 head, and some far less, on their annual permit of head on the range.

Frankly, this bill that is before us, contrary to everything that has been said, does not take away any rights from hunters and fishermen and those women who hunt and fish. We just repeated it over and over in the bill, that whatever their rights were, they remain.

There are some who want us to resolve all the issues between the hunting-fishing population and the ranchers. There is always some kind of problem with the public domain, some kind of friction. So some would like it resolved in this bill to the satisfaction of one group or the other. I believe we leave it just where it was. It is other regulations that concern us.

Before we are finished, we will elaborate to the Senators who have interest, and the American people who are interested, the long litany of new regulations that Secretary Babbitt would impose on the rangeland. Frankly, the Interior Department, under his leadership, is playing very, very cute. None

of those things are going to bite until perhaps next year or the year after. But, by the time those regulations are imposed on the ranchers, in my State and across the West, what I have just described as the condition will be far worse.

I cannot believe that those who want habitat for wildlife, those who want hunting and fishing on the public domain, where cattle is also permitted to graze—I cannot believe that they truly believe they will be better off if cattle are not on the public domain. For those who were for cattle free—at one time the yell was "Cattle free by '93." I do not know what it is now, but it is not too many years off, for many of those who oppose this bill.

I wonder what we are going to do to supply water and habitat and all the things that are jointly used by the cattle that graze and the wildlife that inhabits the land. Who is going to pay for all that? Is the Federal Government going to go out and develop these water sources for them? Of course not.

Nonetheless, there are some who would like this bill today to permit those who have a public interest—just a public interest—permit them to get into the details of operating a ranch. We have withstood that. We give them, the environmentalists and others, conservationists—we give them plenty of input in this bill and plenty of opportunity to be part of it. But we have resisted permitting those who have just a public interest to get into the day-by-day management, get into the day-by-day reissuing of permits. We firmly believe that is not the way it ought to be done. It will yield nothing but havoc on the range, which needs stability these days, as it has never needed it before.

So, perhaps by Thursday night we will get a few questions answered and finish up some votes. I am very hopeful we will add stability to the West in the public domain, and will at least indicate that, while many of us do not understand, many Senators do not come from our areas, we are willing to say give this lifestyle, the lifestyle of being a cowboy, a private cowboy who owns a ranch—permit that lifestyle to exist for a few more decades.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, many of us in this body have tried to resolve the controversies that surround grazing on public lands. We have been working on it for several years. I also believe, as my colleagues who have already spoken believe, that a healthy livestock industry on the public lands is in the best interests of the country. Furthermore, I believe that the continued uncertainty that surrounds this industry, and the continued controversy that surrounds it, benefits nobody.

However, unlike some of my colleagues who support this bill, S. 1459, I contend that the uncertainty and the controversy will not be resolved by this bill. I believe it will not be resolved because the bill, as it now reads, in the substitute form, does reduce public input into decisions related to our public lands. It does elevate grazing into a preferred status as a use of our public lands. And, third, it does unduly limit the ability of the land managers who work for the public to carry out their responsibilities.

I believe that the resolution of these disagreements and these controversies can only be achieved when a balance is struck that respects the needs of all public land users, not just the ranchers. For a number of years, I and many of my colleagues have done what we could to ensure that any reform effort that was enacted would be fair to both livestock producers and the American public. My colleague has referred to the drought that we have experienced in the West. Certainly we have in my part of the country, in New Mexico. There has been a severe drought, and we are still in a very severe drought which adversely affects anyone who is trying to make a living in agriculture.

He also referred to the low prices of cattle. Again, that is a very real problem for people in the ranching industry in my State. I certainly do not dispute that. I think that is a very real concern and one which we are taking into account in the position that I will advocate here today.

But the other part was references to the efforts of the Secretary of the Interior to run these people out of a way of life, and to put in place extremely onerous provisions that will terminate their ability to use the public lands. There I have to disagree with much of what my colleague said.

Last summer, after many months of meetings, I think probably the most extensive set of public meetings that I am aware of having had conducted, at least in recent years, since I have been in the Senate, the Secretary of Interior and the President did promulgate regulations that sought to achieve a balance between the various uses of our public lands. If we are serious about providing stability and certainty to public land livestock producers, we need to adopt a balanced solution that, first of all, addresses the concerns of livestock producers; second, respects the need of all public land users—the needs that they have; and, third, provides some reasonable authority to the agencies that we have given responsibility to manage the public lands.

If we deviate from the balance in either direction, we are merely inviting continued strife and uncertainty as the aggrieved group, whichever group it happens to be, pursues legislative or regulatory fixes.

The Babbitt regulations, which have been referred to by my colleague, create some legitimate concerns for the permittees in my State.

In the substitute which several Senators and I intend to offer later in the discussion, we try to fix those specific concerns that have been pointed out to us and restore the balance that needs to be there in our grazing policies. However, if we pass S. 1459 in its current form, as the substitute was sent to the desk, we go beyond fixing those concerns and, in my view, we once again will throw the grazing policy of this country out of balance. This lack of balance will fester, just like the permittees' concerns have been festering, and lead to more instability and more lawsuits and more hard feelings.

We will likely be addressing this issue again in future years if we err on the side which I fear this bill will cause us to err on. We cannot afford to let that happen. We owe it to the grazing permittees, to their families and communities that rely on the livestock industry, as well as to other public land users and the American public in general, to resolve the dispute now in a balanced and sustainable manner that will withstand the test of time.

Mr. President, I want at this point to go through some of the specific concerns we have with S. 1459. In order to do that, let me put up a couple of charts just to keep track of where I am in the discussion.

A first concern which I have repeated numerous times—and let me say by way of introduction, the bill we are now considering is not the bill which was introduced last summer by my colleague from New Mexico. It is an improved bill. I think the designation of the earlier bill, S. 852, in my view, was substantially more lopsided and one-sided than this bill is, but significant problems still exist in the legislation. Let me go through those.

One of those major problems is that grazing is still given preference as a use of the public land over other uses in the legislation. First, let me talk about conservation use.

It is ambiguous in S. 1459 whether conservation use of a grazing allotment is allowed. Conservation use is where the permittee would voluntarily refrain from grazing all or a portion of the allotment in order to improve the health of the range. Sponsors of the bill will claim that such uses would be permitted. However, I will submit for the RECORD a letter that The Nature Conservancy has sent to me concerning this matter, dated March 16, 1996.

That letter states, Mr. President, and I will quote a couple sentences:

> But our qualification—
>
> That is qualification to be a permittee.
>
> has been challenged in a case now before the Interior Board of Land Appeals. Part of the argument was that because we were resting an allotment, we could not be said to be "in the livestock business" (as required by the regulations that would be reinstated by S. 1459), despite the fact that at other locations

we own, raise and sell domestic livestock and depend on the revenues we get from the cattle business to support our operations.

Creating a category of "conservation use" of Federal grazing permits would make it clear that The Nature Conservancy could hold a permit and rest it.

Mr. President, I ask unanimous consent to have printed in the RECORD this letter from Russell Shay, who is the senior policy adviser to The Nature Conservancy.

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

THE NATURE CONSERVANCY,
Arlington, VA, March 16, 1996.

Hon. JEFF BINGAMAN,
U.S. Senate, Washington, DC.

DEAR SENATOR BINGAMAN: Thank you for asking us about our use of grazing permits on public lands, and the potential impacts of new grazing legislation on them. We currently hold 23 of the more than 26,000 federal grazing permits on Bureau of Land Management (BLM) or Forest Service lands. Those 23 permits are spread across 9 different states. Our review of BLM and Forest Service records has not found any other conservation organizations to be currently listed as owners of federal grazing permits.

The Nature Conservancy and cooperating ranching partners actively graze domestic livestock on about half of our allotments. The others are being rested in non-use being annually approved by the local BLM or Forest Service professional land manager. Our permits were each approved by local managers whose judgement was that The Nature Conservancy was qualified to hold them. But our qualification has been challenged in a case now before the Interior Board of Land Appeals. Part of the argument was that because we were resting an allotment, we could not be said to be "in the livestock business" (as required by the regulations that would be reinstated by S. 1459), despite the fact that at other locations we own, raise and sell domestic livestock and depend on the revenues we get from the cattle business to support our operations.

Creating a category of "conservation use" of federal grazing permits would make it clear that The Nature Conservancy could hold a permit and rest it. It would also provide a framework that would allow for local consideration of such uses and their effects through public participation in the land-use planning and allotment management plan approval processes.

Sincerely,

RUSSELL SHAY,
Senior Policy Advisor.

Mr. BINGAMAN. Mr. President, I think it is clear when you analyze the bill—and I am sure we will have more discussion on this—it is clear that entities that are not engaged in the livestock business under the language of this bill could not hold a permit in their own name, and I think that is something we should. correct. We will propose to do that in the substitute that we offer.

A second concern, which is on this chart—I hope that people can see this; I am sure most cannot—but a second concern that I have with S. 1459, a second way in which grazing is given a preference is that S. 1459 will, for the first time, allow permittees to hold title to permanent range improvements on forest land.

For example, under existing law and regulations, a Forest Service grazing permittee is granted a permit to construct a range improvement and the title to that improvement is in the name of the United States. That has always been the law in our national forests.

S. 1459 will allow the permittee to hold title in proportion to the value of the contribution that that permittee has made for the cost of construction, and that is a major change for those who are permittees in the Forest Service.

A third way in which grazing is given a preference is that S. 1459 statutorily provides for granting private property rights on BLM land as well as on forest land. The old BLM grazing regulations provided only regulatory authority for granting title to permanent range improvements on BLM land. This would take what was in the old regulations promulgated under the administration of Secretary Watt and would put that into statute for the first time.

A fourth ground for concern is the wording of the objectives in the bill. Here my reading of the objectives is that they favor the stability of the livestock industry over the needs of wildlife. The objectives are extremely important in this, as pointed out in the Congressional Research Service report, which makes the very important point that under section 105(A), management standards and guidelines are to be consistent with the objectives and become directly effective upon plans by operation of law.

Under section 134(A), terms and conditions of a permit must be necessary to achieve the objectives of title I. Therefore the objectives have more significance than would be true if they provided only a general guidance unrelated to particular processes.

A fifth concern with regard to grazing being a preferred use of the lands, Mr. President, is that S. 1459 provides for cooperative range improvement agreements with permittees and lessees only. Currently, about 17 percent of all BLM range improvements have nonpermittee cooperators, such as Quails Unlimited.

The old grazing regulations provided that the Secretary could enter into a cooperative range improvement agreement with any person. This bill goes further in restricting the Secretary, further than the regulations promulgated in the Watt administration or developed in the Watt administration, and says that the Secretary is only able to enter into these cooperative agreements with permittees and lessees.

Let me move to the second of the three major points I want to make at this time, and that is this bill does reduce the extent of public involvement.

The first way in which it reduces the extent of public involvement is that it denies the right of affected interests, people who are determined to be affected interests, to protest grazing decisions on public land and national forests. S. 1459 allows an affected interest to be notified of proposed decisions and given an opportunity for comment and informal consultation. However, only an applicant, or permittee, or lessee may protest a proposed decision. Further, in the absence of a timely filed protest, the proposed decision becomes final.

Again, referring to the Congressional Research Service analysis, it says:

A protest, similar to a predecisional appeal that gives the public an opportunity to object to a proposal, gives the agency an opportunity to change or modify its course before commitment of further time or effort.

These provisions appear to mean—these provisions being S. 1459—appear to mean that unless an applicant or permittee protests a proposed decision, comments or other input from other sources will not be taken into account because, absent a protest, the proposed decision does become final. If this is a correct reading, then the opportunity for comment and consultation does not appear to be meaningful.

A second way in which public involvement is reduced is, it is possible that only ranchers, under our reading of the bill, would qualify to file an appeal of a final decision affecting the public lands. A person who is adversely affected—and that phrase is a term of art, because it is used in the legislation—a person who is adversely affected within the meaning of 5 U.S.C. 702 is permitted to appeal. This cited code refers back to the relevant statute.

In this case, the relevant statute would be S. 1459. On that issue, the analysis by the Congressional Research Service says that the persons included within this provision are not clear. The cited code section refers back to the relevant statutes, thereby setting up a circularity.

Since the CRS report was published, new appeals language has been added that further clouds the situation. It states—I will quote this from the bill—it says:

Being an affected interest, as described in section 1043, does not in and of itself confer standing to appeal a final decision upon any individual or organization.

Mr. President, a third way in which public input, involvement is reduced is that S. 1459 exempts on-the-ground management from the provisions of the National Environmental Policy Act, or NEPA. As the bill is presently presented, the National Environmental Policy Act, commonly known as NEPA, is going to be the topic of a great deal of our discussion. NEPA is one of the main tools used by land managers to analyze the health of the

land and to analyze the potential effect on the land.

S. 1459 exempts on-the-ground management from NEPA. In discussing the elimination of NEPA in site-specific situations, this Congressional Research Service report states:

An activity could readily comport with a land use plan and yet have many harmful aspects if carried out in a particular area. Therefore, the elimination of site-specific analysis is a significant change in current law and procedures, and could result in significant effects on the conditions of the land.

In place of NEPA, S. 1459 proposes a review of resource conditions. Essentially, the bill states that upon the issuance, renewal or transfer of a grazing permit or lease, at least once every 6 years the Secretary shall review all available monitoring data from the affected allotment. The central problem with this provision is that monitoring data usually consists of very specific measures of vegetative attributes. That monitoring data, in many cases, is not available.

A fourth reason that I would cite why public involvement is reduced under this bill is, aside from the grazing advisory councils, the public is not given a say in range improvements. The old grazing regulations allow affected interests a say in the development of range improvements. As I read the provisions of this bill, it does not.

Let me move to the third major concern that I have, Mr. President. That is that S. 1459, as drafted, and as being considered here, unduly ties the hands of lands managers. It does so in several respects. First of all, the application of terms and conditions needed to protect the land requires the development of a formal allotment management plan under this bill.

Currently, less than 25 percent of BLM land and national forest allotments have allotment management plans prepared for them. The old grazing regulations' terms and conditions were attached as needed to protect resources and no allotment management plan was required.

A second reason that I believe the current bill, Senate bill 1459, ties the hands of land managers is that the number of animal unit months would be established in land use plans in this bill. The land use plan often covers millions of acres, contains very general language, and S. 1459 would require costly, time-consuming land use plans and amendments to establish and make changes in grazing use for each allotment. In the old regulations, specific grazing use was determined through site-specific analysis, not through amendments to the entire land use plan.

A third reason that the hands of land managers will be tied by this legislation is that in conducting monitoring activity, S. 1459 requires the manager to give prior notice, to the extent practicable, of not less than 48 hours. This exception to the notice creates a burden of proof that has never existed before.

I also point out this creates a burden of proof when a land manager is dealing with a grazing permittee which does not exist when dealing with any other permittee on our public lands. Someone involved in the oil and gas industry certainly is not entitled to any 48-hour notice prior to monitoring activity taking place. It is inconsistent with the concept of these being public lands, Mr. President, to say that the manager of those public lands has to give notice 48 hours in advance before being able to view the lands and determine the condition. In the old grazing regulations no such advanced notice was required.

A fourth way in which the hands of land managers are tied, in my view, in this bill is that S. 1459 would allow a sublease in cases where permittees neither own nor control the livestock. In the old regulations, ownership or control of the livestock was required. As I understand it, that is an appropriate requirement because clearly the BLM or the Forest Service cannot be expected to go around trying to find who is accountable for damage to the public lands. They have a right to assume that the person that has the permit or the lease has control of the livestock or ownership of that livestock and can be held accountable for what happens on the land.

Mr. President, let me just conclude this set of initial comments here by saying that I do believe that we need to keep working to get a balance. We will offer later in the debate a substitute proposal which we believe does a better job of striking a middle ground and addresses the specific concerns that have been raised in the current Department of Interior regulations but does not repeal them entirely, as this legislation would. We believe that it gets us much closer to something that looks out for the interests of all those who have a valid interest in the use of the public lands.

So I will stop with that, Mr. President. I know there are many others on the floor who wish to speak. I yield the floor.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of the Domenici bill. I would like to give a little background on it. I think later in the debate it will be necessary for us to talk a little bit about the comments of the Senator from New Mexico in that I think they are exactly where we are in terms of wanting more bureaucracy, wanting the bureaucracy to have more and more input. That is precisely what we want to get away from.

Let me just say one thing in terms of this idea that keeps rising up that grazing is the preferred use. Let me read from page 6 here, on line 14.

Nothing in this title shall limit or preclude the use or the access of Federal lands for hunting, fishing, recreational, watershed management, or other appropriate multiple-use activities in accordance with applicable Federal and State law in the principal or multiple use.

Not only is it there in this instance, it is there in a number of instances and has been the focus of our interest over the last several months. I really do not think there is any substance to that kind of an argument, although we continue to hear it.

Mr. President, let me be a little broader. I think one of the things about this whole debate is that there is a unique aspect to western public lands. Most Members of this body are not as familiar with them. I think you have to start with the uniqueness of the West. You have to start with the uniqueness of the idea that Western States run anywhere—in my State from 50 percent Federal ownership, and in Nevada, I think, as high as 80 to 85 percent Federal ownership. I think you have to talk about that a little bit. I brought a map to give you some idea of the kind of complexity involved in the management of public lands.

First of all, there are a number of kinds of public lands. The idea that public land is public land is not the case. Many people in New Jersey would say, "Well, public land must mean Yellowstone Park or Teton Park." It does not. There is a substantial difference. We have the parks which were reserved and withdrawn for a special purpose by the Congress. We have the forest which was reserved by action of the Congress. You have Indian reservations. You have other kinds of lands that were withdrawn—wilderness in the forest. These things were all set aside for a specific purpose because of the uniqueness of that land.

The remainder is basically what we are talking about here. We are talking about those lands that were residual lands, lands that were left in the State after the homesteaders came and took up the base lands, took up the lands, frankly, where the water is, where the winter feed is, took up the most valuable lands, and the others were left there. That is basically what we are talking about.

Let me tell you from a standpoint of a westerner, if we do not have a multiple-use policy for the lands, we have very little economic future to look forward to. By "multiple use," we are talking about hunting and fishing, talking about outfitting and mining, talking about oil, talking about grazing. These things have for a very long time been compatible with one another.

Some of this map is hard to see. The colored part belongs to the Federal Government. The green color is the

Forest Service, the purple is the park, and all of this yellow are BLM lands. We can see how interspersed they are. This is particularly unique. These are called the checkerboard lands. When the West was developed and the railroads were encouraged to be out West, they were granted 20 miles on either side of the railroad, and every other section belongs to the Federal Government. In between are private sections. For the most part, there are no fences there. You do not manage these separately. These are very unproductive lands. This land probably takes 100 acres for one cow unit to last for a year. This is not the kind of land that people think about when they think about a pasture in Indiana.

When we were in the House, we went through this thing about the fees. The chairman of the committee was from Indiana. He had this pasture where the grass grew this big, and he could not figure out why the fee should not be the same for this land as it is for his land. It is quite different.

What we have in terms of landownership patterns you have to take into account. Here is a blowup of the checkerboard land. Every other section here belongs to the Federal Government; the others are private. These are interspersed. The blue ones happen to be State lands. You can see, in order to manage this stuff, you have to have some of these local folks do it.

Now, talking very briefly about the condition of the range, this is the figure put together by the Bureau of Land Management in Wyoming. It talks about the percentage of acreage in a condition class. This green is called excellent and good; the red dotted line is poor. This starts in 1974 and goes up to 1993. This is the good and excellent here. This is the condition of the range. This is the poor down here. It has improved substantially.

Let me give you another reason why that is the case. This is the big game population on public lands in Wyoming. We talk about the multiple uses being able to work together. Here is antelope. In 1962, we had 97,000 of those rascals running around; now we have 226,721. I got one last year. Now, deer, 87,000; go up to 250,000. Elk, 12,000 in 1962; now 35,000. You can see the percentage increase over a 28-year period.

My point is that the range is in good shape. The range is carefully husbanded by these ranchers. Why? Not just because they are entirely gratuitous, but because their future depends on year after year usage of this resource.

I must tell you, having grown up there, that this wildlife would not do well if there was not somebody out there using this land for something else and preparing water, often digging out a spring and damming it up so there is water available, not only for cattle or sheep, but also for wildlife as well.

It is a very unique thing, Mr. President. I think we need to start with understanding that. Western cattlemen, western livestock people, of course, a very important part of our society, not only because of these families that live and work there but because these are the sustaining families for the small towns that are there. This is the economy for much of the West. This is a historic time now of low prices for cattle, as everybody knows. The considerable loss to predators has also been a problem and makes it much more difficult to make a living.

Now we face, I think, excessive regulations put on by the Bureau of Land Management. The Senator from New Mexico mentioned the number of trips of the Secretary out there. He is right. I was involved in very many of those. For 2 years we had meetings, meetings, and meetings. When the regulations were put out, they were put out almost precisely as they were initially. You can have meetings until you are green in the face; that does not mean there will be any difference. That is a fact.

That is where we are. We are seeking to make some changes here from this movement by the Secretary for more and more bureaucracy in Washington, to some movement where there is more impact of the people, more decision-making by the people who live there. I do not think there is any question that rangeland reform will drive families off the range, create some economic problems in our areas. We worry about that, naturally. Maybe the broader, more generic concern, however, is the maximum, ultimate best use of multiple resources. Grass is a renewable resource, one that you manage.

This Public Rangelands Management Act is a great step forward. It is something we have worked on for over a year. We have taken it to our friends on the other side of the aisle; we have talked about it; they have come back; they have agreed to some things; we have put in much more than we have changed for ourselves. However, there are some changes in which we do not basically agree. One of them is the degree of bureaucratic involvement in this bill.

We have established and very carefully established a relationship and a balance between grazing and hunting and those activities. Personally, I come from a place where hunting and fishing is a very major function between Cody, WY, and Yellowstone Park. There is grazing, but hunting and fishing is equally important from the economic standpoint. I understand that. We balance that. That is what this bill does.

I think for too long over the last several years the grazing question has zeroed in on the fee. The Secretary does not even have a change in the fee. We have a fee. We have a simplified fee based on the value of the product, based on the average value of the livestock, and it raises the fee even in spite of the economic condition that livestock people are in. This is not a question, this time, about fee. It is a fee that is based on the product.

Too often there are comparisons made between this land and this land, these services and these services. I am sure we will hear, "Well, the State charges more, gets paid more, private gets paid more." Yes; they do. They also provide a great many more services. You can have exclusive use of State land, but you cannot do that with public land.

There are differences. Someone said it is a little like the difference between a furnished apartment and an unfurnished apartment. That is exactly right.

Mr. President, I think we have a great opportunity to move forward to do something that has needed to be resolved for a very long time, and I think this moves toward that resolution. And I think the bill, as it stands, is one that has been considered and approved by many people. It is time, certainly, for us to come to closure on it. I have been disappointed that each time we have tried to do something, we get a lot of disinformation from BLM. I do not think that is an appropriate role. We have been involved in that over a good period of time.

So, Mr. President, I am sure we will be back to talk some more about the specifics of the issue that have been brought up. I do not believe that this limits public input. I do not think that is true at all. On the contrary, we are seeking to deal with issues like NEPA and to try and say the NEPA law requires that activity in relation to a major Federal action.

Last year, we had a proposal in the Forest Service that every renewed grazing permit have a NEPA process. Ridiculous. If you ever heard of excessive bureaucracy, that is it. Indeed, the NEPA process takes place on the land use plan which takes up a number of allotments. That is the reasonable thing to do. I do not think there is anybody who would argue you should have a NEPA process for every renewable grazing lease. That was already seen to be not workable.

Mr. President, I am glad we are talking about it here. As I said, this is kind of an opening statement for me. I want to come back, as we go forward, to talk about some of the specific things that were talked about here.

Let me say, finally, that I have no doubt that this is a question about the livelihood of families in the West. This is a question of small ranchers who depend on this public land to go with their deeded land, to be able to sublease. They were able to do that in the past, and they can do it now only if the BLM agrees to that. That is what it says in the bill. That is the way it ought to be.

So, Mr. President, I hope that we can move through these issues, and I hope that we can end up with a reasonable way to provide multiple use in the West, protect the environment, which all of us who live there want to do, and, at the same time, be able to use those resources so that those families in the West can make a living as they do over the rest of the country.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I will be brief today. We are here on the floor of the Senate talking about a grazing bill. I have spent a substantial amount of time on this issue this year. I cannot tell you the number of meetings I have had in North Dakota with ranchers, environmentalists, hunters, and others, talking about the various proposals that exist in the grazing legislation that has been offered by Senator DOMENICI, the substitute that was previously offered by Senator BINGAMAN and myself in the Energy Committee, and other iterations of each.

This is another one of those cases where in debate on the floor of the Senate, it seems to me, there is a little bit of truth on both sides. Each side takes their side of this issue and tends to take it out here and make a caricature out of it. The fact is that we have a circumstance with respect to publicly owned lands in many of our States that are used for a lot of purposes, where ranchers in my State—not big ranchers, but family ranchers—are trying to make a living grazing their cattle on public lands, as has been provided for many years with respect to the multiple use of these lands. They work hard and they do not ask for much from anybody.

Most of these folks are not big. They are family-size ranches. They are subject to the whims of the weather and subject to the ups and downs of cattle prices, and sometimes they have an awful time.

I notice that the Senator from Connecticut has something he wants to do. I will be happy to yield for a moment.

Mr. DOMENICI. Mr. President, we have been informed that Senator DODD will introduce a distinguished guest. He will then ask that we be in recess for a period of time.

I yield to Senator DODD for that purpose.

VISIT TO THE SENATE BY THE PRESIDENT OF HAITI

Mr. DODD. Mr. President, we have the high honor of having with us in the U.S. Senate today the President of Haiti, Rene Preval, who is visiting us in the Senate today. My colleague from Georgia, Senator COVERDELL, and I had a very good meeting in the Senate Foreign Relations Committee.

RECESS

Mr. DODD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes so that our colleagues may have the opportunity to greet President Preval.

There being no objection, the Senate, at 5:05 p.m., recessed; whereupon, the Senate, at 5:11 p.m., reassembled when called to order by the Presiding Officer (Mr. COATS).

PUBLIC RANGELANDS MANAGEMENT ACT

The Senate continued with the consideration of the bill.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I was saying, this piece of legislation is a piece of legislation that deals with grazing issues that are important issues to people who ranch and who graze cattle on public lands. I indicated previously that there is some truth on every side here on this issue, and that each side seems to stretch some here and there to make their point.

I think there is a legitimate question with respect to some of the management practices, especially on the grasslands in North Dakota. I think there is a legitimate question about the management practices that create circumstances where a rancher who is grazing on public lands wants to move a water tank and months and months and months pass, and they do not get an answer. Some of these little issues that they ought to get resolved ought to be resolved. They ought not to wait forever for some answer. So ranchers get upset on that kind of management of public lands, and they have a right to be upset about that. We ought to resolve some of those problems and address some of those problems.

Senator DOMENICI has offered a piece of legislation that has gone through a couple of different drafts. Senator BINGAMAN and I offered a substitute in the Senate Energy Committee on two occasions I believe; maybe one. But we offered a substitute. We said that there are some things that we think have merit in Senator DOMENICI's approach, and there are some things that we think need to be improved upon and changed.

So we wrote a substitute that we think addresses the real problems that exist without causing some other problems. We are here wanting to solve problems—not create problems.

I say this to those who argue, as some have in the recent editorials in the last day or two in the largest newspaper in our State, that this is a "land grab" by ranchers; that they want to seize control of public lands, period, end of story. That is not an accurate assessment of what is going on.

I am prepared to support some legislation to address these issues, as I think the Senator New Mexico, Senator BINGAMAN, does and as others do on the floor who have spoken. We may want to address it in a slightly different way. But, nonetheless, all of us come here saying there are some legitimate problems that ranchers have, and we ought to address some of those problems.

Those who make the charge—as was made a couple of days ago in an editorial in our largest newspaper that this is a "land grab"—that it simply would turn the keys to the Federal lands over to the ranchers with no input from anybody else is wrong. I will not support that. That is not what our substitute says. Frankly, that is not what the Domenici bill says. We come at this sometimes from different ways, and we, because we offer a substitute, think the bill moves too far in some areas. But all of us believe these are multiple-use lands—public lands available for multiple use—and that they ought to remain that way.

I really believe that hunters have a right to these lands. Hikers have a right to these lands. Environmentalists own these lands as well. These are multiple-use lands, and will remain multiple-use lands. And I would not support anything—not a substitute, anything—if someone brought a proposition to the floor that says this is not your land, and that this land belongs to ranchers. It is not my view. I will not support anything that supports that view. That is not what we are saying.

The substitute offered in the Energy Committee by Senator BINGAMAN and I says there are some problems and let us address those problems. Let us not address those problems by creating more problems for ranchers. Let us not address them restricting any access for anybody else. Let us simply address them the way they ought to be addressed.

I hope, as we talk through this set of issues in the next day or so—and hopefully we will have a vote tomorrow on this, and we will have a vote I think on a substitute that Senator BINGAMAN and I will offer along with some others—I understand that there will be a vote on an amendment by Senator BUMPERS on grazing fees. There may or may not be other Senators who come to offer amendments on the issue. But I hope when we get to the final stages of this process that most of us will understand that we are aiming for the same thing—we want to solve some problems. We do not want to create others.

I would say to those in my State, North Dakotans, who are interested in this issue that these are multiple-use lands and will remain multiple-use lands. I feel very strongly that hunters and others have an interest in these lands, and I will not do anything to restrict that interest. By the same token, I come to the Senate wanting to

solve some problems that ranchers have. They graze cattle and have some problems with respect to the management structure. And I am interested in solving those problems.

As we debate and discuss this, let us really deal with the facts on each side, and let us—each of us—represent what we want the answers to be to these problems. At the end of the day we count votes in the Senate. We do not weigh them. So whoever has the votes to advance their proposal, that is what public policy will be. And I hope, at the end of this, public policy will be one that says these are lands that belong to our country—all of the people of our country—and should be available for all of the people in our country to use. But some of the salt-of-the-Earth people in our country also are people who ranch, who work hard, who try to beat the odds, the weather, the prices, and they have some management problems, and we ought to address some of them. That is my interest in this legislation.

I will return to the floor with my colleague, Senator BINGAMAN, offering a substitute, and we will have a discussion about that. I will also, when I return to the floor, join in some discussion I am sure with Senator DOMENICI, Senator CRAIG, Senator BURNS, and others. While we might disagree on some parts of this bill we agree on others.

I commend all of those who are involved in this discussion because I think that this is an interesting discussion about the use of public lands, and I hope that we will shed more light rather than cause more fog in the next day or so.

Mr. President, with that, I yield the floor and I will return to the floor with Senator BINGAMAN and offer a substitute.

Mr. DOMENICI. Mr. President, I understand that Senator BURNS has been waiting a long time and wants to speak on our side. I am pleased that Senator BUMPERS is here. If all goes well, as soon as he is finished, the Senator may get the floor and offer his amendment, debate it, and try to vote this evening.

Is that all right?

Mr. BUMPERS. Mr. President, it is immaterial to me when we vote. We can vote this evening or possibly tomorrow. I am not prepared to enter into a time agreement at this moment. If the Senator from Montana would like to proceed, my chief cosponsor, Senator JEFFORDS, will be here in about 2 or 3 minutes. If the Senator wants to proceed, that is fine.

Mr. DOMENICI. He will proceed now, and then Senator BUMPERS will follow.

Let me just talk to Senator BUMPERS for a minute on the timing. I understand his amendment is an amendment to increase grazing fees. That is the one which he has given us. He may have others. I just wanted to tell him what I told the Senate when I did not think he could be here. The leader wants us to finish tomorrow because he has a commitment to Senators that there will be no votes on Friday. We will be in tonight, if need be rather late, and then come back on this, I think, at noon tomorrow.

So we will give the Senator all of the time in the world because he is entitled to it. But I hope on his amendment that sometime later he might give us an idea when he might vote this evening so we could get one vote on this bill accomplished this evening.

Mr. President, before I yield, let me say to Senator DORGAN that I thank him for the way he has handled himself here on the floor this afternoon. I think his comments were very well taken. I think there is a lot of excess language on both sides of this. I mean ranchers frequently say, if this happens, they are out of business; they are gone. Environmentalists say, "If you do not do this, the public land is all going to be owned and confiscated by ranchers, and we will lose all of our rights." Frequently neither of those views are accurate.

We are going to try our best to have a multiple-use bill when we leave the Senate, get one from the House, and send it to the President. We have no intention of taking away any rights—we do, however, want to protect grazing, and try to put it in a secured position. But we are not trying to take away any of the other rights. We are doing our very best to try to see that they are there.

Mr. DORGAN. Will the Senator yield for a question?

Mr. DOMENICI. Of course.

Mr. DORGAN. With respect to the schedule, of course, that is up to the leaders. I would suggest I do not think there is a circumstance where you are going to see a filibuster that succeeds on this legislation. I think there is a general understanding that this legislation will be resolved by the end of tomorrow, and I hope that if we get to a circumstance where someone wants to offer an amendment, and it is going to take us until 8 or 9 tonight, and we are not going to call people back for tonight, we could roll that vote first thing in the morning.

So I would urge the leaders and the managers of the bill to consider that because I do not think this is a case where if we do not vote by 9 o'clock tonight, we are not going to have the bill out of here tomorrow. I do not know of anyone who is going to stall the bill tomorrow.

Mr. DOMENICI. Let me just make sure that the Senate understands that I do not intend, if we have some kind of understanding about how many amendments and we will finish tomorrow, to keep the Senate in until 9, if we have consent to debate it tonight and vote tomorrow. I thought we would get through the first amendment sooner than that, by 6 or 7. If not, I will talk to the leader about the Senator's idea.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER (Mr. COATS). The Senator from Montana.

Mr. BURNS. Mr. President, I thank my friends from New Mexico for the leadership they have shown on this issue.

It is a wonderful day to start the debate on this particular issue, the first day of spring. Even though the weatherman has not chosen to cooperate properly in greeting this day for the most part across the country, a little bit colder than usual, the Earth is starting to shed its winter chill and the frost is giving way to the warmth that lives within this great Earth. It is also the time of renewal, when those seeds that have laid in the Earth and those grasses that were dormant, are starting to show some signs of growth. It starts to give the Earth a different hue.

It is also a pretty exciting time in livestock agriculture, too, a time for newborn calves and lambs, a special time of the year for those who are attached to the land in a very, very special way.

It is a season that also gives us renewal. This transformation that we have, this promise of renewal every spring, every year, this renewable resource that renews itself, happens right before our eyes and it assures us that the future is now and will ever be.

I realize it is hard to see the significance of the season by those who have never really experienced that special attachment to the land.

In saying that, it is time for the Senate and this Congress to bring some common sense, some predictability, and stability to the folks who really deserve it, the people who are charged with the business of caretaker of our lands and our resources that come from those lands. They are good caretakers because it behooves them to be good caretakers. I just do not know of any good or successful rancher who loves and cares for his livestock and his land, who lives for the day that he will finally turn over the reins and the ownership of that ranch to the next generation, whether it be a son or son-in-law or daughter or daughter-in-law, who does not live for that. They teach their next generations how important this caretaking is. If we in this country are to hand to our children and to our grandchildren a better ranch and therefore a better world, where they can work, where they can sustain life, where they can recreate in an environment of clean air and clean water, then we must dedicate ourselves to the idea that Washington must, in a different way, make regulations and work with the local people to make sure it happens.

After hour after hour of discussion both here in Washington and on the ground on this particular subject, it is

time now to move forward with a rangeland bill that we can be proud of and that we know will work and has the support of everybody involved.

If one could have written a rangeland bill that has all the principles of multiple use, maybe this is not quite perfection. If we were to write one that reflects the dedication to pursue sensible environmental policy, that preserved the gains that we have made in the last 50 years on our rangeland, then I would say this one probably is not perfection either, for, you see, those folks who are charged with the caring of this land, they became concerned about our range conditions a long time ago. They just did not start in 1980 or 1986 or 1984 or 1990, and for sure not 1996.

Range management was put together after World War II and after the Great Depression and great droughts of the dirty thirties.

In this bill, as presented by Senator DOMENICI of New Mexico, we have taken a giant step to the resolution of a very, very contentious and emotionally charged issue, and at times it has defied common sense and good judgment because there are groups that probably have had to raise some money and this is probably a pretty good issue on which to do it.

As we look at the future of these lands, we must be careful as to what the people who are actually the caretakers of these lands provide for the rest of America to enjoy, for it is in the best interests of these people to care for these lands. Without the continual regeneration of the grass and the land they care for, they have nothing to graze. They are out in the cold. They are out of business.

We have heard that there are those who are concerned about wildlife. Please read all the journals of Lewis and Clark. Please read of the people who entered these lands long before there was a rancher there. Read in the journals how there was no wildlife at all, that they ate their horses in the dead of winter, and the only wildlife—and it was sparse—was along the rivers, the Missouri and the Yellowstone and the rest of them. That was in the north country. Those lands were not claimed during the homestead days. It was for one reason: There was no water. Very harsh land. But with people who cared and people with new and innovative ways to bring water into grasslands, there came the wildlife. I can give you all kinds of figures on the increase in antelope, deer, whitetail deer, muleys, elk, whatever you want to count. There are more of them now than at any time since the Great Depression.

I am not going to do anything that is going to harm the habitat of wildlife or harm my way of life. I like to hunt. I am chairman of the Sportsmen's Caucus in this body. I am not going to do anything to harm that. I would ask these people, where are some of our supporters whenever hunters' rights come up? Where are they then? Are we playing with a double-bitted ax here?

Section 102, paragraph (c) says:

> Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple-use activities in accordance with applicable Federal and State laws and the principles of multiple use.

How much clearer must it be? It is even written in plain, everyday English.

So, as we talk about this issue, we will all have a lot more to say about it. I agree with my friend from North Dakota, we have run into some problems. We have not been able to move a water tank when we wanted to. The decisions from BLM did not come fast enough, or decisions from the U.S. Forest Service did not come fast enough. But do we create two or three layers more of bureaucracy to make that decision? The best decisions are made at the local level. Do we have to call Washington to change a gate? I would say no, not and be good caretakers of the land, because if they delay the decision of moving the water tank, maybe they will delay the decision about moving some stock that should be moved. Maybe there is some real environmental damage that could be done because of the inability to make a decision 2,100 miles away from where the grazing activity is taking place.

The challenge that awaits this and every Congress from here on out will be the effect of how we manage public lands or the policy we set for those resources found on public lands. This bill seeks to provide an effective, reasonable management of our natural resources. Effective management means it will allow those close to the land, who have not only economic but also social involvement with a community, allow them to manage those resources, not as they see fit but as nature sees fit.

The terms of this bill, to make grazing an acceptable practice in the management of our Federal public lands, is that asking too much? Do we just let the grass grow up every year? Some years you are going to have drought, and it is not going to grow up. But let us say we got a lot of growth last year, this year there is a lot of dead grass around, and it burns. It will burn. In its path you put at jeopardy life, property, even residences. I do not know how many people on this floor have ever faced one of those fires. They are not a fun thing. They are pretty scary. But the people who are caretakers of this land face that every day.

Do you want to talk about prices of cattle? I can talk about that. I have a hard time relating $58 and $62 steers and heifers ready to be brought to market, and little T-bone steaks at Giant at $4.50 to $6 a pound. There is not too much relationship here. Packers say they are not making any money. You know how packers are.

Cattlemen will be hurt, but we will not feel it here in this town because, in this town, April 15, the shrimp boat comes home and we will get our check. They will get theirs this fall. But it will be 35 percent less than it was last year, and we think we are doing them a favor. Those who pay the bills in that community, who provide the services to local government—schools, roads, public safety—all of this comes out of that check when he sells the product this fall.

So, as we talk about this, and we will bring up more points as we go along, I just want to remind folks what we are dealing with here and how delicate the balance is between good management on range and bad management.

In 1979, I started a little activity in Montana called Montana Range Days. It started off with about 200, 250 people who would attend every year. We had super starters, 8-year-old, 9-year-old kids, identify plants, weeds, grasses; identify carrying capacity on range, capacity conservation, watershed—3 days sleeping on the ground out on the range. I kind of helped that get started. It is bigger now than it was in 1979, under the leadership of Taylor Brown, who took over the Northern Ag Network when I left that organization. So we are pretty familiar with rangeland and what they teach in the colleges, and how they teach management and things that can happen on a range.

By the way, a range is not used for just about any other purpose. The only way we got to harvest that resource out there is through animal agriculture.

So, we will talk about the merits of amendments and the merits of this bill. But I ask my colleagues to think and look, and really look at it objectively, without any outside influence, to see exactly who contributes what to a neighborhood, to a community, to a county, and to a State, and look at the practices and look how far we have come in the development of better range for everybody. There is a lot more to be hunted, there are a lot more fish in the rivers, because there has been good stewardship on our range, because it is profitable for a rancher to do so.

The future of our public lands rests in our hands. We had an opportunity to make the future meaningful for all people, and I hope my fellow Members will work with us and vote with us to provide a sustainable and stable future for the land, for the livestock producer, and the people who enjoy those public lands.

Let us look at the real merits of what we are doing here and the effect it has on people. I am just talking about people. I have heard it from the other side, "We are the compassionate

folks. We care." We will find out how much they care and the compassion they have for people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3556 TO AMENDMENT NO. 3555

(Purpose: To increase the fee charged for grazing on Federal land)

Mr. BUMPERS. 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 Arkansas [Mr. BUMPERS], for himself, Mr. JEFFORDS, Mr. BRADLEY, and Mr. KERRY, proposes an amendment numbered 3556 to amendment No. 3555.

Mr. BUMPERS. 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:

Strike Section 135 of the substitute and insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands. The fee shall be equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B)(1) the fee provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than:

$1.50 per animal unit month for the 1997 grazing year;

$1.75 per animal unit month for the 1998 grazing year; and

$2.00 per animal unit month for the 1999 grazing year and thereafter; plus

(2) 25 percent.

(b) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Susanne Fleek, a fellow from the Department of the Interior, be granted the privilege of the floor during the debate on grazing legislation.

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

AMENDMENT NO. 3557 TO AMENDMENT NO. 3556

(Purpose: To increase the fee charged for grazing on Federal land)

Mr. JEFFORDS. Mr. President, I have a second-degree amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3557 to amendment No. 3556.

Mr. JEFFORDS. 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:

In lieu of the language proposed to be inserted by the Bumpers amendment insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than:

$1.50 per animal unit month for the 1997 grazing year;

$1.75 per animal unit month for the 1998 grazing year; and

$2.00 per animal unit month for the 1999 grazing year and thereafter.

(b) DETERMINATION OF FEE.—(1) Permittees or lessees who own or control livestock comprising less than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees who own or control livestock comprising more than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

Mr. JEFFORDS. Mr. President, this is kind of bringing back memories to me here today. I remember fondly my first year in the U.S. Senate. After 14 years as a Member of the House of Representatives, I came to the Senate in 1991, excited to represent my State. Respecting the customs of this honorable institution, I worked to learn the rules and procedures of the Senate. It was not until September of my first year that I actually made a speech longer than 5 minutes on the Senate floor.

During this first long speech—it was long, as many may remember, or maybe somebody remembers—I discussed the issue we are here debating today, that is grazing fees. At the time, in September 1991, I authored a grazing fee amendment that would have increased the fee from $1.97 per AUM, or animal unit month, to $5.13 per AUM, in 5 years. We did this in response to a similar amendment which passed the House overwhelmingly during that summer, which would have raised the fee to $8.70 per AUM.

The amendment I offered in 1991 failed, and the House proposal was removed in conference. The primary argument against this first grazing amendment was that such a fee would have bankrupt many small ranchers. We revisited the grazing fee issue 1 year later, in August 1992. Again, we offered a proposal which would have required those ranchers grazing on Federal land to pay their fair share of its use.

This time, however, we exempted the small farmers, about which so much concern was expressed, those having fewer than 500 head. Therefore, the increase would only have affected the largest of the ranchers. This amendment also failed, but by a smaller margin.

The opponents of the second grazing fee amendment argued that a grazing fee increase should not be included on an appropriations measure, but considered only during debate on grazing reform legislation.

Today is the day when that opportunity has arisen again. I want to take this time to do what I have been told, and that is to bring it up on an appropriate piece of legislation and leave the small farmers alone. That is what my amendment does.

I believe today it is time to finally change this longstanding inequity; an inequity because when you compare this to what private people have to pay or pay on State grazing lands, this is a real giveaway. I do not mind it for small farmers, but I do mind that the large corporate owners own 9 percent of the permits, but have 60 percent of the AUM.

Senator BUMPERS' amendment requires that all ranchers operating on Federal land pay a fee equal to the State grazing fee. His amendment says they ought to pay at least what they have to pay to the State, forget about private lands, but at least they ought to pay what is paid for using State land.

The second-degree amendment I just offered exempts all small ranchers and allows them to continue to pay the lower Federal fee that is presently at dispute here.

Mr. President, my second-degree amendment will protect small family ranchers who currently rely on Federal lands to support their business. A few years ago, I had the opportunity to tour several western ranches and visit with small family ranchers. I empathize with them and recognize that out in the West, so much land is owned by the Federal Government and if you do not have an opportunity to

utilize that land, you have no opportunity. During this visit, I gained great appreciation and respect for the lifestyle of these small farmers. I made many friends in Wyoming. These ranchers embody not only a piece of our Nation's history, but also a piece of our Nation's future.

I realize that these farmers are facing a daily struggle to keep their ranches operating, a fact I have taken into consideration in drafting this amendment. Keeping with the theme of Senator DOMENICI's bill, my amendment protects these farmers. In fact, my amendment places a lower fee on these farmers than the fee contained in the pending bill.

So if you want to look out for the small farmers, this is the opportunity to do it, better than even the underlying Domenici bill.

On my amendment, the fee for small ranchers will be $1.50 per AUM, animal unit month, in 1997. This is 20 percent less than the fee in the underlying bill—20 percent less.

Instead, my amendment addresses the large ranchers who for years have been making millions off the public lands and costing taxpayers up to $200 million annually. Not only are these ranchers paying a grazing fee that is 60 percent less than what it was 10 years ago, but they are also the beneficiary of Federal programs for range improvements, predator control, and emergency feed programs.

Mr. President, it is time to take a closer look at these large ranchers and start charging them an honest and equitable price for the land from which they are profiting. An interesting phenomenon has occurred in the Federal grazing program. Although the large ranchers hold only 9 percent of the Bureau of Land Management grazing permits, they comprise over 60 percent of the active use of animal unit months on public lands. Nine percent of the permit holders are big corporations owning 60 percent of the AUM's.

Who are these ranchers? Let me give you some examples. One is Willard Garvey of Willard Garvey Industries, which recorded $80 million in sales in 1991. Wow, boy, do they need help from the Federal Government.

One is J.R. Simplot, who has an estimated fortune of $500 million. Great one to give subsidies to. He was on the cover of Fortune magazine as one of the great entrepreneurs of our society, and we give him that kind of a break.

Another is the Rock Springs Grazing Association that has over $1.6 million in assets. I have a list of large ranchers, including Texaco, Getty Oil, Hilton—wow, boy, do they need help. I ask you, why is it that these large companies are receiving Federal subsidies when, in many cases, small family ranches operating on private lands at many times the cost receive nothing?

My amendment is a first step in remedying this obvious disparity. My amendment will raise the grazing fee for large ranchers who have permits holding more than 2,000 animal unit months. It will raise it to a level equal to the grazing fee charged by the State. This is all we are doing. This is for the big guys, the large ones, the huge guys who do not need help. We say, at least you ought to pay what other farmers are paying to the State. Not only will this bring the Federal fee to fair market value—that is what is charged by private owners—but will also give the States more control over grazing in their own State. By creating a two-tier program, my amendment protects the lifestyle of the small ranchers in the West who are more than worthy of Federal assistance. By creating a two-tier program, we will help do what should be done, and that is to get equity over the expenditure of Federal funds.

The amendment will retain a low grazing fee for over 90 percent of the ranchers leasing public lands. Over 90 percent of the ranchers will be getting this assistance. It will raise the fee for the remaining 9 percent of the ranchers who operate the large and highly profitable ranches, and, in doing so, my amendment will raise approximately $13 million annually in revenue; that is, we are really converting and just giving the money that was going to those huge ranchers out there, with the exception of $13 million which will go to help defer the cost of the program, to the small ranchers. That, I believe, is a fair deal for the taxpayers and a real benefit to those small family ranchers out in the West who need the assistance, whereas the large corporate ones certainly need no assistance.

Mr. President, let me summarize. My second-degree amendment exempts small ranchers. Only large corporate interests who hold Federal grazing permits will be affected by the underlying Bumpers amendment.

Again, remember that 9 percent of the permit holders are large corporate entities, or wealthy individuals, and they control over 60 percent of the AUM's. And 91 percent of the ranchers holding permits to graze on Federal lands will pay less with my amendment than the pending legislation, and only those 9 percent, the very wealthy corporations and individuals, will have to contribute a fair cost of what they are getting at the State level, not at the private-lands level, which would even be higher.

So let us vote for the small ranchers. I urge my colleagues to vote for my second-degree amendment.

Mr. President, I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I want to say a few words in support of the basic bill we are debating, the Domenici bill. I appreciate the parliamentary position we are in; that is, the Bumpers amendment on fees pending with the Jeffords second-degree amendment pending. I want to direct my comments not to those specific amendments—the first- and second-degree amendments—but rather to the substance of the bill.

I want to begin by reminding my colleagues what this debate is really all about, and also what it is not about.

I want to begin by pointing out that, frankly, this bill fundamentally is about providing ranchers with grazing rules that are fair, grazing rules that are predictable, and grazing rules that are certain.

The Domenici bill is also about assuring that where grazing does occur on Federal lands, it does not occur at the sacrifice of wildlife, it does not occur at the sacrifice of quality or public access. Namely, we honor the principle of multiple use. The goal, simply put, is to see that ranchers stay in business while assuring outstanding hunting and fishing. It is that simple. I might say, in my State of Montana this balance exists, and it exists today, and I want to see that balance continue.

Let me add a word about what this debate is not about. This debate is not about protecting those few ranchers who abuse the land. As far as I am concerned, the holder of any grazing permit has the right to graze livestock on his public land. That is the right of that permittee. But that right comes with a responsibility, a responsibility to be a good steward of the land, good steward of water and wildlife and allotment. If that responsibility is not met, if the land is abused, then that permit should be ended, it should be terminated. Basically, that is what should be done, that is what should happen.

In my State of Montana, there is a famous painting painted by the great cowboy artist Charlie Russell, who had the unique gift for capturing the life of the Old West on canvas. There is one Russell painting that comes to mind called "Waiting for a Chinook," also known as "The Last of 5,000." It was painted by Charlie Russell as he was sending a card and letter back to the owner of the ranch. The owner happened to be in New York City. This is a ranch he was associated with in Montana.

It is a painting of a lone cow. It is a lone cow standing in the middle of a blizzard. Coyotes are circling and waiting for that cow to fall. It was a year when most of the herds in Montana were decimated. This pretty much sums up the challenges that we have faced as ranchers in Montana.

Ranchers have to face the severity of Montana winters. They have to deal with predators, not only coyotes, but wolves. They have to deal with very wide swings in the cattle market cycles. While the Russell painting does not reflect it, today's ranchers have to deal with the challenge and frustration

of Canadians pumping beef into the U.S. market and meatpackers manipulating market prices. So, taken as a whole, it all makes for a mighty uncertain livelihood.

That is what S. 1459 is about. It is about giving ranchers a Federal grazing policy that is stable and fair, that will encourage ranchers to remain good stewards of both their private lands and the public lands where they graze. The bill provides the tools to set Federal policy in that direction. It gives ranchers the stability of 12-year permits. It is very important. It recognizes the investments that ranchers make in range improvements, also important, and protects individual water rights, equally important in the West.

As I was listening to the Senator from Vermont talk about these big ranches of the West, there is one point the Senator from Vermont seems to forget—that it does not rain in the West. In Vermont, it rains a lot. Here you get about 40, 50 inches of rain. In my part of the country, west of the 100th meridian, the average rainfall is about 14, 15, 16 inches a year. That is all year around, including snow and rain. That is why there are big ranches in the West. You have to have a lot more space to graze your livestock because there is not a lot of rain for the grass to grow.

The bill also, I might say, Mr. President, protects not only water rights, but it makes the Forest Service and BLM grazing rules much more uniform, also important, because ranches have one set of regulations on BLM land and a different set on Forest Service lands. It helps to assure that Federal grazing policy is basically the same whether it is BLM or Forest Service land.

The predictability of this bill benefits not only ranchers, but all users of our public lands; that is, hunters, rock hounds, birdwatchers, hikers, you name it.

There is a popular bumper sticker I frequently see on cars passing by as I am walking across my State of Montana. Let me tell you what that bumper sticker says. It says, "Cattle, Not Condos." That is what would happen if our family ranches simply became too unprofitable to stay in business. The land would be subdivided. Wildlife habitat would be fragmented. Access to many of our favorite fishing holes would be cut off, as stream and riverfront lots are sold for cabin sites. We would lose the great sense of openness, wide open spaces that help make Montana the "Big Sky State."

John Schultz of the Gran Prairie Ranch, near Grass Range, in Fergus County, summed it up when he wrote me, "The recreationists and hunters use this land extensively * * *," that is the land that this rancher owns, private land as well as public land, "* * * however, there is only one man who maintains the water and manages the grass so the plant population is diverse and in good condition. Not only do the livestock benefit, but the wildlife do as well."

The simple fact is that a strong, viable ranching industry is of benefit to all Montanans. It benefits the small communities that rely on the ranchers' business, and it benefits sportsmen who enjoy the outstanding hunting opportunities created by large tracks of undeveloped wildlife habitat. It helps provide the tax base for many of our rural communities, our schools, and our hospitals. That is what this bill is about.

It is about establishing a Federal policy that helps us be good stewards of the land and remain economically viable. It is a policy that makes the Federal Government a partner rather than a pest.

Let me go back to what this bill is not about. It is not about excluding the public from having a full say in how we manage our public lands. It is not about compromising on environmental protection.

Critics of this bill maintain that the bill bars meaningful public participation when it comes to range improvement. That is not accurate. Under the bill, a simple postcard guarantees an interested citizen a seat at the table for virtually every decision affecting range management on our public lands. They will be given notice of all proposed permit actions and provided with an opportunity to comment and informally consult with BLM or Forest Service land managers before a decision is made. Following that decision, they have the right to lodge an administrative appeal. If they are still unhappy, they can take their grievance to Federal court. So under this bill the door is open to the public at virtually every stage of the process.

This legislation also recognizes the progress that the current resource advisory councils have made in developing standards and guidelines for responsible grazing on our Federal lands. The work of these councils will continue to serve as the basis for setting grazing standards.

Most importantly, these standards will be developed by Montanans, not Washington bureaucrats.

The legislation also maintains high environmental standards for ranchers. Just listen to this. Today, over 70 percent of lands managed by the BLM in Montana are rated good to excellent —70 percent. That is, 70 percent of the BLM lands in the State of Montana are rated good to excellent. Less than 5 percent of the BLM land is in poor condition; that is, not great, could be a lot better, but it is not bad. So, 70 percent good to excellent; 5 percent in poor condition.

The legislation provides the tools, however, to assure that the conditions in the poor allotments are improved.

On-the-ground decisions reflect sound science. The bill requires a permit-level review of monitoring data every 6 years to ensure that good stewardship is not only the goal, but is actually being practiced.

In closing, I want to go back to what this bill is about. It is about putting into effect fair, balanced grazing rules that will allow our ranchers to make a living.

It is also about recognizing that sportsmen and recreationists use the public lands. It is their right, too. That Federal policy must be one of mutual respect and accommodation for all legitimate uses of the resources. We have to work together, come together.

That is what this bill does. It helps reduce the division, the acrimony, the dissension of all the groups that have been trying to deal with this policy. It helps bring people together. That is what this does. It goes a long way to strike a balance, which I think is very helpful to better and more sound Federal land policy. I urge its adoption.

Mr. President, I ask unanimous consent to be added as a cosponsor to the bill.

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

Mr. DOMENICI. Mr. President, I want to thank Senator BAUCUS for his cooperation. He has worked with us on trying to make the bill better, and clearly from the first bill we introduced, into the second draft and the final one we put in today, I think we improved it from everybody's standpoint. I want to say he has been consistent with us. I am very appreciative. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3556 TO AMENDMENT NO. 3555

Mr. BUMPERS. Mr. President, I would like to open my remarks by simply saying that this amendment is not vindictive, it is not designed to put small ranchers out of business, and indeed it would not. I consider it to be an eminently fair amendment.

Mr. President, for the benefit of people who do not deal with this issue and really do not understand what this debate is about, let me start off by saying there are 270 million acres of land that literally belong to the taxpayers of America. Most of it, admittedly, is in the western States. However, some of it is in my State and your State. Mr. President, there are currently 270 million acres of land that are subject to grazing permits.

How many permits? Twenty-two thousand. How much money do we get? Mr. President, we receive $25 million and change. Therefore, we are not here debating money. That is really not the issue here. There is not much difference in the amount of money between the bill of the Senator from New Mexico and the Bumpers amendment. I will tell you, however, where the difference is. The difference is in fairness.

The difference is in who pays the fee and what happens to the money.

Now, the principal thrust of my amendment and the second-degree amendment of the Senator from Vermont [Mr. JEFFORDS], is to protect—let me repeat, to protect—small ranchers. That is who the Senator from New Mexico says he wants to protect. He has a lot of small ranchers in New Mexico that are totally dependent for their livelihood on grazing. I want them protected.

I do not want my intelligence insulted by continually talking about small ranchers when 9 percent of the permittees, bear this in mind, there are 22,000 permittees and 9 percent of those permittees control 60 percent of the AUM's. What is an AUM? It is an animal unit month. It is the amount of forage needed to graze one horse, one cow, five sheep, or five goats for 1 month. An AUM is the basis on which farmers or ranchers are charged for grazing their cattle. They may start off with 200 head and they may keep 200 head for 6 months and they will pay, today, in 1996, $1.35 for each month for each of those 200 head that graze on Federal land. If the rancher sells off 100 head on the first of July, his rent is cut in half.

I was a drugstore cowboy, among other things before I came to the Senate. I had 125 cows and maybe 80 calves.

Mr. DOMENICI. Did the Senator graze those on the public domain?

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Arkansas.

Mr. BUMPERS. They were raised on private land. However, other people in Arkansas currently graze on Forest Service lands. Moreover, fees paid on eastern Forest Service lands, including Arkansas, are currently calculated using a formula that is different than the western Forest Service lands. The formula for eastern Forest Service lands is based on fair market value and is currently $2.50 per AUM. Additionally, any new or vacant permits on eastern Forest Service lands are competitively bid.

When I was elected Governor of my State, I charged five times as much per AUM for my farm lands as the Federal Government receives now.

I did not just fall off a turnip truck when it comes to cattle. I raised cattle for several years and I know something about it. I enjoyed some good times and some bad times. I will never forget back in the late 1960's, the story about two farmers meeting. My area of Arkansas is cattle and poultry farming. Two farmers met in the restaurant. One said, "I lost $100 already this morning." The other said, "How on Earth did you do that?" He said, "My cow had a calf." That is how bad prices were for cattle.

Back to the point, not only do 9 percent of all BLM permittees control 60 percent of the AUM's, according to GAO, 2 percent of the 22,000 permittees control 50 percent of all the land. Who are they? I will come back to that in just a moment.

When I begin providing you with a list of the kind of people, and they are not exactly small ranchers, who control hundreds of thousands of acres of land and run thousands of acres of cattle, you will see that we are not talking about that small rancher that everybody in the Senate wants to protect. We are talking about billionaires, millionaires, and big corporations.

What do they receive? At this very moment, they may be in a State that charges up to $10 per AUM for grazing cattle on State lands. They may have to pay $10 for per AUM on State lands. But if they get a permit from "Uncle Sucker" they pay $1.35 per AUM. Here are some of the fees that the States charge. I have been through this so many times on mining, and it is the same old story. Here is what the U.S. Government receives, $1.35 per AUM; Arizona, $2.16; Colorado, $6.50; Idaho, $4.88; Montana, $4.05; Nebraska, $15.50; New Mexico, $3.54; Oklahoma, $10; Oregon, $2.72; South Dakota, $7; Utah, $2.50; Washington, $4.55; and Wyoming, $3.50.

Why in the name of God does the Federal Government charge $1.35 per AUM? What do the States know that we do not know? I tell you what the States know. They know what the value of their land is.

The argument will be made, "Senator BUMPERS, you do not seem to understand the way BLM and the Forest Service hassle our people. It is just terrible how put upon they are." I know there is some truth to that. I know that some of these bureaucrats of the BLM and the Forest Service can be overbearing. I also know that most of those ranchers do not want them around, period.

Now, the reason I am standing here is twofold: No. 1, I want a grazing bill that is fair, that protects small ranchers and no. 2, I want a grazing bill that restores the rangelands of this country.

Madam President, I want you to look at this very carefully on why the States are so much smarter than we are when it comes to leasing their lands for cattle grazing.

Even this Senator had enough sense not to charge $1.35 when folks were standing in line to pay me $10. Why do we continue to do this? I want you to look at this chart. Since 1981—incidentally, Madam President, in 1981, the U.S. Government was getting $2.31 for an animal unit month. The current PRIA formula takes cattle prices into consideration. The cattle prices are very low right now. That is one of the reasons that I want to make sure that we protect the small ranchers. They are having a terrible time surviving right now.

It is interesting to look at the trend of the Federal fee level—we received $2.31 in 1980. In 1996, 15 years later, we are receiving $1.35. That is $1 less per AUM than we received in 1980.

What is the trend with regard to fees charged on State lands? The States are not dummies. They did what any prudent landowner would do. They have raised their rates from an average of $3.22 per AUM in 1980 to $5.58 per AUM in 1995. That translates into approximately a 50-percent increase. What is the trend of the private sector? They are smarter than the States or the Federal Government, either one. In 1981, they were receiving an average of $7.83 per animal unit month on private lands. Today they are receiving an average of $11.20 per AUM. Look at poor old Uncle Sucker. Not much money involved, I repeat, but a big principle.

Why would some of these billionaires not be clamoring for Federal lands? They did not get rich by being stupid. They are mining the Federal Treasury, too. Who are they? One of my favorites, Newmont Mining. Talk about somebody mining the Federal Treasury. Newmont Mining is one of the biggest gold producers in the country, mining on lands that they bought from the Federal Government for $2.50 an acre. They are mining billions of dollars' worth of gold on it and not paying the U.S. Government one red cent. They are not just satisfied with owning gold lands. They want some of these grazing permits. So what do they have? They control 12,000 AUM's. What are we doing? We are charging $1.35 per AUM to Newmont Mining Co., one of the wealthiest companies in the world.

Who else? Incidentally, here is a good one. Mr. Hewlett and Mr. Packard. They started a good company. I noticed a while ago that their stock went down today. They are a big computer manufacturer. Everybody knows Hewlett-Packard. Mr. Hewlett and Mr. Packard graze cattle on nearly 100,000 acres in Idaho. Why? Because it adjoins a ranch they own. Mr. Hewlett and Mr. Packard pay $1.35 per AUM on that Federal land. Why can Mr. Hewlett and Mr. Packard not pay a fee that is at least a little closer to fair market value than $1.35 per AUM.

There is a company called Nevada First Corp. How many AUM's do you think Nevada First has? They have 56,000. They are a subsidiary of the Garvey Industries Corp., with a net worth of $80 million. Then there is Anheuser-Busch. Everybody knows who Anheuser-Busch is. Sunday afternoon, I was coming back on an airplane, and my staff had given me a memo on this debate and a newspaper article about how much public land Anheuser-Busch controlled with grazing permits. I asked the gentleman sitting on my left, "Do you work for Anheuser-Busch?" He said, "No." I said, "In that case, I will let you read this." He handed it back to me and said, "Surely, you are not surprised by that." I said, "No,

I am not surprised." We went on our separate ways.

Anheuser-Busch, which ranks 80th in the top 500 corporations in America, holds four permits that total 8,000 AUM's. I have nothing against Anheuser-Busch. I have been a Cardinal fan all my life. That was all we could get on the radio when I was a kid. They are a good corporation, as far as I know.

Then there is an organization named Bogle Farms. Bogle Farms has 40,000 AUM's on two permits in New Mexico. In 1991, their net worth was $15 million.

Dan Russell—I do not know these people—currently holds 10 permits covering 200,000 AUM's. The issue is not whether or not he is a rancher. The issue is whether, if he controls 200,000 AUMs, we should subsidize his cattle at the same rate that small ranchers pay.

Mr. DOMENICI. Will the Senator yield for a moment?

Mr. BUMPERS. For what purpose?

Mr. DOMENICI. We are going to agree on a procedure.

Mr. BUMPERS. I yield for that purpose.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Madam President, I ask unanimous consent that following the two rollcall votes scheduled to begin at 12 noon on Thursday, the Senate resume the grazing fee bill and the pending Bumpers amendment No. 3556, that debate on that issue be equally divided in the usual form, and at 2:00 p.m., the Senate proceed to vote on or in relation to the Bumpers amendment, without any intervening action or debate.

I further ask that there be a minimum of 75 minutes, equally divided, prior to the vote in relation to the Bumpers amendment.

I further ask unanimous consent that following the disposition of the Bumpers amendment, Senator BINGAMAN be recognized to offer an amendment.

Mr. BUMPERS. Madam President, reserving the right to object —and I know the Senator from New Mexico did not prepare this—but the first vote which is to occur at 2:00 p.m. is supposed to be after the two votes. But it anticipates an hour and 15 minutes. So I ask that it be changed to an hour and 15 minutes following the close of the second vote.

Mr. DOMENICI. I did that. I said: Further, that a minimum of 75 minutes, equally divided, prior to the vote in relation to the Bumpers amendment.

Mr. BUMPERS. Second, there is one correction there. The first vote should be on the Jeffords amendment to the Bumpers amendment.

Mr. DOMENICI. No. We did this on purpose. We want the first amendment to be on the Bumpers underlying amendment. If our desires prevail, then Jeffords goes with it. If not, you are here and you can do whatever you want.

Mr. BUMPERS. Well, obviously, I cannot object to that. You have a perfect right to move to table.

Mr. DOMENICI. I think it is fair that we take both amendments down with a vote.

Mr. BUMPERS. The reason I have strong objection to that—and I am going to talk a great deal about that—is that the Jeffords amendment is an amendment with which I agree. I like it. I like it in some respects better than I do my own. I want for the people of this body to understand that if they vote to table the Bumpers amendment, they will not get a chance to vote on the Jeffords amendment, which I think most of them would like to do.

Mr. DOMENICI. You may prevail on that, which means we will have a vote.

Mr. BUMPERS. I would not want to preclude the possibility of making a tabling motion prior to the Jeffords amendment prior to that time.

I would like to add that to the unanimous consent agreement.

Madam President, to ensure the RECORD is clear, I would like to make this statement as a part of the unanimous consent agreement; that is, that at any time prior to the expiration of the hour and 15 minutes, or immediately thereafter—Madam President, 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. BRADLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BRADLEY. Madam President, today the Senate will have the opportunity to return a bit of market discipline to the Federal grazing program. At a time when the Congress is cutting assistance to the poor, to education, and to a wide variety of other vital services, we cannot ignore any potential sources of additional Federal income. The Federal grazing program must also begin to pay its own way.

The fee contained in S. 1459 covers only a small part of the actual cost of the grazing program. The Bumpers amendment seeks to increase this fee to a level at least a bit closer to what would be the fair market value of grazing services by adopting State grazing prices. According to the Congressional Research Service, the 12 States they studied charge from about 1½ to 10 times as much as what is charged for grazing land under this Federal bill. While there may be small differences in the condition of some State and Federal grazing lands, any differences do not justify a fee disparity of 10 times grazing. Many of my colleagues are fond of saying that the States know best regarding most programs. Just return programs to the States, they say and programs will magically improve. Well, why cannot we look to the States when it comes to revenue, too? State programs are managed to bring in money to support their schools. They cannot afford to subsidize grazers at the expense of their children's education. As a result, no State studied charges anything like the Federal fee. By adopting the State level, we also insure that fees are appropriate for local conditions.

Madam President, this amendment is simple. The rest of the bill is not. According to the statement of administration policy submitted on S. 1459, the bill severely limits the ability of public land managers to protect the land and its resources and manage lands for multiple use. The bill curtails most public participation in grazing management decisions and activities, and severely weakens the requirements for compliance with the National Environmental Policy Act.

The bill also contains troubling water rights language which, according to the Department of the Interior, may bar transfer of water uses from Federal to private land and language which would prevent ranchers from taking land out of production for conservation uses. In other words, they have to keep it in grazing.

Worst of all, the bill violates the spirit under which Federal lands are supposed to be managed—for multiple uses which benefit all of the people and not just a few, organized groups. Our public lands belong to all Americans, whether they hike, bird watch, or graze livestock. Whether they live in Wyoming or New Jersey. They should never become the exclusive province of any one use.

Madam President, I urge my colleagues to vote for this Bumpers amendment, a fiscally conservative amendment, and later for the Democratic substitute that will be offered by Senator BINGAMAN which makes needed changes in the underlying bill.

AMENDMENT NO. 3556, AS MODIFIED

Mr. BUMPERS. Madam President, I send a modification of my amendment to desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3556), as modified, is as follows:

Strike section 135 and insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985):

Provided, That the grazing fee shall not be less than: $1.50 per animal unit month for the 1997 grazing year; $1.75 per animal unit month for the 1998 grazing year; and $2.00 per animal unit month for the 1999 grazing year and thereafter.

(b) DETERMINATION OF FEE.—(1) Permittees or lessees who own or control livestock comprising less than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees who own or control livestock comprising more than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

Mr. DOMENICI. May we make the unanimous-consent request now?

Mr. BUMPERS. Yes.

Mr. DOMENICI. Madam President, let me just say that if we can get this, our leader has authorized me to say there will be no more votes tonight. But we have to get this first.

I ask unanimous-consent that the following—let me do this.

I stated the unanimous-consent previously. I ask that that unanimous-consent which I stated, and which I send to the desk in writing to reaffirm, be granted at this time.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, there will be an hour and 15 minutes following the close of the second vote tomorrow.

Mr. DOMENICI. We set 75 minutes.

Mr. BUMPERS. OK. Fine. I accept that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI. Now we can say in behalf of the majority leader that there will be no more votes tonight.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I just wanted to know. There will be no more votes. But will the discussion continue on this particular amendment tonight, or is it going to be continued also tomorrow?

Mr. BUMPERS. No. The amendment will be the subject of an hour and 15 minutes of debate tomorrow.

Does that answer the Senator's question?

Mr. CHAFEE. Yes. In other words, you are winding up the debate pretty soon here.

Thank you.

Mr. BUMPERS. We will debate tonight as long as anybody wants to say anything on this, and then we will shut the Senate down as soon as we run out of debate.

AMENDMENT NO. 3557 WITHDRAWN

Mr. BUMPERS. Madam President, I ask unanimous consent that the Jeffords amendment be withdrawn.

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

AMENDMENT NO. 3556, AS MODIFIED

Mr. BUMPERS. Madam President, I do not want to belabor these rich folks too long. The last one that I want to point out to for the edification of my colleagues is the gentleman by the name of J.R. Simplot from the great State of Idaho. He is 86 years old and has obviously been a great entrepreneur. I do not know a thing in the world about him. I assume he is a very fine man. In 1991, Forbes magazine identified him as one of the wealthiest individuals in the United States. Furthermore, he is on the cover of Fortune magazine in November 1995. Here is the magazine, if anybody would care to look at it.

His sales that year were $3 billion. And Mr. Simplot, to his credit and to his ingenuity, controls 50,000 AUM's in Idaho, Oregon, and Nevada.

Finally, a Japanese named Kaiku controls 6,000 AUM's on 40,000 acres of Federal land in Montana.

What does our amendment do? I will not belabor the point because it is very simple. We make a distinction between that group of people that I showed you a moment ago. Look at this chart, colleagues. We make a distinction in what people in this category pay, and what people in this category pay.

Ninety-one percent of the permittees under our amendment will pay just a little bit more than they would pay under the Domenici proposal, and in some years less than the Domenici proposal. Ninety-one percent of them will pay just a few cents more than Senator DOMENICI's bill requires.

This other 9 percent, which control 60 percent of all the AUM's, will pay either the same amount as the small ranchers, plus 25 percent, or a weighted average of the State fees charged in the State in which the permit is located, whichever is higher.

That is as fair as a proposition could be. You can accept this amendment and agree that these people have taken advantage of a generous Congress who passed this law and gave these permits to people thinking they were helping poor ranchers make a living. And now we find 60 percent of this land and AUM's are controlled by the richest people of America. Even under our proposal, to require these rich people to pay the weighted average of what the State charges, will still be in most instances around 100 percent less than what the private sector charges for grazing.

Madam President, why are we defending a system that promotes the use of the public lands for the wealthiest when it was intended for the poorest? Because it is an old law and we just simply have not been able to turn it loose and make it work the way it was supposed to.

When I came here in 1975, I found out that the Federal Government was leasing Federal lands for oil and gas leasing by lottery, like a bingo game. If you won the lottery, you got the land for $1 an acre. When I began to raise questions about it, they said, "We are trying to make sure those little mom and pop operations get some of this Federal land."

We started checking the little mom and pop operations, and guess what was happening? They were retirees in Florida. They were elderly people who were snapping up these lottery chances because they were advertised all over America by a bunch of snake oil salesmen. And if they did happen to win the lottery, what do you think they did with it? They took it to Exxon, and if Exxon thought it had potential, they paid them a fortune for it.

That is what we did for mom and pop operators. We made people, who did not know what a drilling rig looked like, wealthy because we refused to change that old law. I just made my mining speech yesterday so I am not going to make that again, but how many times have I heard that old story about those poor little old mom and pop mining companies out there?

It turns out, as I began to examine it, that we are helping the biggest corporations in the world—not the United States, in the world. Now, here is deja vu. If someone argues that the State's rates are too high, I will answer that they have people standing in line wanting these permits. And when then they say, "But that mean old BLM hassles us. They make us sort of take care of the land." But you know something else that the BLM and the Forest Service do? They take 50 percent of the rent and put it back into the land. How many landlords do you know that take 50 percent of the rent they receive and put it back into improvements of your apartment or your house? Fifty percent goes back to improve the very land where these cattlemen are running their cattle.

Madam President, the Public Rangelands Management Act was passed in 1978. As I stated earlier, the fee under that formula has declined. In 1980, the fee was $2.36 and in 1996, the fee is $1.35. Our amendment would use the same formula and simply raise the minimum.

My amendment requires 91 percent of the deserving ranchers to pay very little more than they are paying right now. In 1999, our rate would go to $2 and under Senator DOMENICI's amendment the fee would be $1.85—15 cents difference. Who is going to quibble

about that? However, under our amendment these people, the wealthiest people in America, would have to pay more.

Madam President, two quick points, and I will conclude and let others speak who wish to. Karl Hess, a senior fellow at the Cato Institute, which is not exactly a citadel of liberalism, no bleeding heart liberals over at Cato, simply believes that the Government ought to get fair value for its assets. Here is a statement by Mr. Hess:

> Domenici's bill is bad for ranchers, bad for public lands, bad for the American taxpayer. It will not improve management of public lands and it will not be a fix for the hard economic times now faced by ranchers. What it will do, however, is deepen the fiscal crisis of the public land grazing program by plunging it into an ever-deepening deficit. If western ranchers insist on supporting this bill and the additional costs associated with it, they should be prepared to pay the price. Tagging the majority of Federal grazing fees to state grazing rates is one essential step in that direction.

I yield the floor.

Mr. KYL. Mr. President, I rise today in support of S. 1459, the Public Rangelands Management Act of 1995. Rangeland reform is important both for the health of our public lands and the ranching industry in the Western States. I commend my colleague from New Mexico, Senator DOMENICI, for his work in bringing this bill to the Senate floor.

Let me make clear up front, S. 1459 is not an attempt to weaken existing environmental laws applicable to grazing. All major environmental laws continue to apply as written. This bill provides for better rangeland management by establishing standards and guidelines at the State or regional level, so that rangeland policy can take regional differences into account. Nothing is more important to me than the preservation of these multiple-use lands for present and future generations. I would not, and could not support anything to the contrary.

There continues to be debate about what is an appropriate fee for grazing on public land. It is important that the Government realize a fair return for the use of Federal lands. This legislation prescribes a new formula for calculating grazing fees. Under this formula, fees would rise approximately 30 percent over the present level.

For those who make their living from the land, and who put food on the table for all of us, we want to offer some certainty for the future. We must protect rancher's private property rights, provide stability on grazing allotments, and offer sufficient incentives for sound long-term resource management practices.

Critics have suggested that S. 1459 provides for grazing and livestock activities as the dominant use on the allotments. That is simply not true. The bill explicitly provides that the public lands will continue to be accessible to all multiple-use activities.

It has also been suggested that this legislation will curtail public participation in the decisionmaking process. The public's opportunity to participate in the NEPA and FLPMA processes is not affected by this legislation. It does, however, address the problem of who can appeal allotment management decisions by limiting appeals to persons who have affected interests. This will enable Federal land managers to review appeals more expeditiously and will shorten the delays in achieving a final implementation plan. This process will allow permittees and lessees to carry out their business without the heavy financial losses usually associated with lengthy delays.

Most importantly, this legislation provides for periodic monitoring of rangeland resource conditions. The Secretaries of Agriculture and the Interior have the ability to amend allotment plans where resource conditions dictate. I believe that the bill therefore reflects a wide variety of environmental and user concerns; and I urge its favorable consideration.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I thank the Chair.

Mr. President, I would like to take this opportunity to clarify the issue grazing fees on public lands. As I mentioned before in my opening statement, I believe there is a grave misperception about ranchers who utilize public lands. For those of you unfamiliar with ranchers or the ranching business, let me tell you that it is not a lucrative business. I believe it is this misperception that drives the efforts to try to hike up the grazing fees to unacceptable heights. Opponents of the new fee structure proposed in S. 1459, argue that ranchers don't pay fair market value. Well, I would like my colleagues to explain to the rest of us, how one can determine what fair market value is.

For example, when doing a fair market value appraisal, appraisers compare the value of similarly situated pieces of property—they compare apples with apples. When opponents of the proposed grazing fee compare the prices charged to lease private or State lands with the grazing fees ranchers pay for BLM or Forest Service lands, however they are comparing apples with oranges. They simply are not the same thing.

My friends from Arkansas and Vermont, are attempting to draw comparisons between apples—State lands, and oranges—Federal lands, to legitimize their logic. States fees are structured under an entirely different scenario than Federal fees. State lands are administered for completely different purposes and goals compared to Federal lands. To compare the fee dollars and cents on a chart is simply not fair.

With their amendments, my colleagues are attempting to utilize the State fee structure to create a more fair return to the Government and taxpayer. However, as I have stated before, this logic is flawed.

If we follow this rationale utilized in this amendment, by implementing the State rate fees, we might as well streamline the process and manage the public lands according to State management systems. Heck, if we charge a grazing fee according to State rates, manage the Federal lands like State lands, we might as well turn the whole operation and ownership over to the States. I suspect there are many Members in this body that would not agree with this type of logic.

Furthermore, the grazing fee structure in the Bumpers amendment is fundamentally unfair to ranchers. This proposal does not fully consider the investment that ranchers already have made in building their lots and stock ponds. In addition, the profit margins for many ranchers is small, and thousands of ranchers have already fallen into bankruptcy. Raising the fees as this amendment proposes to do will drive even more ranchers into economic insolvency.

Mr. President, the fee structure proposed by S. 1459 would establish a fair system. It is a very simple and straightforward method for calculating the grazing fee that would apply to western BLM and Forest Service lands.

Quite simply, you would take the 3-year average of the total gross value of production of beef cattle for the 3 years preceding the grazing fee year—based on data supplied by the Economic Research Service of the USDA—and multiply that number by the 10-year rolling average of 6-month Treasury bills. That number would be divided by 12, the number of months in a year. The dividend would be the grazing fee, expressed in dollars per animal unit month. S. 1459 would increase the fee by an average of about 50 cents per AUM.

Anyone who truly understands the grazing fees, will understand that there is only one agency that really attempts to compile data about private leased lands—it is the USDA's Economic Research Service—and that is why they are the source of the critical data used in this fee formula.

Mr. President, I am deeply concerned about this misperception of grazing fees that has become a symbol representing unfair subsidies and environmental degradation. Fee increases are imminent, and most people here understand that. However, these increases must be carefully structured with appropriate data. S. 1459 achieves this, by establishing a grazing fee formula that protects the rancher while allowing for equitable returns to the Federal Government.

I would like to abbreviate my comments because I know my colleagues

want to get out of here at a decent hour this evening. I was over in the office listening to the Senator from Arkansas and the Senator from Vermont, and I have to tell you I think they are just simply missing the target. I would ask my colleagues to oppose both their amendments.

As I understand the Jeffords amendment in the second degree, is attempting to put corporate interests in the same category as the family rancher, who has spent years and years of hard work to make his ranch grow. I think that is a mistake. It seems to me that we are confusing the issue of large and small ranchers and real ranchers with corporate operations.

I know in our State of Colorado we give special 100-year awards to ranchers and farmers. If the family has stayed with the land for 100 years, we give them an award at our State fair every year to try to encourage them to stay on the land. Many of those ranchers have sacrificed a great deal and their families have sacrificed too in order to make the ranch grow.

Some have done well over the years and invested in other things, but their primary income still comes from the ranch. This reality is a little different than the reality I have heard described by the two Senators and their amendments. I understand that the amendments that are being offered now are an attempt to try to get the corporate people out of ranching, and both Senator BUMPERS and Senator JEFFORDS mentioned Anheuser-Busch and Hewlett-Packard and a number of others, Simplot and Texaco, and so on.

I think most of us recognize that there are corporations in America that have bought ranches or bought permits to use as some kind of a tax shelter. I understand that. Most of us understand that. That is not who we are trying to protect. I know the Senator from Wyoming [Mr. THOMAS] and I have a lot of friends who fall into the first category that I was trying to describe. Those people who have worked the land, stuck to the land and sacrificed to keep the land are the ones we are concerned about. We are not in any way trying to protect the big corporations from using ranching legislation as a tax writeoff.

It would seem to me what they should introduce perhaps is an amendment to prevent nonranchers from buying permits, or to specify the criteria for permittees. It seems to me that is who they are trying to identify are those people who are abusing or misusing, if I can use their words, the system of ranching and the system of using permits.

Now, I wanted to also respond to the Senator from Arkansas question of quote, "Where does the money go?" I will tell you where the little money ranchers gain in profit goes. It goes onto Main Street. It goes into hardware stores, and it goes into the grocery stores, and it goes into the used car lot and everyplace else—the banks, too, if there is some left over. Maybe it even goes for recreation or vacations. For the most part, however, usually the little that is left over goes back into the ranch to improve the ranch. I don't think people understand that ranching is the economic backbone for many rural communities in the West. When one rancher goes down, the whole community is affected. People up in the administration like to talk about the interconnectedness of ecosystems. Well, the rural ranching communities are a great example of an interconnected community. One element goes down, and the whole system crashes.

It seems to me, knowing what I do, as a western Senator, about ranching, when you kill the ranching industry—you also kill Main Street. I believe a disproportionate increase in a fee could do just that, and there are many studies that have indicated that a fee increase would indeed have devastating repercussions for the rancher and the community. This is obviously a serious issue to many small towns in the West, in probably eight or nine States at the very least. A blind and politically driven fee increase would result in putting real hard-working people on the welfare lines, and destroying property tax bases in our region. I do not think that is what our goal ought to be.

The Senator from Arkansas also mentioned one person in particular which he used to convince folks, in his catch-all kind of shotgun attack, that large ranchers are the same as corporate ranchers. That man was a man by the name of Dan Russell. I happen to personally know Dan Russell, although I do not know him well. I met him years ago, clear back in the 1960's. I disagree strongly with the Senator from Arkansas' characterization of his operation as some type of heartless, profit-driven corporate industry.

Dan Russell's family has ranched for almost 100 years on both sides of the Sierra Nevada Mountains in California and Nevada, too. He probably made 98 percent of his money or more from ranching, although he has probably invested in other things, too. Yes, he did make money, but I do not think that is against the law and it should not be against the law.

Dan Russell may have made money, but one factor that the Senator from Arkansas failed to mention is that Dan is known as one of the most community-minded people in the foothills of the Sierra Nevada Mountains. Dan's profit has been a profit for his community. If you go to Folsom, CA, a small town northeast of Sacramento, you find the Dan Russell Arena, which Dan donated. A lot of events are held there for the community. He is known as a civic leader and community-minded citizen who has made his money through real ranching, not because he had an interest in Texaco or something else. Dan's contributions to his local community should be commended, not condemned.

I would now like to address the issue of fair market value. This issue comes up in this debate time after time. There is a great misperception about the fees for public lands, as if, somehow, ranchers in the West are ripping off the taxpayer because they do not pay the same amount for their AUM as a rancher in some other State that has to rent private land. I have private land. My wife's family used to have permits. I can tell you there is a big difference between private land and permits on public lands. The public land permits do not have the same sorts of benefits you could get on private land. Developments, improvements, anything you would not have to pay or provide on private lands, you have to pay for out of your own pocket on public lands. You get a lot more for your money with private rentals than you do with the permits. I think it is simply a bad comparison.

I would like to illustrate the ludicrous nature of this comparison with a couple of examples. I live out West where, if you want to go get your own Christmas tree at Christmas, you can do it on public lands. You can get a $5 permit from the Forest Service and go cut a tree. Virtually any tree of any size that you can carry out of there, is only $5. Yet, if you go downtown to any city in America and you buy a tree on the lot, it will probably cost you $5 a foot. So how do you go about comparing the two? If you use the same rationale in the amendment offered by the Senator from Arkansas, we should start charging folks $5 a foot for the trees on Forest Service land. I have a hunch though, that if you told everybody who wanted to go out in the forest and cut his or her own Christmas tree, many of whom have built traditions off of this practice year after year, that we were going to charge them $5 a foot for any tree they pack out of the forest, they would probably get pretty darned angry about it. Is it fair? How about this example: In Denver, CO, if you go to the zoo to see eagles, hawks, coyotes, snakes, alligators, elk, and deer or whatever kind of animal, you pay $6. If you drive about 30 minutes from the zoo to the foothills of the Rocky Mountains, you could easily see a lot of these animals, and you wouldn't be charged a cent. Under the Senator from Arkansas' logic with fair market value, maybe we ought to charge anybody who wants to see a deer, who goes out in the forest, $6 to go out and look at deer. There would be a national uprising if we even suggested something like that.

This business about fair market value is simply a classic case of apples and oranges. It does not fit and it is not fair.

Finally, I would like to address another example that demonstrates the difficulties in ranching on public lands. Currently, under the rangeland reform regulations and the Bingaman substitute amendment, the permittees on public lands who have put money into improvements are not allowed to have any ownership over the investments they make. The ranchers simply have to put in that money themselves—there are no Federal grants to assist them—and they get very little in return in the end. Under the Domenici bill, there are real incentives for permittees to improve their allotments. Unless you provide real incentives for the rancher, the condition of the range will continue to be substandard. This is not the fault or responsibility of the rancher. It is the responsibility of the Federal Government. It just makes sense—people have to feel empowered, they have to feel like they have a stake in what they work on, in order for them to be proactive in improving the conditions.

In any event, I did want to come down just for a moment and voice my opposition to both the Jeffords amendment and the Bumpers amendment. I think they are both just shots in the dark, and by trying to go after the big corporations they will create casualties amongst the hard-working family ranchers of the West.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, just for a moment, I, too, cannot resist the opportunity to make some comment on what we have heard over the last few minutes. I guess it is because I have heard it a half a dozen times since I came here to the Congress in 1989. Every year this same thing goes on, we go through this same business.

Basically, the first decision you have to make is the question of, as the previous speaker said, "highly subsidized grazing." Let me quote for you a study that was made by Pepperdine University. It was a comparative analysis of economic and financial conditions. It happened to be in Montana, between ranchers who have Federal lands and those who do not. These are just a few of the findings.

Montana ranchers who rely upon access to Federal lands and grazing do not have a competitive advantage over other ranchers in the State. Livestock operators with direct access to Federal forage do not enjoy significant economic or financial advantages over ranchers who do not utilize Federal forage.

It goes on and on. This is not my study; it is an academic study from Pepperdine University.

The point of the matter is, there is a great deal of difference between what you buy in State lands and what you buy in private lands and what you get in public lands. The Senator was talking about comparing it to Arkansas. What do they get, 35, 40 inches of moisture a year? In Wyoming, we get 6 or 8. There is a substantial difference there. Out in the Red Desert, where much of this land is, it takes 100 acres for one animal unit year. That is what it takes. It is different.

State lands you can fence. State lands you can—they are better quality lands. Generally they are small, isolated tracts that are enclosed. It is not comparable.

The Senator was talking about $1.35. Our bill does not talk about $1.35, it talks about $1.85. It talks about going up from where we were. It has a formula based on the price and the value of cattle. It does not treat different people differently.

The Senator keeps mentioning the Rock Springs Grazing Association, that it is a great corporation. It is not a great corporation. It is a combination of relatively small ranches.

I keep hearing about it every year, the same thing. I just do not understand it. It is interesting, of course, that all those who talk about this come from nonpublic-land States. I guess that might have something to do with it.

In any event, I oppose these propositions. I think the formula has nothing to do with the price of cattle. It has nothing to do with the idea of what it is you are buying. Anyone who thinks there is a comparative value between private leasing and public lands just has not taken a look at it. They just have not taken a look at it.

Madam President, I am sure we will talk about this some more tomorrow, and should. But I want to tell you that this whole idea of trying to establish two classes of users is not even supported by the Secretary of the Interior over time. It has never been used before. The idea that the whole thing is subsidized simply is not the case. It is a matter of utilizing the resources on a multiple-use basis.

Tell me how many private land leases are also shared with hunters and fishermen and leased to oil? They are not that way. That is not the way it is. So, it is interesting to me that we continue to have this same discussion every time this comes up. Fortunately, that position does not generally prevail.

Madam President, we will pursue it some more tomorrow. For tonight, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Just for a minute I want to speak on the bill before us, and then I want to ask permission to speak as in morning business for about 7 or 8 minutes.

Before I speak in morning business, most of the time I only speak on agricultural issues as they relate to the Midwest—the cattle, the pork, the production of corn, production of soybeans, and some wheat. But I think a lot of things that could be said on that issue can be said on this bill as well.

Part of the problem that the Senators from the West are having comes from a lot of constituents who are legitimately expressing concern about the environment, legitimately expressing concern about the good management and a good economic return for the Federal Government on land that the taxpayers own, who do all this legitimately. But they forget, in the process, they are not appreciating what the consumer of America has in the way of production of food in America.

I think too often the 98 percent of the people in this country who are not producing food—remember, that is 2 percent of the people in this country producing the food that the other 98 percent eat, or another way to put it, one farmer in America will produce enough food not only for Americans but for people outside of America to feed another 124 people—the 98 percent do not really appreciate the fact that food grows on farms, it does not grow in supermarkets.

They are so used to going to the supermarket, getting anything they want anytime they want it and just pay for it. Every time you pay for it, you think you are paying for a very expensive item. But, in fact, food in the United States, not only being of the highest quality, is also a cheaper product in America than any other country in the world.

The consumers of America spend about 9 or 10 percent of their disposable income on food. Look at any other country, and the percentage is in the high teens and low twenties, and in some of the countries of Eastern Europe, it could be 40 percent of income spent just on food.

I know none of you is going to buy the argument when I say we are talking about subsidies for farmers. Just think of the subsidy that the consumers of America get from the efficient production of food in America that consumers in other places in the world do not get from production of food by their farmers.

I do not expect anybody to buy the argument that the farmers of America are subsidizing the food bill of consumers of America by 40 percent, but that is a fact, because we produce so efficiently, we produce such a high-quality product that it is just a little irksome for those of us who are involved in agriculture to sit around here and listen to this lack of appreciation of what the farmers do for the consumers of America, what 2 percent of the people do for the other 98 percent, what we not only do in the way of production of food and fiber, but what we do to create jobs in America, because whatever starts out as the natural resources of America, whether it be on the row-crop farms of the Midwest or the grazing lands of the

West, the start of that product there, when you trace that product from the farm through the consumer of America, you are talking about a food and fiber chain that is 20 percent of the gross national product of America.

That is jobs for a lot of people other than the 2 percent of the people who are farmers. Quite frankly, a lot of income returned on labor is much greater than the return that the farmer gets for labor.

So you can go ahead in this debate over the next day or two and have all the fun you want to about doing what you think is right for the environment or what you think is right for a return on investment for the taxpayers who have money invested in public land and give the farmers of America a bad time. We probably have to take it because we are such a small segment of the population, but I would like to see, once in a while, an appreciation from the people in the Congress of the United States, not only this body but the other body as well, for the 2 percent of the people who provide a good product and a cheap product for the consumers of America.

Madam President, I ask unanimous consent to speak as in morning business for 7 minutes.

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

THE VOID IN MORAL LEADERSHIP—PART II

Mr. GRASSLEY. Madam President, yesterday, I spoke about the void in moral leadership in the White House.

I felt obliged, as Teddy Roosevelt said, to speak the truth about the President.

Let me quote him once more.

Some of my colleagues may not have heard me yesterday.

He said it is absolutely necessary that we have full liberty to tell the truth about the President and his acts.

> Any other attitude in an American citizen is both base and servile.
>
> To announce that there must be no criticism of the President . . . is not only unpatriotic and servile, but is morally treasonable to the American public . . .
>
> It is even more important to tell the truth, pleasant or unpleasant, about him than about anyone else.

I quoted yesterday from another great President, also named Roosevelt. Franklin D. Roosevelt. He said,

> The Presidency is not merely an administrative office . . .
>
> It is more than an engineering job . . .
>
> It is pre-eminently a place of moral leadership.

That is why it is important to reflect on this issue.

I speak about the moral leadership issue because I believe it is critical.

Because it is lacking.

I make a distinction between leadership and moral leadership.

Leadership means the capacity for exercising responsible authority.

There are many in this body who are outstanding leaders.

This is reflected in the many important laws we write for the Nation.

Moral leadership is different.

Moral leadership means we do not just pass laws for the rest of the Nation, and exempt ourselves.

It means we pass laws and we apply them to ourselves, as well.

We set the example.

We say one thing, and we do it, too.

That is what I mean by moral leadership.

This Congress, for example, in one of its very first deeds, passed the Congressional Accountability Act.

In doing so, for the very first time we applied the laws to ourselves that we passed for the rest of the country.

That is moral leadership, Madam President.

That is setting an example.

It says, "Watch what we do, not just what we say."

It is not often that Congress is able to exhibit moral leadership.

We do things more by consensus and compromise.

The reality of Congress is, we usually do things ugly.

Foreigners always have the best observations about our form of government. de Tocqueville, of course, is the most famous example.

But a Russian visitor, Boris Marshalov, once observed, "Congress is so strange. A man gets up to speak and says nothing. Nobody listens—and then everybody disagrees.

Madam President, that's precisely why leadership from the White House is so important.

The individuality of the President is required to provide the moral leadership for the Nation that Congress, as a body, cannot.

The country desperately needs it.

That is what Franklin Roosevelt was talking about.

Yesterday, I talked about why the White House has covered up all its nonlegal activities, on both Whitewater and Travelgate.

It is because the activity of those in the White House conflicts with their projected image.

In the words of syndicated columnist Charles Krauthammer, it is "political duplicity * * * The offense is hypocrisy of a high order. Having posed as our moral betters, they *had* to cover up. At stake is their image."

Yesterday, I referred to and quoted from the new book by James B. Stewart, "Blood Sport."

The book reveals much about the Clintons to which Mr. Krauthammer alluded. Mr. Stewart raises several questions about the Clintons.

One is about their willingness' to abide by the same standards that everyone else has to meet. A second is about whether they abide by financial requirements in obtaining mortgage loans. A third is whether they should have accepted favors from people who were regulated by the State of Arkansas.

Last week, Mr. Stewart was interviewed by Ted Koppel on "Nightline." In that interview, Mr. Stewart calls this a story about: "the Arrogance of Power, what people think they can do/ and get away with/as an elected official, then how candid and honest they are when questioned about it."

He offers an illustration. It is a quote from the First Lady. She was advised by White House staff to disclose everything rather than stonewall. Let the Sun shine in, they said. But the First Lady rejected that advice. She said, according to Mr. Stewart, "Well, you know, I'm not going to have people poring over our documents. After all, we're the President."

Madam President, I will put the entire interview of Mr. Stewart by Mr. Koppel into the RECORD.

That way, the RECORD will reflect the full context of Mr. Stewart's words, so that I am not accused of misleading the American people.

But Mr. Stewart's observations, as well as those of Mr. Krauthammer, heighten the public's awareness of a moral leadership void in the White House.

So I ask unanimous consent to have printed in the RECORD the interview of Mr. Stewart by Mr. Koppel.

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

[From "Nightline" Mar. 11, 1996]

TED KOPPEL [voice-over]. The Whitewater controversy, accusations made and denied.

JAMES STEWART [Author, "Blood Sport"]. Mrs. Clinton, essentially, took singlehandedly the control of this investment.

HILLARY CLINTON. We saw no records, we saw no documents.

TED KOPPEL [voice-over]. New questions about the Clintons' credibility.

JAMES STEWART. I think the death of Vincent Foster is the pivotal event in this story.

HILLARY CLINTON. There were no documents taken out of Vince Foster's office on the night he died.

President BILL CLINTON. An allegation comes up, and we answer it, and then people say, "Well, here's another allegation. Answer this."

JAMES STEWART. The President practically screamed over the phone. He said, "I can't take this anymore. I'm here in Europe and they're asking me about Whitewater."

TED KOPPEL [voice-over]. Now, the picture may become a little clearer. Tonight, new details about Whitewater, Vince Foster and damage control.

ANNOUNCER. This is ABC News Nightline. Reporting from Washington, Ted Koppel.

TED KOPPEL. This program may be the first you've heard about "Blood Sport," a new book which becomes available later this week, but it will not be the last. To begin with, you need to know how and why the book came about. The idea appears to have originated with Hillary Clinton. In any event, it was her close friend, Susan Thomases, herself a lawyer, who approached the author, Jim Stewart, and suggested that

those closest to the First Family and, indeed, the President and the First Lady themselves, would be willing to cooperate with an objective, outside-the-Beltway writer on a detailed, no-holds-barred Whitewater book.

Stewart, a lawyer and former page one editor of the Wall Street Journal, had impeccable credentials. He had shared in a 1988 Pulitzer Prize for his reporting on insider trading. In 1991, he published the book "Den of Thieves," about financial fraud in the 1980's. Stewart took up the offer and even had one lengthy meeting with Mrs. Clinton at the White House, but the promised cooperation never materialized, although a number of people close to the Clintons did ultimately talk. Stewart went ahead and wrote the book anyway. Jim Stewart is a meticulous writer, which is another way of saying that there are few blaring headlines, but dozens of troubling revelations.

To understand what Jim Stewart has done, you need to refresh your memory on what the Clintons have variously claimed and insisted. The Clintons have insisted, for example, that they were only passive investors in Whitewater, and had virtually nothing to do with it themselves.

HILLARY CLINTON. We gave whatever money we were requested to give by Jim McDougal. I mean, he was the one who would say, "Here's what you owe on interest, here's what your contributions should be." We did whatever he asked us. We saw no records, we saw no documents.

TED KOPPEL. The Clintons insist that they have fully cooperated with the investigation of Whitewater, but that they have been dogged by one unproved allegation after another.

President BILL CLINTON. That's really the story of this for the last four years. An allegation comes up and we answer it, and the people say, "Well, here's another allegation. Answer this." And then, "Here's another allegation. Answer this." That is the way we are—we're living here in Washington today.

TED KOPPEL. And only a couple of weeks ago, after the FDIC released a report prepared by Jay Stevens, a former Republican U.S. attorney not known to be friendly toward the Clintons, there was this.

MARK FABIANI [Associate White House Counsel]. This report blows out of the water the allegations that have been made about the First Lady and the Rose Law Firm, and it undermines the contention of those who would extend these Whitewater hearings endlessly on into the future.

TED KOPPEL. That may be as good a place as any to introduce Jim Stewart, the author of "Blood Sport," in his first television interview on the book, and let me have you respond right away, because the White House is obviously very proud of the fact that Jay Stevens, Republican, no friend of the Clintons, supervised a report by the FDIC which, in effect, according to the White House, found the Clintons blameless in the—in the Whitewater affair. Is that an overstatement?

JAMES STEWART [Author, "Blood Sport"]. Well, I think the White House reaction is misplaced optimism. The report is good news, as far as it goes, but it doesn't go very far. It explicitly says that it's not the definitive report on many of the questions that have arisen here, and there is still an independent counsel investigating all of these and even more allegations. As long as the independent counsel investigation continues, a real threat hovers over this President.

TED KOPPEL. Why or how do you explain the fact that Jay Stevens, who, as I say, has no particular love for the Clintons, why would he end an investigation if, as you say, it's incomplete?

JAMES STEWART. He was retained to investigate the narrow question of whether the government should sue the Clintons or others to regain losses from Madison Guaranty, and he concluded there was no evidence to warrant a suit against the Clintons or the Rose Law Firm to do that, and I think that's the right conclusion. I do not conclude that Madison Guaranty losses flowed to the Clintons.

TED KOPPEL. What then, do you conclude, that—I mean, try and give it to me in a broad sense. What is it that you would say if you were obliged, in 15 or 30 seconds, to summarize what is troublesome about Whitewater and what will still come back to haunt the Clintons?

JAMES STEWART. Well, I think the Whitewater investment and the story of that is important because it shows many things about the Clintons. It shows their willingness to hold themselves to the standards that everyone else has to meet. It shows their willingness to abide by financial requirements in obtaining mortgage loans. But I think, most of all, it shows their willingness, while in Arkansas, to accept the favors of people who were regulated by the state.

Their attitude to this, which bordered on the negligent in the beginning, clearly indicated a mindset which said, "Somebody else will take care of us because of our power as highly elected officials in the state of Arkansas."

TED KOPPEL. In a sense, Jim, that's a negative way of saying the same thing we heard Mrs. Clinton say at the beginning of this broadcast. In other words, let somebody else take care of this. She put, in a more positive sense, i.e., "We had nothing to do with this. If Jim McDougal came and said, 'You owe so-and-so-much in interest,' we paid it, but we never saw documents, we never had an active role in this Whitewater affair." To which you would say what?

JAMES STEWART. Well, that simply isn't true. I think it may have been true in the very beginning of the investment, when there were still high hopes that this would make money and the McDougals could handle everything, but by 1986, when the McDougal empire was crumbling, it was not true. At that point, Mrs. Clinton essentially took, singlehandedly, the control of this investment. She was the one who negotiated the loan renewals with the bank that held the mortgage. She was the one who handled all the correspondence. She was the one who went over all the numbers. She had possession of all the records.

TED KOPPEL. It is your contention that she vastly inflated the value of the Clintons' interest in Whitewater.

JAMES STEWART. That's correct.

TED KOPPEL. Correct?

JAMES STEWART. As I'm sure anybody who has ever applied for a mortgage knows, you have to disclose your assets in such a financial disclosure statement, and there are warnings on these forms to be honest about this, to be accurate, to be careful, not to use uncertain judgments, because to inflate that can be a federal crime. And yet Mrs. Clinton valued Whitewater at $100,000 on a 1987 financial disclosure document, right after the bank itself had visited the property and concluded the most generous estimate for their half-interest would be $52,000.

TED KOPPEL. So when you're talking about a $100,000 evaluation, you're not talking about the value of the whole property, but the Clinton's half-interest?

JAMES STEWART. They valued their half-interest at $100,000.

TED KOPPEL. I ask you this question advisedly, reminding our viewers that you have some experience as a lawyer. Is that a crime?

JAMES STEWART. It is a crime to submit a false financial document. In fact, their partners, the McDougals, are on trial in Little Rock this week for having submitted false financial documents to financial institutions. But to prove a case like that, a prosecutor would have to prove that it was knowingly a false submission. We haven't heard an explanation from either Mrs. Clinton or the President about that document, and that ultimately would be a question for a prosecutor and a jury to decide.

TED KOPPEL. I bring you back, Jim, to what we heard the President say just a few moments ago, again, at the top of this broadcast, sort of this—this cry of "What in heaven's name are we supposed to do? Somebody makes an allegation, we respond to the allegation. Somebody makes a new allegation, we respond to that allegation." This sounds like another one of those allegations. How do you respond to—to what the President is saying?

JAMES STEWART. Well, I don't think these allegations would be coming out, or the revelations, in this kind of slow, drip-by-drip process, if the White House and the Clintons had been forthright from the beginning, when this first surfaced in the campaign. Get the story out. They came to me, or they sent someone to me, allegedly because they wanted to get the whole story out, and they had been advised at the time—and I told them the same thing—that to stop these inquiries, get in front of the story. Tell us what happened, and don't leave holes in the story. Be complete. Err on the side of completeness, and if people are bored, they can ignore it. But that has never been the strategy they have employed.

TED KOPPEL. Let's take a short break, Jim. When—we come back, we will talk about what Vince Foster knew about Whitewater and a number of other subjects.

[Commercial break.]

TED KOPPEL. And back once again with Jim Stewart.

You begin with the suicide of Vince Foster, and clearly believe that his suicide is pivotal to understanding everything that's happened to the Clintons in—in subsequent months and years. Have you reached any conclusion as to why he committed suicide?

JAMES STEWART. Well, first of all, there was the things [sic] he enumerated in—in the note that he wrote, and I think foremost among those was probably his concern about the handling of the firing of employees in the travel office, but what I think I can contribute that's new is that there were things bothering him that were so serious he didn't dare write them in his note, he didn't confide them to his wife. He was worried about his marriage. He was very much enmeshed in what we now know as Whitewater, and he knew of things that hadn't come to light that could prove embarrassing. He was concerned about the deterioration of his relationship with the First Lady, and I think there's a good chance he knew of the problems that Webster Hubbell was about to face, given his handling of clients in the Rose firm.

TED KOPPEL. When you talk about Web Hubbell, I should point out, first of all, Vince Foster, Hillary Clinton, Web Hubbell had all been partners at the—at the Rose Law Firm together. Web Hubbell then came with the Clintons to Washington, was briefly the assistant attorney general of the United

States, and you write that in the months before Vince Foster committed suicide, that he went over to Web Hubbell's house and went down in the basement to look at what?

JAMES STEWARD. Well, there were files in Web Hubbell's basement that had been removed from the Rose Law Firm during the campaign by Web Hubbell and Vince Foster. Web and Vince, during the campaign, went through the Rose Firm and removed anything that they thought might be controversial or create problems for the campaign, and this including many of the billing records relating to Hillary Clinton's work for Madison Guaranty and other matters. And one day Vince Foster went over and he and Web Hubbell got into the basement, they went to the boxes, and they went through those materials looking for these particular files, which they did get and turn over to the First Lady. But also in those files were all of this other material, including a lot of the Whitewater material, bank records from Whitewater, and the billing records, as I mentioned before.

TED KOPPEL. Is it—is it your impression that Vince Foster then took those billing records to the White House, to his office?

JAMES STEWART. It's certainly a possibility. I don't know for sure, and nobody's said they recalled him taking documents out of the basement. But those documents in the basement were later all turned over to the Williams and Connolly firm after they learned that Web Hubbell had all these documents, and they supposedly turned all those documents over to Congress. So these records did not surface there. So that suggests to me that somehow, between their first being removed from the Rose firm to their being discovered, they were in Vince Foster's office.

TED KOPPEL. Talk to me for a moment about—about Travelgate, but first of all, let's take a look at something the First Lady said, I believe in her interview with Barbara Walters, about the whole Travelgate affair.

HILLARY CLINTON ["20/20"]. I think that everyone who knew about it was quite concerned, and wanted it to be taken care of, but I did not make the decisions, I did not direct anyone to make the decisions, but I have absolutely no doubt that I did express concern, because I was concerned about any kind of financial mismanagement.

TED KOPPEL. Mrs. Clinton presents herself in that interview as exercising a sort of passive role. "Yes, I may have expressed some concern about but I certainly didn't initiate it." There is a memorandum by David Watkins, I believe. Tell the story of that memorandum, because it, of course, suggests something totally different, but the White House itself ultimately produced that memorandum and made it available. Why is that significant?

JAMES STEWART. Well, the facts, as I discovered, on the travel office affair, are as follows. I learned, before the production of this memo, that in fact, whatever her own personal belief about this is, Mrs. Clinton was the first person to suggest to David Watkins that these people be replaced.

TED KOPPEL. David Watkins being?

JAMES STEWART. He was the head of management in the White House and was the person in charge of personnel in the White House, including the travel office.

TED KOPPEL. Right.

JAMES STEWART. She was the first one to say to him, "We need our people in this office." Did she literally say "Fire them"? No. But the implication seemed very clear to him and to everyone else who spoke with her, and that's what set in motion the chain of events that led to their being fired.

TED KOPPEL. But the—the memorandum that David Watkins wrote to his own file about all of this, and about falling on his sword for the First Lady, is a memorandum that the White House itself, after all, made available. Now, that certainly puts them in a good light, doesn't it?

JAMES STEWART. Well, I don't think so. First of all, that memorandum had been under subpoena for a considerable period of time. The independent counsel, the predecessor to Kenneth Starr, had subpoenaed that particular document. Meanwhile, I think the White House was aware that all this information was soon going to be made public. I have no idea how they found it, when they did, or why they decided to—to make it public when they did, but I do know that the week before that, I and my fact checker were checking the details about the First Lady's involvement in the travel office affair with the White House press office, with people in the White House, and had even faxed them material that dealt with this very subject, and almost immediately after that the memo itself appeared.

TED KOPPEL. What you're suggesting, Jim, is that because you indicated that something about this was going to be in your book that they then decided to—to make it public before it became public in your book?

JAMES STEWART. Well, as I said, I don't know why they did it. All I can say is, I had all this information in the book, we were fact-checking this information with the White House, so the White House knew this information was going to be in the book and shortly after that the memo appeared. But I'm sure the White House will say that no, that had nothing to do with it.

TED KOPPEL. Let's take another short break. An inside peek at the White House damage control operation when we come back.

[Commercial break.]

TED KOPPEL. There was, Jim Stewart, considerable debate going on within the White House, you discovered, about how much to reveal, when to reveal it, how cooperative to be, and at one point there is a—a line that I suspect is going to be a rather devastating line that the First Lady uttered in reference to all of this.

JAMES STEWART. Well, you're—you're right. The—there was internal advice, especially from David Gergen, to turn everything over, and this was seriously considered until the First Lady interrupted at one point and said, "Well, you know, I'm not going to have people poring over our documents. After all, we're the President," suggesting that, by virtue of grandeur and power of the office, that they somehow should not have to endure such an experience.

TED KOPPEL. The key questions, I think, ultimately may become not so much what happened during Whitewater, but what happened in more recent months, in terms of either covering things up or not being as forthcoming with information. There is one story that—that you uncover having to do with the Paula Jones story, this is the young lady who charged sexual harassment against then-Governor Clinton, and the—and the Arkansas state troopers who were then guarding Mr. Clinton. What is that all about?

JAMES STEWART. Well, I think it's well-known at this point that the troopers surfaced with some accounts of their experiences while in the security detail of the governor. What I think hasn't gotten much attention is that before these reports were published, and before the troopers actually made the final decision to reveal what they claim to know, there was pressure applied to them to try to get them not to speak out, and I think the most significant example of this came when the President of the United States himself called one of these troopers and offered him a federal job. That trooper subsequently decided not to participate. He was not one of the troopers who subsequently did tell stories to anyone, so if the goal of that job offer was to get this trooper to remain silent, it worked.

TED KOPPEL. Is there not one trooper who, in fact, ended up with a federal job?

JAMES STEWART. The head of the governor's security detail did end up with a federal job, but the trooper who heard directly from the president and decided not to participate did not accept it. He said he didn't—didn't want one of these jobs, he wanted to stay in Little Rock.

TED KOPPEL. Now, again, let me draw on some of your experience as a lawyer. If, indeed, that could be—that could be proved true, the charge that you—that you make in your book, that would be a federal crime, would it not?

JAMES STEWART. Well, that, again, could be a federal crime. I think the—the issue here is was a job offered explicitly in exchange for something else?

TED KOPPEL. Let me ask you—and I realize this—this may be the most difficult question I ask you of all—after having written a book that is 400 pages-plus, how do you—how do you reduce it to a conclusion as to culpability, lack of culpability, whether this is a story that has just been blown way out of proportion, whether it is simply being kept alive for partisan reasons now and is—is doomed to do so for the rest of this year because there is a presidential election and because, you know, for the Clintons, the unfortunate timing that your book is coming out right now—how do you summarize everything you've learned?

JAMES STEWART. Well, my interest is not partisan, and my interest is not narrowly was a law broken. I think to sum up the whole book is a study in the acquisition and wielding of power, and in the end, it's a study of the arrogance of power, what people think they can do and get away with as an elected official, and then how candid and honest they are when questioned about it. I think that is what it reveals, I think, most significantly about the Clintons.

TED KOPPEL. And—and to those who say, has all of this investigation, the congressional investigations, the independent prosecutors, the time that you have spent in putting this book together, you know, was the—was it all worth all the money and the time and the effort and the pain?

JAMES STEWART. I think, in the end, we'll find that it was, that the truth is important in our society, that justice is important in our society. I don't think you can put a price tag on those things. Yes, it's terribly expensive, and at times it seems very wasteful, and at times it's nasty and it's partisan. It often is a blood sport, as Vince Foster said. But why is that? It's 'cause the truth was never honored in the first place, and I hope if there's any lesson that comes out of that, that people in the future will recognize that.

TED KOPPEL. Jim Stewart, thank you.

I'll be back in a moment.

[Commercial break.]

TED KOPPEL. The controversy over "Blood Sport", this book, will be the subject of a segment on "Good Morning America" tomorrow.

That's our report for tonight. I'm Ted Koppel in Washington. For all of us here at ABC News, good night.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Wyoming.

PUBLIC RANGELANDS MANAGEMENT ACT

The Senate continued with the consideration of the bill.

Mr. SIMPSON. Mr. President, today we debate a bill of tremendous importance to my State and to many Americans who draw their livelihood from the land. I am speaking specifically about ranchers, that often maligned group of individuals who have played such an enduring role of the development and prosperity of our Western States over the years—and individuals they are.

It is difficult to conceive of a greater distortion than the continuing ugly portrayal of those in my State being described as big-time cattle barons, Cadillac cowboys, few in number and great in wealth and rapacity and greed. The reality is far, far different. There are more than 25,000 ranchers whose livestock grazes on these western lands all over our Western States.

In Western and Midwestern States, more than 50 percent of all beef cattle graze these lands at one time or another during the year. If cattle were driven from these lands—and this administration seems to advocate that; that has been the pressure from them—large numbers of ranchers would surely go out of business. That is the stark reality. It is also a very cynical and deceptive canard that alleges that if this bill were to pass, public access to these Federal lands would be simply cut off. Instead, this bill reaffirms that use of these public lands for nongrazing purposes, shall continue in accordance with State and Federal law, already in effect.

I am very pleased to support this bill. So many have worked so hard. I commend the occupant of the chair, Senator DOMENICI, and so many people who have worked so hard. My colleague from Wyoming, Senator CRAIG THOMAS, has done a yeoman's task, and does it well.

I support Americans who make their living off the land. I support a healthy environment. Who does not? I get tired of that argument. Good Lord, I have lifted more lumber on the environmental laws when I was a State legislator than half the people who bark and howl at the moon in this place. I support public access to our public lands. I support the principle of multiple use, an unknown description to several people in this body. It is indeed impossible to believe that we cannot pursue all of these objectives simultaneously, which this bill does.

What I do not support is this one-size-fits-all solution for local problems. These are issues which very much require a rich participation in the form of the expertise and concerns of the local people, those who are closest to the problems and those who, I might say, care the most and are affected the most. It makes little sense for the beltway environmentalists to have veto power over the common sense and experience of those who have lived and worked and grubbed that land from nothing for generations.

Mr. President, this bill is moderate and balanced and inclusive and fair, and yet it is being described by certain special interests as a sinister, venal, even Republican conspiracy—we have had some good bipartisan support on this issue through the months—to turn back the clock on environmental protection. That shows up, I guess, in focus groups. That is not what this is. This charge is preposterous and made by people who do not want to stop with simply regulating the proper role of livestock on the public lands. It is made by people who would abandon all concept and principle of multiple use altogether.

Let there be no mistake here—the groups opposing this bill hold as their ultimate goal the outright abolition of livestock from public lands. Let us be very clear. I believe that is very evident in slogans such as "cattle free in '93," which was gleefully chanted into the vapors with such fierce conviction, less than one Presidential term ago, as the type of genuine extremism which has played too great a role in this debate.

From a purely scientific perspective, there is not a scintilla of evidence demonstrating that responsible grazing has been detrimental to the rangelands—not one—rather, an ever-growing body of scientific data suggesting it has been a critical component—critical component—of good range health. It is also irrefutable that the range is in far better condition today than it was 40 years ago. That is not my opinion. That is according to the Forest Service and the Bureau of Land Management.

The condition of the public lands is the best it has been in this century. Yes, we have more cattle grazing on these lands, but we also have more elk, deer, antelope, and even coyotes. We take good care of them, too. How can this be so? The good stewardship of our ranchers, that is how.

Mr. President, I want to just briefly show some photographs. They are rather remarkable. The first, I think, if you can discern—these are unique in their own historical context because the top ones on each of these panels were taken in 1870 by the renowned William Henry Jackson during his photographic survey of the Wyoming Territory. He was working for the USGGST, the U.S. Geological and Geographical Survey of the Territories at the time. This same expedition eventually reached the Yellowstone area. When he got to Yellowstone, he took some extraordinary photos that were so influential in gaining national park status for Yellowstone National Park in that spectacular region.

He, along with Thomas Moran, the artist, upon returning with the material and presenting it to the Congress in 1872, formed Yellowstone Park as a pleasuring ground for the enjoyment of the American people. You would never know that, as people forget the organic act. That is what it was set up for.

When these photographs were taken, all of the pictured lands were Federal. They were all owned by the Federal Government.

But here we are, and over 100 years later, then Prof. Kendall Johnson, of the Range Science Department at Utah State University, attempted to exactly re-create the location and the exact point from which Jackson set up his extraordinarily cumbersome equipment. And with the great plates and the weight of them and hauling them through the West—which was a feat in itself—he re-created Mr. Jackson's photos as a means of studying the condition of rangelands in Wyoming. I am indebted to him for the use of these photographs that were published in his book called "Rangeland Through Time."

Some of the lands pictured in the lower panels are Federal and some are private, but all of them are livestock grazed. Every single photo in the lower area is being livestock grazed, all of them.

So the top photograph here shows land about 50 miles north of Rawlins, WY.

This photo was taken in 1870, August 28, about the same time that the Sun family started ranching there. It looks as if the original ranchers took some pretty tough-looking country to decide to work on, but they have been right there ranching ever since that picture was taken.

If you look at the bottom photo just taken a few years ago, the exact same location, you will see the fruits of their stewardship. Do not tell me about environmental devastation wrought by selfish and greedy ranchers. We see trees, cottonwoods. We see extraordinary vegetation, hay lands. That is it, right there. This was the way that God had it. God has had some helpers.

These two photos then were taken on the Laramie River about 5 miles north of Wheatland on August 10, 1870. The top photo was taken in 1870 and the bottom was taken over 100 years later. You will notice that the riparian habitat has been so lush that you cannot even see the river. Here it is in the original form, and here it is 20 years ago. Here is the riparian habitat, and this is all grazing country. As I say, you cannot even tell where the river is because of the lushness of the growth.

Again, do not tell me our ranchers do not understand good ecomanagement.

The next pair of photos were taken about 40 miles south of Douglas, pretty rugged country, the same respective time as the previous pair of photos, August 12, 1870. Now, this is a real one—notice the pine and the growth, and here is one taken almost 100 years later. Look at the trees, look at the pine. All of this is grazing land. Look at the grass. This is just rock. Here is grassland, and here is all of this being grazed for decades. Do not tell me, again, about ranchers devastating the land.

Another pair of pictures, the fourth, showing this widespread phenomenon, same timeframe, 1870, August 20, northwest of Douglas, WY. The scene shows a treeless and barren landscape. There it is and there is the camp. People were camping there, probably the first white people to go through—not the first humans. This entire area is near the old Bozeman Trail, Ft. Laramie, up past Ft. Phil Kearny, into Montana. Of course, it was just 5 years after this, on June 25, 1876, that Custer had his rather unfortunate occasion at Little Bighorn. At the bottom we see, again, 100 years later, the grasses are lush and thick, trees are abundant by prairie standards—cottonwoods, water, grasslands, all of it grazed.

It was not a Ph.D. in ecomanagement that resulted in this recovery. Rather, it was the common sense of ranchers who depend for their survival upon the health of these lands. When your family depends on your stewardship, you pay awful close attention, very, very close attention.

Finally, two photos taken on the North Platte River. This was the area of several great Indian struggles in the history of my State, southwest of Casper, WY. A young man named Caspar Collins was killed in an Indian skirmish there. In 1870, these lands were totally overgrazed and treeless; August 25, 1870. By 1986, they had recovered to become well grassed, with riparian habitat abounding. Here is the same photo. Here is water. Here are trees, cottonwoods, native grasses, hayfields, irrigation. So do not tell me about ranchers being poor stewards of the land.

I always like to ask environmentalists what it is they find so appealing about my beautiful State of Wyoming where I am a fifth generation. My grandfather came to this rugged country in 1862 through Ft. Laramie. He was with the Conner expedition, and he ended up going up that trail to Ft. Phil Kearny and was there during what was called the Fetterman massacre. He was a sutler. That is a chap who sells tobacco, boots, and booze to the soldiers. He was good at that. Fincelius G. Burnett. He was there when this great historical battle took place. Then he lived in what was called Fremont County, and he became the boss farmer of Chief Washakie. One of the great Shoshonie leaders of all time had my great grandfather as his boss farmer. That is what he called him. He even gave him land on the reservation. He said, "I will not take it because it will cause you a lot of pain in the years to come," and my grandfather deeded it back. It was a good thing to do because the lands that are there now that did go into private hands have caused some pain.

I ask these environmentalists about Wyoming and what they find so appealing about our great State. The answers I always get reference such things as rugged, natural beauty, the wildlife, the clean streams, the clean air, and great fishing. I say, well, how in Heaven's name do you think it has managed to stay that way all these years? Somebody must have been taking care of it. I tell them that we have been engaged in land use activities for over 100 years. How do you think Wyoming has managed to remain the natural jewel that it is? It is because those of us that live there refuse to let it become ripped and ruined and torn to bits. It is because those citizens who depend upon these lands for their livelihoods have taken such good care of them over time. That is how.

When you are a Republican from Wyoming, you get accused of some very interesting things on the issue of the environment. But I was in the State legislature for 13 years. In the State legislature we put on the books the toughest mine land reclamation law in the United States, in the largest coal-producing State in the United States, Wyoming; the toughest Clean Air Act, which was six times more stringent than the Federal Clean Air Act; a Clean Water Act; a Plant Sighting Act which said, if you are going to come and set up a great type of structure here, an infrastructure, you will see to it that you address the accompanying social and domestic problems. We made them cough up the front end money. That is what I did when I was in the legislature.

I do tire of the paternalistic approach of people who come up to me and ask about saving the State that we already saved. We get a little tired of them hanging around. In this kind of debate, they all use the same fax machine, and all the organizations that chop you to shreds all having interlocking boards of directorate. They really are something. They all live pretty well, a lot of them on inherited wealth. If they do go to work, they find out what the rest of us find out: Work is healing, therapeutic and keeps your mind off cows messing around on the riparian bank and streams. It clears the air. I want that to happen. I get tired of that paternalistic business.

Mr. President, it is no accident that our public grazing lands, each parcel of which is the responsibility of the lessee, are in such good shape today. We have other areas of our planet which are not in good shape, where people have ripped, ruined and torn it up, whether in the oceans, the mountains, or the plains. And this bill puts the powerful tool of self interest to work in favor of the environment instead of against it. It recognizes the basic law that its opponents seem not to understand—that the worst thing in the world for the environment is not mining, logging, ranching, or multiple use; the worst thing in the world for the environment is poverty.

Look at every past civilization of the Earth; before disappearing into the vapors of history when they have finally used up every resource, cut the last tree, shot the last deer, caught the last fish, overpopulated the entire system, their last contribution is a devastated environment. That is what happens. Travel anywhere in the world to any impoverished developing country and you will see the truth of that. You may even come to understand that one of the most important human rights is the right to a job. I know that sounds evil. But that is a great human right—the right to work, the right to make a living.

So I can tell you what will happen. Here is one for the greenies to mull as they are sitting there having a little chardonnay by the campfire with their pals singing songs, of course, in the evening. Here is one for the greenies to mull: What do you think is going to happen when these old cowboys lose their grazing permit, lose the ability to use that land which they have been using for 60, 70 years? I will tell you. Do not miss this scenario. You lose the permit, you gather the kids around—some of them are downtown, or maybe they are working at the courthouse, or wherever they are—and make the decision to sell the place. Then start talking to your pals on the county commission, those county commissioners that you helped elect, and they will direct you to the zoning and planning commission; go to the zoning and planning commission, and they will say, Yes, we have a subdivision regulation there, you bet; go to the old local civil engineer and draw up the plans for the subdivision; and then sell the property for a subdivision in the midst of this magnificent kind of country, just so you can do a silly thing—eat. And then instead of cows for those same greenies to worry about—as they slosh the chardonnay on their shoes—they can worry about people messing up the area—a few hoof prints beside the creek will then start to look pretty good compared to septic tanks and leach fields. That is exactly where this one is going. So get involved in the great emotion of it, and watch these wily, canny people, who do not like to starve to death, pedal off their land and remove even the Sun family—

Kathleen, Bernard, Dennis and the rest—perhaps, after 5 generations—remove themselves from ranching and decide to sell it and spend the winters in Arizona and the summers on that magnificent part of the ranch they kept for themselves. If anybody cannot understand this is what will happen, the drinks are on me.

Thank you.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I commend my friend from Wyoming for telling how it really is. I thought his graphic pictures portrayed an awful lot of America that, unfortunately, few Americans see. The Senator's reference to those that would like to see something different done to that part of the American west, while explicit in its reference to the comfort around the fire and the chardonnay, I think reflect an unrealistic reference, if you will, to the responsibility that we have in this body to recognize the significance of grazing, as we know it today.

As chairman of the committee of jurisdiction, Energy and Natural Resources, I rise to support the substitute, S. 1459, which has been offered by Senator DOMENICI, the Public Rangelands Management Act.

While the livestock grazing issue is not significant in my State, there is reindeer grazing on Bureau of Land Management lands under regulations specific to Alaska and some cattle grazing on Fish and Wildlife Service lands on Kodiak Island. In the lower 48 States, however, livestock grazing is a part of western society. It is part of the history, and the heritage, of the American West. And it's a part of the social fabric of the West and a cornerstone of the western economy.

Because I understand the importance of livestock grazing to the rural western economy, to the ranching community and to the family structure, I want to lend my support to this important legislation and encourage my colleagues on both sides of the aisle to support S. 1459.

Mr. President, as chairman of the Committee on Energy and Natural Resources, and as one of the three elected representatives of the State of Alaska in Washington, I have a strong interest in our Nation's natural resource and public land management policies. I believe the public lands in my State and in the lower 48 States contain abundant natural resources—timber, coal, oil and gas, minerals, and other renewable assets—that can be used to sustain the economic engine of this great country of ours. Our public lands are also a valuable recreational resource—they are used for hunting, fishing, camping, river running, bird watching, backpacking, skiing, off-road vehicle use, and other recreational uses. The fact is, our public lands are taking a great deal of pressure off our national parks for Americans who want to enjoy an outdoor experience.

And just as Alaskans are willing to allow their resources to be used prudently to better the future for Alaska's children and grandchildren, I believe Americans are willing to use America's resources for the benefit of future generations. I do not believe a majority of Americans support locking up our public lands for preservation purposes. As chairman of the Committee on Energy and Natural Resources, I am obligated to speak out for responsible use of our public lands and natural resources in a way that I believe makes the most productive use of those lands and resources for all Americans.

One of the reasons I support S. 1459 is because of my concern about the Clinton administration's general attitude regarding public land use and, more specifically, about Secretary Babbitt's regulations and polices regarding activities on the public lands to conduct timber harvesting, livestock grazing, mining, and oil and gas exploration and development. There is an alarming trend toward driving traditional public land users—timber harvesters, ranchers, oil and gas drillers, and miners—off the public lands.

At least in the case of the oil and gas and mining industries, good, high-paying, long-lasting jobs and hundreds of millions of dollars in investment capital are being forced overseas because of a hostile attitude toward resource development on public lands. Also lost with those jobs and investment capital are untold millions of dollars in potential tax revenues and mineral receipts to the Federal Government and the States. Thousands of good, high-paying jobs in the timber industry have been lost, and are not likely to be recovered again. That is happening in the southeastern portion of my own State.

For the livestock industry, however, the story is different. Ranchers have been using the public lands for generations to make a living for themselves and their families. We are not talking about high-technology, high-paying jobs. We are talking in some cases about folks who are just able to eke out a living and pay their bills. The job is tough, the hours are long, and the pay is poor, but because many of them are fourth or fifth generation ranchers, they want to keep up the tradition, run their cattle or sheep, and live the simple lifestyle out in the open space of the West.

The ranches are not being forces overseas like the oil and gas and mining industries. They are simply being run out of business altogether—driven off the public lands like the cattle or sheep they herd—by an administration and an Interior Secretary hostile to their way of living. They're being run off the public range and ridiculed as relics of the past. They're criticized for receiving what some claim is a subsidy.

Mr. President, we are not talking about subsidizing and preserving the way of life for "cute little German farms in Bavaria" as one of my colleagues recently observed, we're talking about members of western society who are making a substantial contribution to their local and State economies, to the Federal Treasury, and to the feeding of tens of millions of people who consume their products every day.

What Secretary Babbitt set in motion with his Rangeland Reform 1994 regulations is symptomatic of a broader attitude toward public lands use and natural resource development from his Department. Secretary Babbitt's attitude seems to be "lock up the public lands, keep them preserved for posterity's sake, and do not worry about all the lost jobs and economic benefits—we can get all those people retrained so they can be productive members of society again."

What is troubling about that kind of attitude, Mr. President, is that it is elitist. It is elitist because it tells Americans that their public lands should be used only for the enjoyment of the preservationists and no one else. It says, "the heck with the ranchers, the miners, the oil and gas drillers, the timber cutters and the others who want to use the public lands to make a better life for themselves, their families, or their country." It also says, "the heck with the people who want to recreate, and hunt and fish on the public lands."

In the case of livestock grazing, that approach takes away the lifestyle so many people have freely chosen, despite the hard work and low pay. It takes away a portion of the western culture. it takes away a pillar of the West's economy. It takes away revenues to the Federal Treasury and to the States whose education systems and public services rely so heavily on the public lands.

There is one aspect of the grazing debate that I appreciate more than some of the others because of my experience as a former banker. And that is how difficult it is now for ranchers to secure lending to support their operations or to make improvements. More and more banks are asking tougher and tougher questions before they loan money to ranchers because of the seeming instability of the livestock industry—instability that is brought about by the regulatory malaise caused by Secretary Babbitt's rangeland reform regulations. More and more banks are denying loans because they believe livestock operations cannot be conducted profitably given the current regulatory climate. That is why we need to act now to bring the stability ranchers and their lenders need.

As for the substance of this legislation, Mr. President, S. 1459 starts with

the premise that public lands should continue to be used for multiple use purposes. The No. 1 finding on page 3 of the bill says, and I quote: "multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests." Multiple use is a guiding principle for public lands management now, and the bill says right up front that multiple use will continue to be the guiding principle. It says so throughout the bill. So any claim, Mr. President, that this bill establishes grazing as the dominant use of the public lands is false. That is one of the false claims we will hear over and again about this bill, Mr. President, but such a claim has no basis in fact.

The multiple use foundation of this bill is further exemplified by the explicit declaration that nothing precludes use of and access to Federal land for hunting, fishing, recreation, or other appropriate multiple use activities in accordance with Federal and State law.

Environmental protection of public rangelands is ensured by S. 1459 in several ways. The bill states as its first objective the promotion of "healthy, sustained rangeland." Another objective is to "maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality." S. 1459 also calls for: the establishment of State or regional standards and guidelines for addressing rangeland condition; consideration of the environmental effects of grazing in accordance with NEPA, the National Environmental Policy Act; approval of cooperative agreements and coordinated resource management practices for conservation purposes or resource enhancement; and penalties for failure to comply with permit terms and conditions or environmental laws and regulations. All of these provisions add up to a serious effort to protect the condition of the rangeland and to improve its condition where such improvement is needed.

A lot criticism has been directed at the public participation aspects of this legislation, Mr. President, and I want to explain what S. 1459 does in that regard. The bill makes absolutely clear that affected interests will be notified of proposed decisions, and does nothing whatsoever to prevent those interests from having dialogue with Federal land managers concerning management decisions on grazing allotments. That is the case now and that has always been the case. The bill also makes clear that those citizens whose interests are adversely affected can appeal decisions of the land managers. Further, the bill gives the interested public the opportunity to participate in Resource Advisory Councils, the Grazing Advisory Councils, and the NEPA process.

What the bill does not do, Mr. President—much to the disappointment of Secretary Babbitt and the other opponents of this legislation—is allow anti-public lands or anti-grazing activists from Boston and elsewhere to micromanage and second-guess every single decision regarding grazing and what happens on each individual grazing allotment for the price of a 32-cent stamp. Appropriate public participation in public lands management decisions is healthy and constructive. We do not have a problem with that, Mr. President. We welcome appropriate public participation.

What we do have a problem with, however, is elevating in statute the legal status of an individual who lives hundreds of miles away who wants to dictate what happens on a grazing allotment out West, and whose form of public participation consists of mailing a protest postcard to the land management agency. We do not need more lawsuits spawned by armchair quarterbacks who have never seen a grazing allotment. Nor do we need to have every single decision of the public lands manager second-guessed by self-proclaimed experts.

Mr. President, there are many other positive aspects of S. 1459 that deserve mentioning. But my colleagues who have labored long and hard trying to put together a grazing reform bill that can enjoy bipartisan support are anxious to speak to the many positive features of the bill.

I want to tell my colleagues about the process we have been through this year on grazing reform, Mr. President, because I believe it is important that they know about the intense interest in this issue, and even more intense interest in passing legislation that will provide stability, certainty, and predictability for the foreseeable future. This is such a contentious issue that we do not need to be revisiting grazing every session of Congress.

Earlier last year—May 25—another grazing bill, S. 852, was introduced by Senators DOMENICI, CRAIG, BROWN, CAMPBELL, HATCH, BENNETT, BURNS, SIMPSON, THOMAS, KYL, PRESSLER, KEMPTHORNE, CONRAD, DORGAN, DOLE, and GRAMM. Senators BAUCUS, NICKLES, and INHOFE subsequently joined as cosponsors.

A companion bill to that measure, H.R. 1713, was introduced in the House. The House Subcommittee on National Parks, Forests, and Public Lands of the House Resources Committee held a hearing in July.

A hearing on the Senate bill was held in June by Senator CRAIG's Subcommittee on Forests and Public Land Management, and the Committee on Energy and Natural Resources reported the bill on July 19, 1995.

S. 852 was placed on Senate Calendar but went nowhere as a result of apparent lack of sufficient support.

Following the August recess, a bipartisan effort was mounted to craft a bill that would address the deficiencies of S. 852 was initiated by several Members on our side, Senators DOMENICI, THOMAS, KYL, CRAIG, and BURNS, and included several of our Democrat colleagues, Senators REID, BRYAN, CONRAD, BAUCUS, BINGAMAN, and DORGAN.

After several weeks of staff discussions and Member involvement, a revised bill was drafted that addressed some 16 areas where there seemed to be general bipartisan agreement. Shortly thereafter, the Senate began consideration of the Balanced Budget Act of 1995. Grazing provisions were not included in the Senate version of the Balanced Budget Act, but the House version did contain a handful of provisions, only one of which would have produced revenues—the grazing fee provision. In the end, the House receded to the Senate approach and no provisions on grazing were included in the Balanced Budget Act.

On November 16, 1995, Senators DOMENICI, KYL, CRAIG, THOMAS, and BAUCUS wrote me to request that the Energy Committee consider the new draft proposal, which was reported as S. 1459 on November 30.

In December and January, Mr. President, our side met with Democrat Members and staff several times in an attempt to incorporate changes desired by the Democrat Members in order to address concerns raised by their constituents and support this measure. We went what we believed was the extra mile to address their concerns.

At the end of January, Mr. President, we had only five unresolved issues. We made clear to our colleagues that we could accommodate their concerns on some of these issues. On a few others, we probably could not agree because of fundamental differences in approach. However, we believed that the unresolved issues could be decided on the floor through the amendment process, Mr. President, which would allow our colleagues to offer proposals to address the remaining issues on which we seemed divided.

That brings us to where we are now, Mr. President. At a crossroad. We are at a crossroad with this grazing bill because we have gone about as far as we can without harming what we believe are the legitimate concerns of the livestock industry. We believe we have ample environmental safeguards in the bill, Mr. President, and more than adequate opportunity for public participation.

If our Democrat colleagues whose interests we have tried so hard to address cannot support this bill now, Mr. President, it is not for a lack of effort on our part to accommodate their concerns. It is not because of sincere effort on our part to include them in the process of drafting this legislation. And it is not because we did not seek their input and ideas as to how we could make S. 1459 better legislation.

I would suggest Mr. President, that those who cannot support this legislation—even though we have bent over backwards to accommodate the interests of our western Democrat colleagues—are making their decision not on the merits of the bill but rather on the basis of a desire to make nonuse of the public lands the dominant use.

We're at a crossroad not only with this grazing bill, but also with the administration's public lands and natural resources policies. We can either choose between Secretary Babbitt's Rangeland Reform 1994 regulations, which will hasten the end of livestock grazing on the public lands, or we can choose an approach that makes significant improvements in the way livestock grazing is managed while allowing ranchers to continue to graze cattle and sheep on the public range. The same choice is true for other public lands use issues: We can either ship our jobs, our capital, our mineral receipts, and our tax revenues overseas or we can keep them here and allow responsible use of our public lands for resource development activities and other multiple-use purposes.

The choice for me is clear, Mr. President. On this one, I am going to side with the ranchers over the elitists. I urge my colleagues to do the same.

Mr. President, I support the Domenici substitute for three specific reasons. First, it is pro-environment. It is pro-family, and it is pro-economy. The substitute contains, I think, significant provisions to protect the great landscape of the American West that will lead to more money being spent to improve those rangelands specifically.

Furthermore, I think it keeps the families together, the families of rural America, the families out west, because it will allow them to continue what they have been doing for five and six generations—that is, producing livestock on the public lands for the benefit of all Americans.

Further, the Domenici substitute is pro-economy because it will generate more fees to the Federal Government and provide a stable regulatory climate for livestock production on the public lands, and preserve livestock production as an economic pillar, which it has been on the rural communities of the West.

Now, Mr. President, you might wonder why a Senator from Alaska is speaking on grazing issues. Well, it is not significant in my Western State of Alaska, although we do graze a significant herd of "Santa Clause's reindeer" on public land. But it is really part of the history and heritage of the American West, a part of the social fabric of the West, and it is really a cornerstone of the western economy.

So I want to lend my support to this issue and this legislation. I encourage my colleagues on both sides of the aisle to support the Domenici substitute because I understand and really appreciate the importance of this issue to the West. I want to assure you that those who have risen to speak on behalf of this amendment do as well, because they are the ones ultimately accountable for their stewardship to their constituents.

I have a strong interest in our Nation's natural resources, public lands, and management policies. I believe the public lands in my State and in the other lower 48, as we refer to them, contain tremendous natural resources—our timber, coal, oil, gas, minerals, and other renewable assets that can be used to sustain the economic engine of what made this country great.

I firmly believe that through science and technology, we can do it right, we can do a better job than we have done. I feel, in many cases, the old rules relative to environmental oversight and various other aspects of regulatory mandates are really out of date. We have had new technology come along. We are operating under the same rules, same regulations, and a very narrow focus, Mr. President, and a very narrow interpretation. As we look at resource development, we are looking at world markets.

We have the experience and expertise in the United States to do a better job, particularly with our renewable resources, and grazing is a renewable resource. We could do a better job in the renewability of our timber. But as we look at what is happening, we are depending on imports, such as imported beef and timber products, coming from countries that do not have the same sensitivity and responsibility in developing and maintaining the renewability of the resources that we do.

So are we not being a little irresponsible to shed that responsibility on other countries and simply look to importation? Well, I think we are. Just as we in Alaska are willing to allow our resources to prudently contribute to the future of those in our State and the grandchildren that are coming along, I believe Americans are willing to use America's resources and resource development to benefit future generations.

So I support Senate bill 1459 because of my concern about the current administration's general attitude regarding public land use. More specifically, it would be the regulations and policies of the Secretary of the Interior regarding activities on public lands to conduct timber harvesting, livestock, grazing, mining, oil and gas exploration, and development as well. I think, Mr. President, as we look a little further, we see an alarming trend toward driving traditional public land users—timber harvesters, ranchers, oil and gas drillers, and miners—off public lands. Where are they going?

We are driving those jobs out of the United States, we are sending our dollars overseas, and we are importing those products. As our President communicates concern over the loss of high-paying jobs and offsets that by more low-paying jobs, the realism is that many of these blue-collar jobs are high paying. But if we do not develop our resources, we are not going to have them.

The Interior Secretary's approach seems to be to drive these good, high-paying, long-lasting jobs—hundreds of millions of dollars of capital investment—overseas, all with no worry, so to speak, because we will make up for those lost jobs somehow. Well, I think that is an attitude problem. As we look at oil imports alone, now we are currently importing over 54 percent of the total crude oil that we consume. We are simply becoming more dependent on the Mideast. We are only perhaps a terrorist act away from another oil crisis.

So, Mr. President, as we come back to the issue at hand, it is just not about grazing; it is about utilization of the public land in a responsible manner.

I think it is difficult for ranchers without this relief. As a former banker, I think I can comment with some degree of accuracy on the circumstances. It is difficult for ranchers to secure lending to support their operations and to make improvements that are needed. And more and more banks are going to be tougher and tougher before they loan money to ranchers because of the seeming instability of this industry and where it is going. That is brought about by the regulatory malaise caused by the current administration's rangeland reform regulations. I have been told by some of my banker friends that they are denying loans because they believe livestock operations cannot be conducted properly given the economic uncertainty in the industry. I think that is why we need to act now to bring stability that the ranchers need and that certainly the lenders require.

That is another reason I support the Domenici amendment. As for the substance of the so-called substitute, the bill starts with the premise that public lands should continue to be used for multiple use.

The No. 1 finding on page 3 of the bill says: "Multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests." Multiple use is a guiding principle for public lands management now, and the bill says right up front that multiple use will continue to be the guiding principle. It says that throughout the entire bill.

So any claim, Mr. President, that this bill establishes grazing as a dominant use—that has been used time and time again in this debate—of public lands is simply false, and it is inaccurate. This is one of the many claims

that we will probably hear over and over again in this debate. But such claims simply have no basis in fact.

Next, I want to say how astounded I am that the Democratic substitute to be offered on the other side of the aisle says absolutely nothing in title I about protecting use, of and access to, Federal land for the experience of hunting, fishing, recreation, watershed management, or any other appropriate multiple-use activity. The question is, why? I wonder if we are to conclude from our friends on the other side of the aisle that they care only about these activities on national grasslands and not about such activities on the BLM or Forest Service rangelands. I hope that some of my colleagues will address that because I think it is a legitimate criticism.

Next, Mr. President, I want to emphasize again how compatible the Domenici bill will be with the environment. The bill states as its first objective the promotion of healthy, sustained rangeland. Another objective is to "maintain and improve conditions of repairing areas which are critical to wildlife habitat and water quality."

The Domenici substitute also calls for the establishment of State or regional standards and guidelines for addressing rangeland conditions; consideration of the environmental effects of grazing in accordance with NEPA, the National Environmental Policy Act; and approval of cooperative agreements and coordinated resource management practices for conservation purposes.

Mr. President, all of these provisions add up to a very, very serious effort to protect the public rangelands and to improve their conditions where such improvements are needed.

So, Mr. President, we are going to hear a lot of criticism in this debate about public participation in the grazing management process. But, in my view, there are far more opportunities for public participation and a broader role for the so-called affected interests in the Domenici substitute than in the substitute which we will see from the other side.

Under the Domenici substitute, for example, for the first time the public will be given the opportunity to comment on reports by the Secretary of the Interior and the Secretary of Agriculture summarizing range-monitoring data. This is a positive improvement and one that will not be provided in the substitute from our colleagues on the other side of the aisle.

What the Domenici substitute does not do, Mr. President, is allow out-of-State antipublic lands, antigrazing activists to simply micromanage and second-guess every single decision regarding grazing and what happens on each individual grazing allotment for the price of a 32-cent stamp, which, as you and I know, is possible now.

Appropriate public participation in public land management decisions is healthy. It is constructive. We do not have a problem with that. We welcome appropriate public participation.

Finally, Mr. President, it is our hope that the Domenici substitute ends the bureaucratic nightmare that livestock producers have been living because of widely differing rules and regulations of not one, but two Federal agencies—the Bureau of Land Management and the U.S. Forest Service. The Domenici bill would require coordination of livestock administration between these two agencies. It would require them to issue regulations simultaneously to address grazing on public lands.

Livestock producers need some degree of certainty. They need regulatory stability. We believe, Mr. President, that the Domenici substitute will provide that certainty and that stability.

I believe Senate bill 1459, as proposed to be amended by the Domenici substitute, will allow family ranchers to continue enjoying the lifestyle they have enjoyed for generations. It is hard work. It is low pay and long hours. If you ask any one of the small family livestock operators, he or she will tell you that they would not want to do anything else or anything any differently. Are we going to take that away from them? I hope not.

We need to provide the proper regulatory climate to allow the family ranchers to continue to earn their living on public rangelands. We need to continue to allow the livestock industry to make its vital contribution to the rural economy of the West. We need to provide incentives for the livestock operator to keep caring about the land that he or she lives on. Yes; ranchers are environmentalists, too. They hunt, they fish, and they recreate. They enjoy the outdoors on the lands in their areas just like others. The only difference is they know better how to take care of the land and how to preserve it. They have a vested interest in continuing to care about those rangelands because their rangelands are also their hunting grounds and their fishing streams.

Mr. President, the Domenici substitute is good for the environment. It is good for the family. It is good for the rural western economy. And it is basically good public policy.

I urge my colleagues to support the Domenici substitute, Senate bill 1459.

I ask unanimous consent to be added as a cosponsor of that legislation.

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

Mr. MURKOWSKI. Mr. President, I would suggest that those who cannot support this legislation for whatever reason, even though we have, in my opinion, bent over backward to accommodate the interests of our western colleagues on the other side of the aisle, are making their decisions, unfortunately, not on the merits of the bill but rather on the basis of a desire to make nonuse of the public lands the dominant use. Think about that, Mr. President. We are at a crossroads not only with this grazing bill but also with the administration's public lands and natural resource policy. We can either choose between Secretary Babbitt's rangeland reform, the 1994 regulations, which will hasten the end of livestock grazing on public land, or we can choose an approach that makes significant improvements in the way livestock grazing is managed while allowing ranchers to continue to graze cattle and sheep on public land.

The same choice is true for other public land use issues. We can either ship our jobs, ship our capital, our mineral receipts, and our tax revenues overseas, or we can keep them here and allow responsible use of our public lands for resource development activities and other multiple-use purposes and to benefit, obviously, Americans who are looking for and need those jobs.

The choice is clear on this one. I am going to side with the ranchers over the elitists. I urge my colleagues to do the same.

Mr. President, that concludes my statement.

MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

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

TRIBUTE TO PETER A. JENNINGS

Mr. DASCHLE. Mr. President, today I want to take a moment to commemorate the long and distinguished life of Peter A. Jennings, an outstanding American who passed away last November.

Peter Jennings was born June 9, 1911, in the small town of Bridgewater, SD, and passed away on November 3, 1995, in Fort Meade, SD. Throughout his life he was very dedicated to his family, his community, and his work.

As a father and husband, Peter epitomized the term "family values." He spent his life taking care of his family by always putting their needs and concerns first. He is survived by his wife of 56 years, Anita Sessions Jennings, his son Thomas Jennings, and his sisters Bernadette Stoltz and Irene Rotert. As an active member of his community, Peter was constantly working to improve the quality of people's lives. He belonged to the DAV, VFW, American Legion, Catholic Order of Forresters, the Retired Officers Association, and the Knights of Columbus.

Peter served in the U.S. Army for much of his life, including 26 years of

service at four VA medical centers in Fort Meade, SD; Kerrville, TX; Indianapolis, IN; and Hines, IL.

During my travels as a U.S. Senator, I am constantly humbled by the people of my State and the basic principles by which they live their lives: a love of family, an obligation to community service, and a strong commitment to an honest day's work. Peter A. Jennings lived by those principles, and we remember him today.

NOMINATION OF LTG MICHAEL RYAN, U.S. AIR FORCE

Mr. NUNN. Mr. President, the Air Force Times (March 25, 1996 edition) contains a story entitled "Senate Delays Ryan Nomination." The story states that Lieutenant General Ryan's promotion to a fourth star "is being delayed in the Senate according to congressional and military sources." The story adds that the "reasons for the delay were unclear as of March 15, but sources said Ryan's involvement in the Buster Glosson affair in 1994 may be tied to the delay." With no foundation whatsoever, the story then links me to this action by stating: "The aftertaste of the Glosson struggle has remained bitter, especially for one of his ardent congressional supporters, Sen. SAM NUNN, D-Ga."

That is absolutely inaccurate.

In the first place, I strongly support the nomination of Lieutenant General Ryan for his fourth star and have not been involved in any hold. Lieutenant General Ryan was nominated on February 26, 1996 and favorably reported by the Committee on March 12, 1996. I am confident that he will be confirmed by the Senate and I urge the Senate to act immediately to confirm this fine officer.

Second, when I was chairman of the Armed Services Committee in 1994, during Lieutenant General Ryan's previous nomination, I took the lead in ensuring that Lieutenant General Ryan was confirmed. That was at the same time we were considering the issues regarding Lieutenant General Glosson's retirement. Lieutenant General Ryan was nominated on July 12, 1994, approved by the Committee on July 27, 1994, and confirmed on August 25, 1994.

Third, when our committee issued its report on the Glosson matter, I ensured that the following material was placed in the committee report, citing the special panel we had established:

> The Panel Report specifically states: "We wish to be absolutely clear that in our view Generals Nowak, Ryan, and Myers were truthful in their testimony to the IG investigators and to us." The Panel notes that "the reputation of these men for veracity and integrity is unimpeachable."
>
> The Panel Report also observes: "Generals Nowak, Ryan, and Myers acted with the utmost integrity in reporting what they considered to be inappropriate attempts to influence a promotions board and in asking to be excused from service on that board. Their actions in this regard were proper and helped maintain the integrity of the Air Force promotions system."
>
> The committee concurs with these views. The committee notes that its favorable recommendation on the nomination of Lieutenant General Glosson is based upon his overall record of service and does not imply any reservation about the Panel's findings with respect to Lieutenant General Nowak, Lieutenant General Ryan, and Major General Myers.

It is simply wrong to suggest "the aftertaste of the Glosson struggle has remained bitter" for me. On the contrary, I have worked hard to ensure that those, like Lieutenant General Ryan, who did their duty in the Glosson matter have not been adversely affected.

REPEAL OF MANDATORY DISCHARGE OF ARMED FORCES MEMBERS WITH HIV

Mr. KENNEDY. Mr. President, I am especially gratified that the Senate voted yesterday for fairness and against bigotry by repealing the provision in the recent Department of Defense Authorization Act requiring the mandatory discharge of members of the Armed Forces who are HIV-positive.

Yesterday's Senate action clearly demonstrates that this misguided policy's days on the statute books are numbered. The Senate looked at the facts and listened to the Nation's military and medical leaders, and not a single Senator was willing to defend the mandatory discharge provision.

The reality is that military personnel with HIV are serving their country effectively and should be allowed to continue to serve. They may not be fighting on the frontlines, but they are still dedicating themselves to serving our country.

A few examples prove the point. One of the persons affected is a senior enlisted man in the Navy. He is a gulf war veteran who has served over 17 years. During that time, he has earned numerous decorations, including two Navy Achievement Medals and four Good Conduct Medals. Yet under current law, this sailor will be discharged before receiving the retirement he worked so hard and honorably to earn.

Another affected service member is an Army sergeant. This soldier has served for over 15 years, receiving outstanding evaluations and a chest-full of medals. He fears for the fate of his wife and newborn child if he is dismissed from the service before his retirement.

Another member of the Armed Forces, a Navy woman, has served for 7 years, consistently receiving top evaluations.

It is fundamentally unfair that these and hundreds of other productive service members will all have their careers cut short for no valid reason.

Magic Johnson has not served in the military. But he is living with HIV. He has shown America that people with HIV do not have to sit on the bench. They can participate, and even be stars. In a recent article in the Los Angeles Times, Mr. Johnson appealed to us to give the same opportunity to service members with HIV that his fellow athletes gave him. He wrote:

> Service members with HIV are in the Army, Navy, Air Force, and Marines. They are shipbuilders, military police, trainers, recruiters, sonar technicians, communications specialists, engineers, researchers, administrators, and more. They are American men and women who want to work hard and be part of the toughest military in the world. They live to serve—and they shouldn't be a casualty of prejudice. They deserve better. America deserves better.

Magic Johnson is right. The DOD Authorization Act is wrong. As a result of yesterday's overwhelming Senate vote, we are a major step closer to ending this unacceptable discrimination against dedicated members of the Armed Forces. I urge the House of Representatives to accept our repeal of this disgraceful provision.

LABOR COMMITTEE PASSAGE OF OSHA REFORM LEGISLATION

Mr. PELL. Mr. President, last week, the Senate Labor and Human Resources Committee completed a long and, unfortunately, contentious markup of S. 1423, the Safety and Health Reform and Reinvention Act that amends the Occupational Safety and Health Act of 1970.

While I am very aware of the importance of not overburdening businesses with mountains of paperwork and regulation, I am also cognizant, as a cosponsor—along with my old friend Senator Jacob Javits—of the legislation that created OSHA, of the important need to protect the health, safety, and lives of employees.

Much of the debate and discussion that took place during Labor Committee hearings and markups was really over the balance between protections for employees and burdens on employers. During one committee hearing on the topic, a businessman testified in support of a proposal that would prohibit fines on a business if it were to be found in substantial compliance with OSHA regulations. The witness went on say that substantial compliance "does not mean perfection or even near perfection. It does mean better than average."

Mr. President, I would not expect perfectly safe conditions or perfect health protections for myself and we probably should not attempt perfection under OSHA rules. We should not, however, settle for better than average safety. I am sure that none of my colleagues would feel comfortable flying on an airline that advertised as having better than average safety. Would any

of us feel comfortable using a piece of machinery or operating an electrical device knowing that there was an average chance of being electrocuted or being injured? I do not believe "better than average" is good enough for America's workers.

Another concern of mine centers on the ability of workers to request onsite inspections by OSHA. I recently received some interesting material from the Rhode Island Committee on Occupational Safety and Health [RICOSH]. One of these cases is a good example of the value of OSHA inspections.

Without an onsite inspection, problems that occurred at a Narragansett, RI jobsite may well have taken a different turn. During construction, workers noticed that the temporary support structure for a poured concrete floor had become dangerously overloaded. The workers placed a call to OSHA. At first, the owner and his engineer and architect all insisted that the 2 x 4's would support a concrete slab. Instead, they suggested to OSHA that the deflection was the result of moist sea breezes causing the support timers to swell combined with expansion caused when the Sun warmed one side of the timbers. At first glance, these all sound like credible explanations. Upon inspection, Mr. President, it was learned that structural calculations were based on a 2½ inch concrete slab. In reality, the slab was 3 inches thick. Obviously, the inspection was the key to discovering the actual cause of the deflection in the concrete slab. Just imagine the number of injuries and even deaths that may have taken place if because of a phone or fax interview, instead of an inspection, OSHA had determined that the culprit was sunny days and humid nights.

Mr. President, I feel that I also must comment on the commotion during the last markup session. After approving three very good amendments—two Democratic and one Republican—by voice vote on the first day of the markup, the committee was asked to vote again on the amendments at the beginning of the last markup. Unfortunately, all three of the votes were along party lines and two of the previously approved amendments failed. I regret very much that this commotion took place and hope that in the future, cooler heads prevail.

FEDERAL CONSTRUCTION METRICATION: A YEAR END REPORT

Mr. PELL. Mr. President, I would like to call to the attention of my colleagues the Metric in Construction 1995 Year End Report by the Construction Metrication Council of the National Institute of Building Sciences located here in Washington, DC.

I found the information outlined in the "Status of Federal Construction Metrication" chart to me most interesting. In many portions of the Federal Government, projects have been constructed in metric for 2 years or more and, contrary to the beliefs of many, the sky has not fallen in.

I also recommend the rest of the council's report to my colleagues. As the report says, 93 percent of the world's population uses the metric system. I continue to believe that the United States will remain at a competitive disadvantage with our global trading partners until we join that 93 percent.

Mr. President, I ask unanimous consent that the Metric in Construction 1995 Year End Report be printed in the RECORD.

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

METRIC IN CONSTRUCTION 1995 YEAR END REPORT

Almost all federal construction programs are now converted to the metric system and most agencies are designing and constructing projects in metric units.

So reported over 20 federal agency representatives at the November 1995 meeting of the Construction Metrication Council (see the agency-by-agency status report on pages 3 and 4). Building on years of work by the nation's voluntary codes, standards, trade and professional construction organizations—and with their support and participation—federal construction is providing the catalyst for the long-awaited metrication of the nation's construction industry.

THE NUMBERS

Government is a major player in the construction industry by virtue of its role as provider of highways, bridges, dams, water and sewer systems, parks, prisons, military bases, space centers, laboratories, embassies, courthouses, schools, and numerous other public facilities. Federal appropriations for construction, including grants to state and local governments, total about $50 billion annually. In 1996, over $20 billion in construction will be designed in metric units and up to $10 billion more put out for bid. By the year 2000, metric construction will approach the $50 billion federal total, not including billions more in state and local matching funds.

Annual U.S. construction expenditures are about $500 billion yearly with roughly one-half allocated to commercial, institutional, industrial and civil works and the other half to homebuiding. Thus, within a few years federally funded metric construction will amount to about 20 percent of all nonresidential construction, with state and local metric construction adding substantially to that percentage.

THE IMPACT

American architectural, engineering, and construction firms already use metric measures in their overseas work, and government's buying power rapidly will expose the remainder of nonresidential construction to the metric system. Given this as well as the rapid globalization of the construction industry (just look at the multilingual packaging with metric measurements on the shelves of your local hardware store), nonresidential construction is likely to convert to the metric system within a decade or so. Homebuilders, who are involved in virtually no foreign or governmental work but are nonetheless closely intertwined with the rest of the construction industry, probably will adopt metric measures a few years later.

Of course, the metric transition could take place faster, as it has in other countries, or, given America's ambivalence toward the metric system, slower. But 93 percent of the world's population uses metric measures and it is only a matter of time before the U.S. construction industry, which accounts for 6 million jobs and 8 percent of the gross national product, joins the nation's automobile, health care, and electronics industries (among others) in completely converting to the metric system.

When it does, metrication will bring more than efficiency and better quality control to construction: it will benefit every American by helping our nation compete more effectively in the global marketplace.

THE RESULTS

Hundreds of millions of dollars in federally funded metric projects have been placed under construction in the past three years and the results speak for themselves. As noted in the last Metric in Construction newsletter:

Conversion has proven to be much less difficult than anticipated.

There has been no appreciable increase in design or construction costs.

Architects and engineers like working in metric units.

Tradesmen adapt readily to metric measures on the job site.

Construction and product problems have been minimal.

However, three product-related issues have surfaced to date:

Reinforcing steel ("rebar"). The rebar industry first promoted and then withdrew a metric standard but not before most state highway departments had adopted it in their standard design drawings, at significant time and expense. The rebar industry currently is balloting, through ASTM, a new metric standard and hopes to unify everyone behind it over the next year or so.

Recessed lighting fixtures. Several lighting manufacturers opposed the introduction of modular metric recessed fixtures for use in modular metric suspended ceiling systems. Such fixtures proved to be readily available from other manufacturers, however, and now the opposing manufacturers are supplying them too. All other suspending ceiling components, including T-bars, lay-in tiles and air diffusers, are available from a variety of manufacturers in modular metric sizes.

Concrete masonry block. Block is also a modular material, but modular metric (so-called "hard metric") block is slightly smaller than current inch-pound block. The block industry, as represented by the National Concrete Masonry Association, argues that producing and keeping an inventory of two sizes of otherwise identical block is costly and, in many cases, too costly for the smaller producers that constitute the bulk of the block industry. The industry further argues that inch-pound block can be economically cut to fit any dimension, inch-pound or metric, and that the specification of metric block is therefore both unnecessary and economically damaging to block producers.

In response to these concerns, the General Services Administration, in its July 1993 Metric Design Guide, encouraged the allowance of either inch-pound or metric block in metric projects. The Construction Metrication Council endorsed GSA's position in the September-October 1993 Metric in Construction newsletter. Since then, contractors

have had difficulty obtaining bids on metric block in a number of instances. The Council therefore strongly encourages designers to allow the use of either inch-pound or metric block or to specify nominal wall thicknesses only, thereby leaving the decision to the contractor, with cost the deciding factor.

CONSTRUCTION METRICATION COUNCIL

(English is the international language of business. Metric is the international language of measurement.)

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Metric in Construction is a bimonthly newsletter published by the Construction Metrication Council to inform the building community about metrication in U.S. construction. The Construction Metrication Council was created by the National Institute of Building Sciences to provide industrywide, public and private sector support for the metrication of federal construction and to promote the adoption and use of the metric system of measurement as a means of increasing the international competitiveness, productivity, and quality of the U.S. construction industry.

The National Institute of Building Sciences is a nonprofit, nongovernmental organization authorized by Congress to serve as an authoritative source on issues of building science and technology.

The Council is an outgrowth of the Construction Subcommittee of the Metrication Operating Committee of the federal Interagency Council on Metric Policy. The Construction Subcommittee was formed in 1988 to further the objectives of the 1975 Metric Conversion Act, as amended by the 1988 Omnibus Trade and Competitiveness Act. To foster effective private sector participation, the activities of the subcommittee were transferred to the Council in April 1992.

Membership in the Council is open to all public and private organizations and individuals with a substantial interest in and commitment to the Council's purposes. The Council meets bimonthly in Washington, D.C.; publishes the Metric Guide for Federal Construction and this bimonthly newsletter, and coordinates a variety of industry metrication task groups. It is funded primarily by contributions from federal agencies.

Chairman—Thomas R. Rutherford, P.E., Department of Defense.

Board of Direction—William Aird, P.E., National Society of Professional Engineers; Gertraud Breitkopf, R.A., GSA Public Buildings Service; Ken Chong, P.E., National Science Foundation; James Daves, Federal Highway Administration; James Gross, National Institute of Standards and Technology; Byron Nupp, Department of Commerce; Arnold Prima, FAIA; Martin Reinhart, Sweet's Division/McGraw-Hill; Ralph Spillinger, National Aeronautics and Space Administration; Gerald Underwood, American National Metric Council; Dwain Warne, P.E., GSA Public Buildings Service; Lorelle Young, U.S. Metric Association; Werner Quasebarth, American Institute of Steel Construction.

Executive Director—William A. Brenner, AIA.

STATUS OF FEDERAL CONSTRUCTION METRICATION—NOVEMBER 1995

Agency	Metric conversion date for new construction projects
General Services Administration	January 1994: GSA's Public Buildings Service builds for several federal agencies. All major projects under its auspices have been constructed in metric for the past two years.
Federal Highway Administration	October 1996/2000: Recent Congressional action has pushed back the FHWA 1996 deadline to 2000, but the majority of states report that they will begin highway construction in metric by October 1996 or sooner. Successful metric projects already have been completed in many states.
Army Corps of Engineers	January 1995: Numerous metric projects are under construction. New work has been designed in metric since January 1994.
Naval Facilities Engineering Command.	October 1996: New projects are being designed in metric now.
Air Force	October 1996: New projects are being designed in metric now.
Coast Guard	In phases, beginning January 1996: Several metric projects are underway now.
State Department	State has virtually always built in metric.
National Aeronautics and Space Administration.	October 1995: A number of metric projects are under construction and more are in design.
Federal Bureau of Prisons	October 1995: New projects are being designed in metric now.
Architect of the Capitol	January 1994: In-house design and renovation work is performed in metric and the planned Library of Congress storage facility will be built in metric.
Veterans' Administration	No date set at this time: Five metric projects are in planning. A large GSA-built project is being constructed in metric now.
Smithsonian Institution	January 1994: Virtually all work has been performed in metric for the past two years.
Deparment of Energy	January 1994 for major projects: Many DOE labs and sites have ongoing metric construction programs.
Environmental Protection Agency	No metric policy on construction grants: EPA provides water and sewer grants to states and municipalities but is not involved in their construction.
USDA Forest Service	October 1996: The Forest Service's metrication schedule depends in large part on state highway metrication activities.
Department of Agriculture	January 1995: Major projects are in metric now.
Indian Health Service	January 1994: Numerous metric projects are in design and construction.
National Institute of Standards and Technology.	January 1994: Major projects are in metric now.
U.S. Postal Service (USPS is not a federal agency).	No date set at this time: But several metric pilot projects are under way.
Administrative Office of the U.S. Courts.	January 1994: All new federal courthouses have been built in metric by GSA since 1994.
Internal Revenue Service	January 1994: All major IRS buildings are built in metric by GSA; small projects are designed in-house in metric.
Naval Sea Systems Command (Ships and boats use many of the same construction components as buildings, particularly structural steel and mechanical and electrical equipment).	No formal date: The metric design of the LPD 17 amphibious assault ship is nearly completed. Two other ships, the SC 21 and the ADC(X), are in the early stages of metric design. NAVSEA's conversion is proceeding on a program-by-program basis.

THE REPUBLIC OF TUNISIA'S 40TH INDEPENDENCE DAY

Mr. THURMOND. Mr. President, I rise today to acknowledge the 40th anniversary of the independence of the Republic of Tunisia. Since gaining independence from France on March 20, 1956, Tunisians have been dedicated to pursuing a path of progress.

Although this small North African country has limited natural resources, it has shown great initiative by successfully devoting a majority of its assets to promoting its people and developing its economy, stressing education as the key to its future. The private sector has contributed greatly to the economy and, as a result, Tunisians have created a diversified, market-oriented economy. While the United States has assisted the Tunisian economy through focused development programs, Tunisia has been able to advance beyond our assistance and is quickly approaching an era of economic partnership with us.

The friendship between the United States and Tunisia dates back almost 200 years when our two countries signed a friendship treaty. Since that time, we have had an outstanding relationship marked by respect, cooperation, and a mutual commitment to freedom and democracy. We have a strong military alliance, routinely engaging in regular joint exercises and program exchanges. Strictly defensive in nature, the Tunisian military force is among the best trained and most professional in the Arab world. Like the United States, Tunisia is dedicated to the peaceful resolution of conflicts and has participated in many peacekeeping operations around the world.

Despite the volatile situation in North Africa, Tunisia has played a key role in preserving stability and peace. Further, they have been at the forefront of the struggle against terrorism, intolerance, and blind violence. They have appealed to the world community through various organizations, including the United Nations, to adopt strict measures in order to combat terrorism and extremism.

In addition, Tunisia has played a significant role and is a key supporter in securing peace in the Middle East. They were the first Arab State to host a multilateral meeting of the peace process and to welcome an official Israeli delegation in Tunis, thus promoting a dialog between Arabs and Israelis. Since that initial meeting, they have hosted two other events and are scheduled to host others. As a result of their efforts, in January of this year, Tunisia and Israel agreed to establish formal diplomatic relations.

Earlier this week, Tunis served as the host city for the Joint Military Commission meeting, further demonstrating their dedication to peace in the Middle East and reinforcing the cooperation between the United States and Tunisia.

Mr. President, I would like to congratulate our friends in Tunisia on successfully achieving this milestone and commend them for their peacekeeping efforts.

FORTY YEARS OF TUNISIAN INDEPENDENCE

Mr. PELL. Mr. President, legend has it that more than 200 years ago, the bey of Tunis, as token of esteem and friendship, sent one of his finest stallions to U.S. President George Washington. Unfortunately, customs officials in the nascent republic denied entry to the horse, which spent its remainder of its days in the port of Baltimore. After this somewhat rocky start,

I am happy to report that U.S.-Tunisian relations have improved considerably. Today, in fact, marks the 40th anniversary of the establishment of the Republic of Tunisia as an independent country, a time during which Tunisia has enjoyed a strong and healthy relationship with the United States. Today I wish to congratulate Tunisia for its many accomplishments, and to highlight some of the instances of cooperation between our two countries.

In recent years, Tunisia has taken positive steps towards the establishment of a more democratic system of government. Although the ruling party continues to dominate the political scene, Tunisia has made an effort to broaden political debate, including recent passage of an electoral law that reserved 19 seats of the National Assembly for members of opposition political parties. Because the government has placed a high priority on funding social programs, today Tunisia has literacy and life expectancy rates that are among the highest in the region. I hope that the United States will continue to work with Tunisia on efforts such as these to open up the political process and to improve the living standards of the population. This should help Tunisia to overcome some of the difficulties it continues to encounter in balancing secular and Muslim interests in the country.

Tunisia also has a very impressive economic record. In the last 10 years, the government has turned to economic programs designed to privatize state-owned companies and to reform the banking and financial sectors. As a result, Tunisia's economy has grown at an average rate of 4.5 percent over the last 3 years, and its economic success has had a beneficial impact on Tunisia's international standing. Tunisia joined GATT in 1990, and in 1995, the government signed a free-trade accord with the European Union.

In contrast to some of its Arab neighbors, Tunisia has achieved particular success in the promotion of women's rights. Under the direction of President Ben Ali, the number of Tunisian women and girls receiving an education—up through the university level—has risen dramatically. Women are protected under the law from forced early marriages and domestic violence. I applaud these steps and urge the Tunisian government to continue its efforts to expand personal freedoms for all of its citizens.

Tunisia and the United States have also explored ways to cooperate on international security issues. In fact, the 14th Annual Joint Military Commission of Tunisia and the United States met in Tunis over the last 2 days. Tunisia also has played an active role in U.N. peacekeeping missions, contributing military contingents to operations in Cambodia, Somalia, the Western Sahara, and Rwanda.

Finally, Tunisia has been a welcome force for moderation I the Middle East peace process. The government has taken an active role within the Arab community in promoting better ties with Israel. In April of this year, Israel and Tunisia will establish official interests sections to facilitate political consultations, travel, and trade. Tunisia has condemned the recent suicide bomb attacks in Israel and has called for greater international efforts to fight terrorism.

As I alluded to earlier, the relationship between the United States and Tunisia goes back nearly 200 years, to the very beginnings of American independence. Tunisia was among the first to recognize the United States as a sovereign country. As Tunisia celebrates the 40th anniversary of its own independence, I ask my colleagues to join me in offering a sincere expression of congratulations.

Mr. FEINGOLD. Mr. President, today Tunisia celebrates its 40th anniversary of independence from French colonialism. I want to join in congratulating Tunisia on its social and economic accomplishments of the last 40 years, and to thank the Tunisians for their historic friendship with America.

Two years ago I visited Tunisia with Senator SIMON and Senator REID. Initially, our visit was planned to meet with President Ben Ali, who at that time was President of the Organization of African Unity. However, we quickly learned that Tunisia itself is a story of many other achievements as well.

As a small, secular Muslim country, nestled between two major, unstable powers, Libya and Algeria, Tunisia is playing an important and positive role in international politics. Because of its geography, it is a member of both the Middle East and Africa, and I am impressed how it has taken an active position in both regions.

In 1982, after Yasir Arafat was driven from Beirut, Tunisia opened its doors and hosted the Palestinian Liberation Organization for 14 years. I believe that Tunisia's secular and developed society had a moderating influence on Arafat, which was a critical factor in launching the Middle East peace process. Likewise, it is no surprise to me that Tunisia was the first Arab country to host a U.N. multilateral meeting in connection with the Middle East peace process, or that it will be among the first Arab countries to establish formal diplomatic relations with Israel next month.

Tunisia has also tried to help mediate some of the conflicts between its neighbors in sub-Saharan Africa. President Ben Ali served as President of the Organization of African Unity at a time when the OAU was being re-vitalized as a regional organization, and he helped begin preparations for a conflict resolution center at the OAU. Just this week, Tunisia hosted a regional conference on the Great Lakes which addressed the heated conflicts in Rwanda and Burundi, and the effects of refugees in Central Africa.

Tunisia has also, by necessity, been at the forefront of the international struggle against terrorism. Out of geographic necessity, it has worked diligently and consistently in international efforts against violence and extremism. Indeed, despite the terrorist threats it faces from Algeria and Libya on all its borders, Tunisia still attended the recent international conference on terrorism in Sharm-el-Shekh, and re-affirmed its commitment to moderation.

I believe Tunisia needs to be supported for these important steps. It is an invaluable partner as we form alliances for the 21st century. But Tunisia should also be congratulated for its economic and social achievements. In many areas—particularly family planning, opportunities for women, education, and economic reform—Tunisia can provide a model of development in the Mediterranean.

When I was in Tunisia, I was greatly impressed by the government's commitment to family planning and the development of opportunities for women. Tunisia is one of the world's success stories in family planning: birth control is widely available for those who desire it, and government clinics are focussed on promoting women's health. This was a very far-sighted and constructive decision by the government. As a result, the country has been able to harness the potential of most of its population, and, not coincidentally, has made significant economic gains.

Because of these effective programs, Tunisia was graduated from United States assistance, and is now entering an era of partnership with the United States. Indeed, in many ways, Tunisia is a fine example of a foreign aid success.

Tunisia has great potential for leadership in the 21st century. But it is a country facing severe security risks. As we appreciate its accomplishments of the last 40 years, we must commit to do what we can to ensure Tunisia will continue to develop politically and economically, and enable it to continue to support United States goals of stability and democracy in the Middle East and Africa.

NATIONAL DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, last week I came to the floor to announce the realization of another component of our initiative to prevent violence against women—the National Domestic Violence Hotline. At that time, I indicated that I would come to the floor every day for 2 weeks, whenever my colleagues would be kind enough to

give me about 30 seconds of time, to read off the 800 number to the hotline.

The toll free number, 1-800-799-SAFE, will provide immediate crisis assistance, counseling, and local shelter referrals to women across the country, 24 hours a day. There is also a TDD number for the hearing impaired, 1-800-787-3224.

Mr. President, roughly 1 million women are victims of domestic violence each year and battering may be the single most common cause of injury to women—more common than auto accidents, muggings, or rapes by a stranger. According to the FBI, one out of every two women in America will be beaten at least once in the course of an intimate relationship. The FBI also speculates that battering is the most underreported crime in the country. It is estimated that the new hotline will receive close to 10,000 calls a day.

I hope that the new National Domestic Violence Hotline will help women and families find the support, assistance, and services they need to get out of homes where there is violence and abuse.

Mr. President, once again, the toll free number is 1-800-799-SAFE, and 1-800-787-3224, for the hearing impaired.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, the Federal Government is running on borrowed time, not to mention borrowed money—more than $5 trillion of it. As of the close of business yesterday, March 19, 1996, the Federal debt stood at $5,058,839,098,883.55. On a per capita basis, every man, woman, and child in America owes $19,128.56 as his or her share of the Federal debt.

More than two centuries ago, the Continental Congress adopted the Declaration of Independence. It's time for Congress to adopt a Declaration of Economic Responsibilities along with an amendment requiring the President and Congress to produce a balanced Federal budget—now.

TRIBUTE TO THE CORONADO HIGH SCHOOL THUNDERBIRD BAND OF EL PASO, TX

Mrs. HUTCHISON. Mr. President, it is with much pride that I rise today to recognize the 160 members of the Coronado High School Thunderbird Band who will be representing North America in the Russian Republic's Freedom Day Parade this May. These gifted student musicians from El Paso will travel to Moscow this spring to celebrate the rise of democracy there and to share their extraordinary musical talents with the people of Russia.

It was last September when Richard Lambrecht, the students' band conductor, received the phone call from the Russian Ministry of Culture, inviting the Coronado students to perform in the Freedom Day celebration held annually in Red Square. Since that moment, the students, their parents, and their avid supporters have been working tirelessly, day and night, to raise the necessary funds for this once-in-a-lifetime trip and to maintain their exceptional grade point averages.

This recognition is a fitting testament to the dedication, character, and talent of these Texas teenagers. But it is not the first honor the Thunderbird Band has received. In fact, the band has received the Sudler Flag and the Sudler Shield for both concert and marching performance by the John Phillip Sousa Foundation. These awards are given to only two bands annually, representing the best in the United States for that year. Coronado is one of only three bands to have ever received both designations.

In addition to honoring the Thunderbird Band for this achievement, I would also like to welcome both Alexander Demchenko, the Russian Minister of Culture, and General Victor Afanasiev, the Russian General Conductor, to the United States. These two officials will be visiting the Coronado students on March 27 in El Paso. The Republic of Russia has generously offered to finance a portion of the band's traveling costs, and I would like to thank them for their country's cooperative efforts in making this trip a reality for the Coronado students.

Mr. President, I am confident that the Coronado High School Thunderbird Band will represent the people of Texas, the United States, and North America with both honor and distinction. I congratulate them on this remarkable accomplishment, and I wish them the best of luck in their future endeavors.

Thank you, Mr. President. I yield the floor.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

At 1:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 38. Joint resolution granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2739. An act to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes.

H.R. 2937. An act for the reimbursement of legal expenses and related fees incurred by former employees of the White House Travel Office with respect to the termination of their employment in that Office on May 19, 1993.

The message further announced that the House has agreed to the concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 148. A concurrent resolution expressing the sense of the Congress that the United States is committed to the military stability of the Taiwan Straits and United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China.

MEASURES REFERRED

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

H.R. 2739. An act to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes; to the Committee on Governmental Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on March 20, 1996, he had presented to the President of the United States, the following enrolled bill:

S. 1494. An act to provide an extension for fiscal year 1996 for certain programs administered by the Secretary of Housing and Urban Development and the Secretary of Agriculture, and for other purposes.

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-2169. A communication from the Director of the Office of the Secretary (Administration & Management), Department of Defense, the report entitled, "Extraordinary Contractual Actions to Facilitate the National Defense"; to the Committee on Armed Services.

EC-2170. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice relative to renewing a lease; to the Committee on Armed Services.

EC-2171. A communication from the Director of the Office of Management and Budget, the Executive Office of the President, transmitting, pursuant to law, the report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-2172. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on metal casting competitiveness research for fiscal year 1995; to the Committee on Energy and Natural Resources.

EC-2173. A communication from the Chairperson of the U.S. Architectural and Transportation Barriers Compliance Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1995; to the Committee on Governmental Affairs.

EC-2174. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the semiannual report of the Inspector General for the period from April 1 through September 30, 1995; to the Committee on Governmental Affairs.

EC-2175. A communication from the Associate Attorney General for Legislative Affairs, transmitting, pursuant to law, the report on the activities and operations of The Public Integrity Section for calendar year 1994; to the Committee on the Judiciary.

EC-2176. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2177. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Low-Income Home Energy Assistance Program for fiscal year 1994; to the Committee on Labor and Human Services.

PETITIONS AND MEMORIALS

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

POM-486. A resolution adopted by American Democrats Abroad (Switzerland) relative to the foreign affairs budget; to the Committee on Appropriations.

POM-487. A resolution adopted by the Federal Judges Association relative to funding of the Judiciary branch; to the Committee on Appropriations.

POM-488. A notice from the Mayor of the City of Tucson, Arizona relative to a resolution adopted by the U.S. Conference of Mayors relative to the National Endowments for the Arts and the Humanities; to the Committee on Appropriations.

POM-489. A resolution adopted by the City of Inkster, Michigan relative to federally mandated obligations; to the Committee on Appropriations.

POM-490. A resolution adopted by the Los Angeles Board of Harbor Commissioners relative to the Alameda Corridor; to the Committee on Commerce, Science, and Transportation.

POM-491. A resolution adopted by the Alaska Environmental Lobby relative to the Arctic National Wildlife Refuge; to the Committee on Energy and Natural Resources.

POM-492. A notice from the Association of Pacific Island Legislatures relative to agriculture, compact impact, fisheries, and immigration; to the Committee on Energy and Natural Resources.

POM-493. A resolution adopted by the Board of Mayor and Alderman of the Town of Dover, Tennessee relative to the Tennessee Valley Authority Land Between the Lakes; to the Committee on Environment and Public Works.

POM-494. A resolution adopted by the Chamber of Commerce of Stewart County, Tennessee relative to the Tennessee Valley Authority Land Between the Lakes; to the Committee on Environment and Public Works.

POM-495. A resolution adopted by the Board of Commissioners of Cook County, Illinois relative to Puerto Rico; to the Committee on Finance.

POM-496. A resolution adopted by the American Society for Public Administration relative to the United Nations; to the Committee on Foreign Relations.

POM-497. A resolution adopted by the New York County Lawyers' Association relative to the United Nations Convention to Eliminate All Forms of Discrimination Against Women; to the Committee on Foreign Relations.

POM-498. A resolution adopted by the Commission of the City of Miami, Florida relative to the Cuban Government; to the Committee on Foreign Relations.

POM-499. A resolution adopted by the Teinaa Gey Tlingit Nation relative to sovereignty and jurisdiction over membership; to the Committee on Indian Affairs.

POM-500. A resolution adopted by the Teinaa Gey Tlingit Nation relative to jurisdictional boundaries; to the Committee on Indian Affairs.

POM-501. A resolution adopted by the Teinaa Gey Tlingit Nation relative to an audit and investigation of contractors; to the Committee on Indian Affairs.

POM-502. A resolution adopted by the City Council of the City of Seattle, Washington relative to proposed immigration legislation; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. JOHNSTON:

S. 1627. A bill to designate the visitor center at Jean Lafitte National Historical Park in New Orleans, Louisiana as the "Laura C. Hudson Visitor Center."; to the Committee on Energy and Natural Resources.

By Mr. BROWN (for himself, Mr. THOMAS, Mr. FAIRCLOTH, Mr. THURMOND, and Mr. HELMS):

S. 1628. A bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. DOLE, Mr. ABRAHAM, Mr. BENNETT, Mr. BROWN, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. GRAMS, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KEMPTHORNE, Mr. KYL, Mr. NICKLES, Mr. SIMPSON, Mr. SMITH, and Mr. THOMPSON):

S. 1629. A bill to protect the rights of the States and the people from abuse by the Federal Government; to strengthen the partnership and the intergovernmental relationship between State and Federal governments; to restrain Federal agencies from exceeding their authority; to enforce the Tenth Amendment to the Constitution; and for other purposes; to the Committee on Governmental Affairs.

By Mr. WELLSTONE (for himself and Mr. WYDEN):

S. 1630. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

By Mr. PELL:

S. 1631. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EXTREME, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. WARNER (for himself and Mr. FORD):

S. Con. Res. 47. A concurrent resolution for a Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

S. Con. Res. 48. A concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1997, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice-President-elect of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 1627. A bill to designate the visitor center at Jean Lafitte National Historical Park in New Orleans, Louisiana as the "Laura C. Hudson Visitor Center"; to the Committee on Energy and Natural Resources.

THE LAURA C. HUDSON VISITOR CENTER DESIGNATION ACT OF 1996

• Mr. JOHNSTON. Mr. President, I am pleased today to introduce a measure to designate the visitor center at 419 Rue Decatur in New Orleans, LA, as the "Laura C. Hudson Visitor Center."

For almost 24 years I have been privileged to serve in the U.S. Senate. For some 20 of those years I have been blessed with the able assistance of Laura Hudson, who completed her Senate service last August, as my legislative director and indispensable right hand.

In so many ways, Laura personifies the best tradition of Senate service—beginning in one capacity and growing into so many more. The young history postgraduate, who took a legislative-correspondent position in my office in 1975, quickly grew beyond that and has been my invaluable counsel on a variety of legislative challenges over the years.

There are parks and preservation projects, in Louisiana and beyond which exist solely because of the personal commitment and legislative skill of Laura Hudson, whole regions of the globe, such as Micronesia, routinely

neglected by many in the Congress, receive a respect and recognition in Washington due heavily to Laura's devotion. That component closeup program, which brings hundreds of students and teachers each year from the former trust territories of Micronesia, is but one example of Laura's passion.

Moreover, I am convinced that the relationship between our country and many of the developing and emerging economies, such as China, Vietnam, and Indonesia, profit in immeasurable ways from the understanding and leadership of staff persons such as Laura.

This is a woman, Mr. President, who has forsaken many opportunities in the private sector because of a deep belief in the merits of public service, and a belief in the simple tenet that she could make a difference. More often than we acknowledge, it is the Laura Hudsons who made a qualitative difference in our daily work product. In honor of her unparalleled contributions, I am introducing this legislation today.

I know that Laura will continue to contribute, as only she can, to public policy. But I will miss her in a way immediate and direct, as will so many of her longtime colleagues in the Senate. But I know they join me in expressing appreciation and best wishes as Laura enters an exciting new chapter of her life.

I ask unanimous consent that a copy of the bill appear in the RECORD.

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

S. 1627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAURA C. HUDSON VISITOR CENTER.

The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the "Laura C. Hudson Visitor Center."

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the "Laura C. Hudson Visitor Center".•

By Mr. BROWN (for himself, Mr. THOMAS, Mr. FAIRCLOTH, Mr. THURMOND, and Mr. HELMS):

S. 1628. A bill to amend title 17, United States Code, relating to the copyright interests of certain musical performances, and for other purposes; to the Committee on the Judiciary.

MUSIC LICENSING LEGISLATION

• Mr. BROWN. Mr. President, I introduce legislation that would lift a burden off of small businesses who currently pay fees to music licensing organizations under a complicated and cumbersome copyright law.

Introduction of this legislation reflects what I consider a fair position. This bill acknowledges the different sides, and aims to reach a compromise position. This legislation comes after hours and hours of negotiations with different interests over the course of several months.

Under current law, music licensing organizations are permitted to collect fees from those who play a radio or television in their commercial establishment. The music may be background music, or it may be music played at half-time during a football game. The music license fee applies to shoe stores, to diners, to shopping centers or any other business establishment.

The artists who create this music certainly deserve compensation for their intellectual property. In fact, those artists are compensated for their labors. When a song is played over a radio or TV, the broadcaster pays for the rights to play that song. When we are at home, and we turn on the radio, we are not expected to pay a second fee. Yet, if a radio is played at a commercial establishment for no commercial gain, a second fee is charged for the music. This double-dipping smacks of unfairness.

In addition, there is tremendous inequity in the way licensing companies assess these fees. The businesses are unable to see a list of the songs that are available for licensing. The businesses are unable, because of the market inequity, to bargain for a fair price. Instead, we have an anticompetitive environment where two or three licensing companies control almost all of the music available. Small businesses have two options: pay the preordained fee or turn off the radio or TV.

The approach I have taken to address this problem aims at leveling this playing field. The legislation I am introducing would require the licensing companies to make a list of their repertory available so businesses can know what products they are paying for.

The legislation would exempt small businesses from paying the fee for music played over radio and TV if a fee has already been paid. Where music has already been paid for by the broadcaster, the copyright owner has in fact been compensated.

In addition, the legislation would establish arbitration to resolve disputes over fees. As it stands, if a retail store wishes to contest the fees paid to one of the licensing companies, they have to go to a court in New York. Moreover, full blown litigation in any case is often prohibitively expensive.

The legislation would require the music licensing companies to offer per period programming licenses—in other words allow radio stations to purchase licenses for shorter time periods instead of 24 hours a day if they are only playing music in short spots between religious, news, or talk shows. I hope my colleagues will join me in leveling the playing field and will support this bill.

I ask unanimous consent that letters in support of this bill from the National Federation of Independent Business, the National Religious Broadcasters, the National Restaurant Association, and the National Retail Federation be included in the RECORD.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 20, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of the more than 600,000 members of the National Federation of Independent Business (NFIB), I would like to express our support for your compromise music licensing legislation. NFIB believes this proposal will resolve many of the serious problems that exist between the small business community and the music licensing societies—ASCAP, BMI and SESAC.

In a recent NFIB survey, more than 92 percent of small-business owners called for music licensing reform. The time has come for fairness in music licensing.

While your bill is different from S. 1137, it addresses many of the issues that are of great importance to small business owners. It allows small businesses to play incidental music on radios and TV's without violating federal copyright law. In addition, the measure gives small business owners the right to arbitrate fee disputes in local forums rather than forced to file a lawsuit in New York City. Many small businesses across the country cannot afford the added expense of traveling to New York City to dispute fees levied by BMI or ASCAP. The legislation does protect the nine state music licensing laws that have been enacted and the other 15 states with legislation pending.

NFIB commends your efforts to fashion a workable compromise and we look forward to working with you to enact music licensing reform legislation.

Sincerely,

DONALD A. DANNER,
Vice President,
Federal Governmental Relations.

NATIONAL RELIGIOUS BROADCASTERS,
Manassas, VA, March 19, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of National Religious Broadcasters, I want to commend you and Senators Thurmond, Faircloth, Helms and Thomas for introducing legislation to address the inequities and abuses in the current system for licensing copyrighted music. Our organization, which represents over 800 religious broadcast stations and program providers, is grateful for your leadership and is prepared to support you in any way possible to pass this bill in the 104th Congress.

Legislation is badly needed to rectify the injustices forced upon Christian radio by the entertainment licensing monopolies, ASCAP and BMI. For years, our members who use limited amounts of music in their programming have tried to negotiate a fair license that would allow them to pay simply for the music they play and not be charged as if they played copyrighted works all day long. In the face of monopoly powers granted to

ASCAP and BMI by the federal government, and in the absence of clear Congressional policy to guide competition in the licensing arena, we find we have no leverage with which to negotiate a fair "per program license". Your bill goes a long way toward solving that problem.

We also understand your bill will require the music licensing monopolies to disclose in a practical and user-friendly way the songs for which they have the rights to collect royalties, and it will not allow ASCAP, BMI or any other licensing organization to bring infringement actions against music users for songs that are not listed in their publicly available data bases. These provisions, together with an effective per program license, are critical to establishing music licensing rules that bear some resemblance to a free market system.

In addition to our strong support for your bill, I also urge you and your cosponsors to block any copyright-related legislation in the Senate that does not incorporate music licensing reforms. It would be unconscionable for Congress to enact any measures that enhance the economic clout of the music licensing monopolies without first correcting their abusive business practices. In the view of religious broadcasters, the current system essentially forces Christian radio stations to indirectly subsidize immoral, violent and sexually explicit entertainers—entertainers who reap millions in royalties from the unfair blanket licenses small religious broadcasters are forced to buy. Please see the attached resolution passed by the NRB Board of Directors in February in this regard.

Thank you again for taking a stand for fairness in music licensing. In doing so, you're also making a stand for the positive, life-changing power of religious radio. The millions of Americans whose lives are enriched every day by religious broadcasts are watching this issue very carefully.

Sincerely,

E. BRANDT GUSTAVSON, L.L.D., *President.*

NATIONAL RETAIL FEDERATION,
Washington, DC, March 19, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of the National Retail Federation and the 1.4 million U.S. retail establishments, I am writing to support your compromise legislation to amend federal copyright law to provide the nation's retailers with protection against the arbitrary pricing, discriminatory enforcement and abusive collection practices of music licensing organizations.

Retailers of all sizes, particularly smaller establishments in your state, are confronted daily by costly and unreasonable demands from music licensing organizations. These organizations have monopoly power to set rates and therefore, retailers are frequently asked to pay outrageous and unfair licensing fees to play music which is only incidental to the purpose of their business.

Under your legislation, business establishments that use radio or TV music with less than 5,000 square feet of public space would be exempt from licensing fees as long as the music was purely background or incidental to the purpose of the business, and customers were not charged a fee to listen to the music. While not all retailers are covered under this compromise, we believe it represents significant progress. Your bill also gives businesses the right to arbitrate fee disputes in local forums rather than being forced to file lawsuits in New York and requires music licensors to provide consumers with full information about the music they are purchasing.

Thank you for your leadership on behalf of America's Main Street. Your efforts and those of your staff to provide relief are greatly appreciated. We look forward to working with you to enact this legislation.

Sincerely,

JOHN J. MOTLEY III,
Senior Vice President,
Government and Public Affairs.

NATIONAL RESTAURANT ASSOCIATION,
Washington, DC, March 19, 1996.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: On behalf of the National Restaurant Association and the 739,000 foodservice establishments nationwide, we would like to express our support for your compromise music licensing legislation. We believe this proposal will resolve many of the serious problems that exist between the business community and the music licensing societies—ASCAP, BMI, and SESAC.

As you know, your legislation represents major concessions by the business community and is different from S. 1137, the Fairness in Musical Licensing Act of 1995. More importantly, however, you measure addresses many of the issues that are of great significance to restaurateurs throughout the country. These include:

Allowing for a logical expansion of current law to allow small businesses to play incidental music on radios and TVs without violating federal copyright law.

Giving businesses the right to arbitrate fee disputes in local forums rather than being forced to file a lawsuit in New York City.

Requiring music licensors to provide consumers with full information on the product—the music—they are buying.

All of this is done while protecting the nine state laws that have been enacted and the other 15 states with legislation pending. As you know, S. 1619, introduced by Senator Hatch would preempt all state music licensing laws. It also, in our opinion, fails to address the number of the problems that exist with the societies including arbitration and access to repertoire.

Senator, as you know, restaurateurs from around the country have faced harassment, frivolous lawsuits, and arbitrary and onerous licensing fees. On behalf of the entire industry, we want to thank you and your staff for the countless hours you have devoted to reach a reasonable compromise. We fully support your efforts and will work towards enactment of your bill.

Sincerely,

ELAINE GRAHAM,
Senior Director, Government Affairs.

KATY MCGREGOR,
Legislative Representative.•

By Mr. STEVENS (for himself, Mr. DOLE, Mr. ABRAHAM, Mr. BENNETT, Mr. BROWN, Mr. COATS, Mr. COCHRAN, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. GRAMS, Mr. GREGG, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. KEMPTHORNE, Mr. KYL, Mr. NICKLES, Mr. SIMPSON, Mr. SMITH, and Mr. THOMPSON):

S. 1629. A bill to protect the rights of the States and the people from abuse by the Federal Government; to strengthen the partnership and the intergovernmental relationship between State and Federal governments; to restrain Federal agencies from exceeding their authority; to enforce the 10th amendment to the Constitution; and for other purposes; to the Committee on Governmental Affairs.

THE 10TH AMENDMENT ENFORCEMENT ACT OF 1996

Mr. STEVENS. Mr. President, today, on behalf of 23 of my colleagues, as well as Governors, attorneys general, State legislators, and mayors across the Nation, I rise to introduce the 10th Amendment Enforcement Act of 1996.

The 10th amendment was a promise to the States and to the American people that the Federal Government would be limited, and that the people of the States could, for the most part, govern themselves as they saw fit.

Unfortunately, in the last half century, that promise has been broken. The American people have asked us to start honoring that promise again: to return power to State and local governments which are close to and more sensitive to the needs of the people.

The 104th Congress and in particular, the Unfunded Mandates Reform Act, started to shift power out of Washington by returning it to our States and to the American people. Today we continue that process.

The 10th Amendment Enforcement Act of 1996 will return power to the States and to the people by placing safeguards in the legislative process, by restricting the power of Federal agencies and by instructing the Federal courts to enforce the 10th amendment.

The act enforces the 10th amendment in five ways:

First, the act includes a specific congressional finding that the 10th amendment means what it says: The Federal Government has no powers not delegated by the Constitution, and the States may exercise all powers not withheld by the Constitution;

Second, the act states that Federal laws may not interfere with State or local powers unless Congress declares its intent to do so and Congress cites its specific constitutional authority;

Third, the act gives Members of the House and Senate the ability to raise a point of order challenging a bill that lacks such a declaration or that cites insufficient constitutional authority. Such a point of order would require a three-fifths majority to be defeated;

Fourth, the act requires that Federal agency rules and regulations not interfere with State or local powers without constitutional authority cited by Congress. Agencies must allow States notice and an opportunity to be heard in the rulemaking process;

Fifth, the act directs courts to strictly construe Federal laws and regulations that interfere with State powers, with a presumption in favor of State authority and against Federal preemption.

Before the bill was even introduced, I received letters of support from many Governors and attorneys general—men and women from across the Nation and from both parties who support our efforts to return power to the States and to the people.

Mr. President, I ask unanimous consent that the text of the bill and letters from Governors Allen, Bush, Engler, Leavitt, Merrill, Racicot, Cayetano, and Thompson, and from Attorneys General Bronster, Condon, and Norton be included in the RECORD.

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

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Supreme Court has stated,

just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.

The 10th Amendment Enforcement Act of 1996 will prevent overstepping by all three branches of the Federal Government, and will focus attention on what State and local officials have been advocating for so long: the need to return power to the States and to the people.

EXHIBIT 1

S. 1629

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 referred to as the "Tenth Amendment Enforcement Act of 1996."

SEC. 2. FINDINGS.

The Congress finds that—

(a) in most areas of governmental concern, State governments possess both the Constitutional authority and the competence to discern the needs and the desires of the People and to govern accordingly;

(b) Federal laws and agency regulations, which have interfered with State powers in areas of State jurisdiction, should be restricted to powers delegated to the Federal Government by the Constitution;

(c) the framers of the Constitution intended to bestow upon the Federal Government only limited authority over the States and the People;

(d) under the Tenth Amendment to the Constitution, the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people;

(e) the courts, which have in general construed the Tenth Amendment not to restrain the Federal Government's power to act in areas of State jurisdiction, should be directed to strictly construe Federal laws and regulations which interfere with State powers with a presumption in favor of State authority and against Federal preemption.

SEC. 3. CONGRESSIONAL DECLARATION.

(a) On or after January 1, 1997, any statute enacted by Congress shall include a declaration—

(1) that authority to govern in the area addressed by the statute is delegated to Congress by the Constitution, including a citation to the specific Constitutional authority relied upon;

(2) that Congress specifically finds that it has a greater degree of competence than the State to govern in the area addressed by the statute; and

(3) if the statute interferes with State powers or preempts any State or local government law, regulation or ordinance, that Congress specifically intends to interfere with State powers or preempt State or local government law, regulation, or ordinance, and that such preemption is necessary.

(b) Congress must make specific factual findings in support of the declarations described in this section.

SEC. 4. POINT OF ORDER.

(a) IN GENERAL.—

(1) INFORMATION REQUIRED.—It shall not be in order in either the Senate or House of Representatives to consider any bill, joint resolution, or amendment that does not include a declaration of Congressional intent as required under section 3.

(2) SUPERMAJORITY REQUIRED.—The requirements of this subsection may be waived or suspended in the Senate or House of Representatives only by the affirmative vote of three-fifths of the Members of that House duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate or House of Representatives duly chosen and sworn shall be required to sustain an appeal of the ruling of the chair on a point of order raised under this subsection.

(b) RULE MAKING.—This section is enacted—

(1) as an exercise of the rule-making power of the Senate and House of Representatives, and as such, it is deemed a part of the rules of the Senate and House of Representatives, but is applicable only with respect to the matters described in sections 3 and 4 and supersedes other rules of the Senate or House of Representatives only to the extent that such sections are inconsistent with such rules; and

(2) with full recognition of the Constitutional right of the Senate or House of Representatives to change such rules at any time, in the same manner as in the case of any rule of the Senate or House of Representatives.

SEC. 5. EXECUTIVE PREEMPTION OF STATE LAW.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 559 the following new section:

"SEC. 560. PREEMPTION OF STATE LAW.

"(a) No executive department or agency or independent agency shall construe any statutory authorization to issue regulations as authorizing preemption of State law or local ordinance by rule-making or other agency action unless—

"(1) the statute expressly authorizes issuance of preemptive regulations; and

"(2) the executive department, agency or independent agency concludes that the exercise of State power directly conflicts with the exercise of Federal power under the Federal statute, such that the State statutes and the Federal rule promulgated under the Federal statute cannot be reconciled or consistently stand together.

"(b) Any regulatory preemption of State law shall be narrowly tailored to achieve the objectives of the statute pursuant to which the regulations are promulgated and shall explicitly describe the scope of preemption.

"(c) When an executive branch department or agency or independent agency proposes to act through rule-making or other agency action to preempt State law, the department or agency shall provide all affected States notice and an opportunity for comment by duly elected or appointed State and local government officials or their designated representatives in the proceedings.

"(1) The notice of proposed rule-making must be forwarded to the Governor, the Attorney General and the presiding officer of each chamber of the Legislature of each State setting forth the extent and purpose of the preemption. In the table of contents of each Federal Register, there shall be a separate list of preemptive regulations contained within that Register.

"(d) Unless a final executive department or agency or independent agency rule or regulation contains an explicit provision declaring the Federal government's intent to preempt State or local government powers and an explicit description of the extent and purpose of that preemption, the rule or regulation shall not be construed to preempt any State or local government law, ordinance or regulation.

"(e) Each executive department or agency or independent agency shall publish in the Federal Register a plan for periodic review of the rules and regulations issued by the department or agency that preempt, in whole or in part, State or local government powers. This plan may be amended by the department or agency at any time by publishing a revision in the Federal Register.

"(1) The purpose of this review shall be to determine whether and to what extent such rules are to continue without change, consistent with the stated objectives of the applicable statutes, or are to be altered or repealed to minimize the effect of the rules on State or local government powers.".

(b) Any Federal rule or regulation promulgated after January 1, 1997, that is promulgated in a manner inconsistent with this section shall not be binding on any State or local government, and shall not preempt any State or local government law, ordinance, or regulation.

(c) CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by adding after the item for section 559 the following:

"§ 560. Preemption of State Law.".

SEC. 6. CONSTRUCTION.

(a) No statute, or rule promulgated under such statute, enacted after the date of enactment of this Act, shall be construed by courts or other adjudicative entities to preempt, in whole or in part, any State or local government law, ordinance or regulation unless the statute, or rule promulgated under such statute, contains an explicit declaration of intent to preempt, or unless there is a direct conflict between such statute and a State or local government law, ordinance, or regulation, such that the two cannot be reconciled or consistently stand together.

(b) Notwithstanding any other provision of law, any ambiguities in this Act, or in any other law of the United States, shall be construed in favor of preserving the authority of the States and the People.

(c) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City, March 18, 1996.

Hon. TED STEVENS,
Chairman, Government Affairs Committee,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent correspondence sharing with me your proposal to strengthen the 10th Amendment

by requiring the federal government to restrict its legislative and regulatory activities to those powers delegated to it under the Constitution.

As you know, I have spent a great deal of time over the past few years working on 10th Amendment issues, and I am very supportive of your proposed legislation. As I have studied the history of the 10th Amendment, it has become clear to me that we must act overtly to strengthen this important precept of the Constitution, or it will continue to erode away.

Let me provide some background on why I believe this is so important. The founders of our country attempted to carefully balance power between the competing interests of the states and the national government. They worried that the national government might gain too much power, so they gave states tools, or rules, that if followed would maintain the healthly tension necessary to protect self-governance by the people and prevent any level of government from overstepping its bounds.

Among those rules or tools given to states were these:

The 10th Amendment, which reserved any power not specifically delegated to the national government to the states and the people. Clearly, the founders intended the national government to stay within the bounds of duties enumerated in the Constitution.

The election of U.S. senators by state legislatures. Having senators directly accountable to state legislatures would keep the national government in check. If the national government centralized authority or passed bills disliked by the states, legislatures could call their senators in for an accounting. It would not be likely for the Congress to usurp state authority if senators owed their political lives to state legislatures. The power was carefully balanced and the tension was healthy.

The ability of state legislatures to initiate constitutional amendments. This also would keep the national government in check because if it got out of line the states could take action to rein it in. It is clear that the founders intended state leaders to have the ability to initiate constitutional amendments.

The sense that state leaders would rise in indignation and band together to oppose congressional centralization of authority and usurpation of power. In *Federalist 46*, James Madison predicted that "ambitious encroachments of the federal government on the authority of the state governments . . . would be signals of general alarm. Every government would espouse the common cause . . . plans of resistance would be concerted." States would react as though in danger from a "foreign yoke," he suggested.

Those were some of the tools the founders put in place to safeguard the roles of both levels of government and to prevent either from becoming too dominant.

It would likely be a matter of some bitterness and disappointment to the founders if they were to return today to see what happened to the finely-crafted balance, the healthy tension that they built into the Constitution. As they see a national government that dictates to states on nearly every issue and that is involved in every aspect of citizens' lives, they might wonder what happened to those tools and rules they established to maintain balance.

The sad fact is that each one of those tools has either been eroded away, given away, or rendered impossible to use. Thus, today there does not exist any restraint to prevent the national government from taking advantage of the states. To their credit, leaders of the Republican Congress have gone out of their way to involve governors in important decisions. But there is nothing permanent in that relationship. With a change in leadership, state leaders could easily be relegated to their past status as lobbyists and special interest groups. Over the past several decades, they have had to approach Washington hat in hand, hoping and wishing that Congress will listen to them. There has been no balance of power, no full partnership in a federal-state system. States must accept whatever the Congress gives them. States have no tools, no rules, ensuring them an equal voice.

Let's look at what happened to those tools and rules the founders so carefully provided to ensure balance.

The 10th Amendment has been eroded to the point that in the minds of most Washington insiders it barely exists. The preponderance of congressional action and federal court decisions over the past 60 years have rendered the 10th Amendment nearly meaningless. It would barely be recognizable by the founders. States did not defend or guard it properly and it no longer protects states.

States gave away the power to have their U.S. senators directly accountable to state legislatures. There was good reason for this, as graft and corruption sometimes occurred in the appointment of senators by legislatures. States ratified the 17th Amendment making senators popularly elected, and citizens should not be asked to give up the right to elect their senators. But while it does not make sense to try to restore that tool, it should be replaced with something else more workable.

The ability of states to initiate constitutional amendments has never been used and is essentially unworkable. Clearly, the founders intended for state leaders to be able to initiate amendments as a check on federal power, but it has never happened and likely never will. The Congress sits as a constitutional convention every day it is in session, and can propose constitutional amendments any time it desires. But many citizens have an enormous fear of state leaders coming together to do the same thing, even though any amendment proposed would require ratification by three-fourths of states. Thus, this tool provided by the founders has become impractical and does not protect states from federal encroachment.

The fourth tool was the founders' belief that state leaders would jealously guard their role in the system and rise up in opposition to federal intrusions. That has not happened, especially as state governments have become dependent on federal dollars and have been willing to give up freedom for money. States have proven themselves to be politically anemic. Instead of mobilizing against federal encroachments, state leaders have spent their time lobbying for money and hoping for flexibility.

Thus, it is no wonder that states have little true clout as budget cuts are made and as the pie is being divided in Washington D.C. There is no healthy tension. States have no tools or rules to protect themselves. What is passing for federalism in Washington today is not a true sharing of power, but a subcontracting of federal programs to states. The federal government is merely delegating, not devolving true authority.

Because the tools protecting states have been rendered ineffective, it is important that Congress replace them with new versions that accomplish what the Founders intended. That is why I am so supportive of your Tenth Amendment Enforcement Act. It would help prevent all three branches of the federal government from overstepping their constitutional authority and would help restore the careful balance put in place by the Founders.

I thank you for your efforts to return power to the states and to the people. Please count me among the supporters of this legislation.

Sincerely,

MICHAEL O. LEAVITT,
Governor, State of Utah.

COMMONWEALTH OF VIRGINIA,
OFFICE OF THE GOVERNOR,
March 12, 1996.

Hon. TED STEVENS,
Member, U.S. Senate, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR TED: Thank your for your letter regarding the Tenth Amendment Enforcement Act of 1996.

Two centuries ago, the challenge to individual liberty came from an arrogant, overbearing monarchy across the sea. Today, that challenge comes all too often from our own federal government, which has ignored virtually every constitutional limit fashioned by the framers to confine its reach and thus to guard the freedoms of the people.

In our day, the threat to self-determination posed by the centralization of power in the nation's capital has been dramatically demonstrated. Under my administration, Virginia has challenged the constitutionality of federal mandates in court, and I have testified before the Congress in support of restoring powers to the States and the people.

The legislation you are proposing will help the States and the people regain prerogatives usurped by an overbearing federal government. I wholeheartedly support your efforts and would be pleased to work with you to highlight the impact of federal intrusion in Virginia.

With kind personal regards, I remain,

Sincerely,

GEORGE ALLEN.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, MI, March 19, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: I am writing in support of the Tenth Amendment Enforcement Act of 1996, which I understand you intend to introduce this week. Congressional action of this type is necessary to restore vigor to this often-neglected provision of our constitution and I wholeheartedly support your effort to do so.

Congress has over the years run roughshod over state concerns and prerogatives and has generally lost sight of the fact that ours is a federal system of government. In that system, the federal government has only those powers specifically delegated to it and enumerated in the constitution, with the balance remaining with the states or the people. Too often in our recent history the federal government has ignored the meaning of the Tenth Amendment in a mad rush to impose a one-size-fits-all approach in areas of traditional state and local concern. This approach stifles innovation and takes the policy debate further from the people by centralizing decision-making in Washington, D.C.

A recent example of federal intrusion into a matter best left to the states is the Motor Voter law, which imposes an unfunded mandate on the states to offer voter registration

services at state social services offices. Michigan must comply with this requirement even though nearly 90 percent of its eligible population is already registered to vote. In fact, Michigan demonstrated the states' superior ability to craft innovative solutions in areas such as this when it initiated the motor voter concept some 21 years ago by offering voter registration services at Secretary of State branch offices. The imposition of a federal "solution" in this area ignores the fact that states are better positioned to address the needs of their citizens and can do so without prodding from the federal government.

The Tenth Amendment Enforcement Act of 1996 will help restore the balance to our federal system that the framers of the constitution intended. It will do so by requiring congress to identify specific constitutional authority for the exercise of federal power. This will have the salutary effect of reminding the congress that it can legislate only pursuant to an enumerated power in the constitution. Requiring congress to state its intention to preempt existing state or federal law or interfere with state power should assist in limiting the intrusion the federal Motor Voter law exemplifies.

I recently offered amendments to the National Governors' Association's policy on state-federal relations that the governors adopted at our 1996 winter meeting. That policy calls upon Congress to "limit the scope of its legislative activity to those areas that are enumerated and delegated to the federal government by the constitution." The Tenth Amendment Enforcement Act of 1996 will help reinvigorate this fundamental constitutional principle and for that reason enjoys my full support.

Sincerely,

JOHN ENGLER,
Governor.

OFFICE OF THE GOVERNOR,
STATE OF MONTANA,
Helena, MT, March 6, 1996.

Hon. TED STEVENS,
Chairman, U.S. Senate Committee on Governmental Affairs, Washington, DC.

DEAR CHAIRMAN STEVENS: I am writing in support of your proposed legislation entitled the Tenth Amendment Enforcement Act of 1996. I applaud your efforts to protect states from federal legislation that, while perhaps unintentionally, has had a strangling effect on the states' ability to act effectively on behalf of their citizens.

The failure to respect states' rights takes a variety of forms, from unfunded mandates to complex requirements that prohibit states from adopting innovative programs to solve problems that may be unique to the state or region. I am sure it is difficult to determine which functions the federal government should properly manage and which should be left to state or local governments. I think most would agree, however, with the intent of the Tenth Amendment—that a better balance must be struck between the federal government and each of the states.

The revitalization of government is essential in these times of declining trust and diminishing respect of its cities. The Tenth Amendment Enforcement Act of 1996 would make government more responsive to our citizens and help restore the public's faith in the policy process.

I hope your proposal is received well in Congress. I know it would be received well in the states.

Sincerely,

MARC RACICOT,
Governor.

STATE OF WISCONSIN,
OFFICE OF FEDERAL/STATE RELATIONS,
Washington, DC, March 5, 1996.

Hon. TED STEVENS,
Chairman, Rules & Administration Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN STEVENS: I am writing you in support of legislation that you intend to introduce in your committee regarding the Tenth Amendment. Your vision in regard to this delegation of powers should be commended. Our founding fathers would applaud your courageous efforts.

As you know, the Tenth Amendment restricts the federal government's legislative and regulatory activities to those powers delegated to the federal government under the U.S. Constitution.

Since I have held elective office I have always been a staunch supporter of States Rights' and a firm believer that decisions are best made at the local level. Your bill identifies the problems associated with the lack of enforcement of the Tenth Amendment at present and aims to amend some of these inconsistencies.

Under the Tenth Amendment, federal laws may not interfere with state or local powers unless Congress declares its intent to do so, and Congress cites its specific constitutional authority. Allowing Members of Congress to challenge future legislation that attempts to supersede the Tenth Amendment in my opinion would be beneficial.

As Governor of the State of Wisconsin, I have always been a firm believer that legislation is a far better course of action than litigation. Your bill would do away with needless regulation, infringement of states' abilities to provide quality services to its residents', and encourage local decision making opportunities.

The Tenth Amendment Enforcement Act of 1996 would prevent confusion between the three branches of government and would keep the pressure on Washington to address the concerns Governors have been advocating for years; the need to return power to the states and to the people.

Again, I would like to take this opportunity to thank you for your support on this important legislative matter. Please do not hesitate to contact me in the future.

Sincerely,

TOMMY G. THOMPSON,
Governor.

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, February 26, 1996.

Hon. TED STEVENS,
U.S. Senate, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: Thank you for your letter outlining your introduction of the Tenth Amendment Enforcement Act of 1996. I am pleased to offer my strong endorsement of this piece of legislation.

The individual states have seen a continual degradation of their power and sovereignty during the past 60 years. Beginning with the creation of the welfare state through President Roosevelt's New Deal in the 1930's, the federal government has inappropriately usurped power traditionally left to the states. Issues such as education, crime, commerce and the environment have been coopted at the federal level. The result is an erosion of local control and the creation of a system of twisted rules and regulations. This overregulation has stifled State initiatives and innovations. The time has come to say enough is enough.

In the State of New Hampshire, many examples exist of federal overreaching. The most telling of these is our continuing attempts at reforming welfare. Our ambitious program would end welfare as we know it, putting people into the workforce. It is based upon the simple notion that those who are able to work for a living should do so. Instead of collecting a welfare check, individuals would receive unemployment benefits and job training. The result would be a motivated workforce, properly trained and prepared to sustain themselves instead of accepting government largesse. Unfortunately, the federal government has gone out of its way to hinder our efforts. New Hampshire is not alone in this fight. Each state has a similar story to tell.

Liberty is defined by American Heritage as the "condition of being free of restriction or control." It is clear that this definition does not relate to our current set of circumstances. The individual states are the engines of democracy, pushing new and exciting concepts which enrich the country as a whole. The states have been thwarted in their efforts to accomplish this. The time has come to reassert the authority of the Tenth Amendment and to return power back to the states and to the individual where it belongs. I believe that the Tenth Amendment Enforcement Act of 1996 will do this and strongly support its passage.

Very truly yours,

STEPHEN MERRILL,
Governor.

STATE OF TEXAS,
OFFICE OF THE GOVERNOR,
February 27, 1996.

Hon. TED STEVENS,
U.S. Senate Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: I strongly support your legislation, the Tenth Amendment Enforcement Act of 1996.

I applaud your efforts and hope to see this bill's passage this year.

Sincerely,

GEORGE W. BUSH.

STATE OF SOUTH CAROLINA,
OFFICE OF THE ATTORNEY GENERAL,
Columbia, SC, March 14, 1996.

Hon. TED STEVENS,
U.S. Senate,
Washington, DC.

DEAR SENATOR STEVENS: Please accept this letter as a pledge of support for the Tenth Amendment Enforcement Act of 1996, which you are introducing in the Senate. This is clearly one of the most important pieces of legislation to come before Congress this year.

As attorney general of South Carolina, I see first-hand the trouble that arises every time the federal government oversteps its boundaries and intrudes on states' rights. In fact, South Carolina can claim one of the most egregious examples of the federal government meddling in states' affairs with disastrous results.

Several years ago, when I was a solicitor in Charleston, S.C., a local hospital approached me with a plea: Help us do something about crack babies. In increasing numbers, pregnant women were abusing crack cocaine and giving birth to addicted newborns, who cry and shake uncontrollably, refuse to take food and, too often, ultimately die in intensive care.

Working with the hospital, I developed a program to aggressively confront pregnant women with the consequences of their drug use. Over five years, we presented all pregnant women who tested positive for cocaine

with a choice: seek drug treatment or face arrest and jail time.

The program was undeniably successful—until the federal government intervened. Without offering any reasonable alternative solutions for saving these crack babies, federal officials came to Charleston and yowled about discrimination and privacy rights. When we refused to back down, they resorted to blackmail. They continued with the program.

So, now, once again, these crack babies cry unconsolably in Charleston—thanks to the federal government's intrusion where is has no business.

There are myriad other examples of ways the federal government ignores the 10th amendment—with effects that would be laughable if they didn't do so much harm. A sampling:

The Hunley. The federal government claims it owns the H.L. Hunley because it won the Civil War. However, the first submarine to sink another vessel lies on soil that belonged to the state of South Carolina even before the United States came into existence. Although common and maritime law, as well as state and federal statutes, point to South Carolina's ownership of the sunken submarine, the federal government's insistence on interfering in South Carolina affairs will cost all of the nation's taxpayers. Worse, its meddling in this matter has caused this war treasure to sit at the bottom of the Atlantic Ocean, rusting away, until the issue can be resolved with the federal government.

The Citadel. Traditionally, education has been a province of the states. And polls show that the majority of South Carolinians—both male and female—want the option of single-gender education offered by The Citadel. But the federal government thinks it knows what's best for South Carolinians and is trying to destroy an outstanding educational environment that South Carolinians overwhelmingly support.

Tobacco regulation. The Food and Drug Administration is trampling on states' turf with its new proposals for regulating cigarettes and chewing tobacco. Perhaps its silliest demand is that all advertising label cigarettes as "a nicotine-delivery device." The fact is, Congress has not given the FDA power to regulate tobacco except in limited instances. Everything else is up to the states—at least, it's supposed to be. We know the laws in South Carolina, and we can enforce them without Washington's "help."

Garnishment of wages. The federal government is threatening to sue South Carolina for not complying with a federal law that authorizes the garnishment of wages of people who get behind on student loans. The problem is, the law contains no express provision applying its terms to state government. In fact, its language attempts to override state laws altogether. It provides no clear direction to state governments, but now we're faced with the possibility of defending South Carolina in a suit.

Motor Voter. South Carolina is one of seven states to challenge the "Motor Voter" law that allows people to register to vote when they obtain a driver's license. The issue is not easy and accessible registration; we already have that in place. The issues are the rights of sovereign states and unfunded federal mandates. The federal government demanded that South Carolina spend a million dollars to expand its voter registration program—without giving the state a dime. Then, when we began to implement the program, the Justice Department demanded that the state contact all the people who theoretically could have registered while we were in litigation. And it ordered a monthly report on our progress. This micro-management of state business by the federal government should be an outrage to all U.S. citizens.

In closing, the legislation you are proposing promises a meaningful solution to the federal government's continued disregard of the 10th Amendment. Count me in as an enthusiastic supporter of the bill, and let me know of anything I can do to promote its passage.

With kindest personal regards,

CHARLES MOLONY CONDON,
Attorney General.

STATE OF HAWAII,
DEPARTMENT OF THE ATTORNEY GENERAL,
Honolulu, HI, March 4, 1996.

HON. TED STEVENS,
U.S. Senator, Chairman, Committee on Governmental Affairs, Washington, DC.

DEAR SENATOR STEVENS: As the Attorney General for the State of Hawaii, I am writing to express my strong support for the Tenth Amendment Enforcement Act of 1996 ("TAEA").

There have been far too many instances in which federal laws impede, interfere with, or nullify state legislative or administrative actions to the detriment of the interests of the people of Hawaii. This has occurred in large part because the federal courts have given much congressional legislation very broad preemptive scope, in many cases far beyond what it appears Congress itself intended. These preemption rulings have prevented the states from enforcing and implementing needed state policies in areas of traditional state concern, while at the same time failing to serve any significant federal interests.

In my fourteen month tenure as Attorney General of Hawaii, examples of important state policies which were frustrated by preemption rulings made by the federal courts include the striking down of Hawaii's employment disability discrimination laws as applied to airline pilots, see *Aloha Islandair* v. *Tseu*, Civ. No. 94–00937 (D. Haw. 1995), appeal filed, C.A. No. 95–16656 (9th Cir.), the overturning of state labor department discretion to bar preexisting condition limitations in state-wide employee health care plans, *Foodland Super Market* v. *Hamada*, Civ. No. 95–00537 (D. Haw. 1996), appeal filed (9th Cir.), and the nullification of a state law merely asking the State's two major newspapers, granted the privilege of doing business under a joint operating agreement with antitrust immunity, to turn over their tax returns to the state Attorney General, for subsequent disclosure to the United States Justice Department, in order to assess the economic consequences of, and the newspapers' continued need for, the antitrust immunity, see *Hawaii Newspaper Agency* v. *Bronster*, Civ. No. 95–00635 (D. Haw. 1996), appeal filed, C.A. No. 96–15142 (9th Cir.).

Enactment of the TAEA would be a significant step in reversing this disturbing trend, and would help restore state direction over areas of predominant, if not exclusive, state concern. Under the TAEA (Section 6), preemption would only occur when Congress has explicitly stated that a given area is preempted. This would curtail the potentially unlimited sweep of the "implied preemption" doctrine, and ideally result in a more narrowly construed "express preemption."

Although certain provisions of the TAEA may pose procedural difficulties, or raise some questions of interpretation, I support the overall effect of, and goals behind, the TAEA, and specifically endorse Section 6, which would do much to minimize unwarranted preemption of state actions. I would, however, broaden the language of Section 6(a) to clarify that federal law shall not preempt "State or local government law, ordinance, regulation, or action," unless the statute explicitly declares an intent to preempt. This should ensure that all types of state action, including, for example, state discretionary administrative actions not commanded by any rule or statute, are not preempted without express congressional statement of intent to do so.

Thank you for your support of these critical state interests.

Very truly yours.

MARGERY S. BRONSTER,
Attorney General.

STATE OF COLORADO, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, March 15, 1996.

Re Tenth Amendment Enforcement Act

Hon. TED STEVENS,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR STEVENS: I am writing to express my strong support for the proposed Tenth Amendment Enforcement Act of 1996. The proposal is an important part of the continuing effort to return to the States matters which properly belong within their control.

Every state has a vast number of examples of federal laws and regulatory actions which have interfered with state powers and objectives. I will mention just a few examples from Colorado.

The federal government has been especially intrusive into state affairs in the area of the environment. The country faces many environmental problems, from our quality problems to hazardous waste cleanups. The states are diligently working to solve these problems, while taking into account local needs and concerns. Federal interference with state efforts often results in less protection to the environment and less experimentation by the states.

For example, in 1994, Colorado passed legislation which was intended to encourage businesses to perform voluntary audits of their environmental compliance and to promptly correct any violations found. In exchange for these voluntary efforts, state regulators will not impose penalties for the violations. This program, which will be of great benefit to the environment, is severely hampered by the federal Environmental Protection Agency's refusal to give the same assurances, that is, to refrain from prosecuting companies that voluntarily report and correct violations.

Another example of EPA hindering state efforts at experimentation concerns Colorado's attempts to put in place a unique water quality testing program. Colorado was one of the first states to attempt to employ a different biomonitoring test. Rather than encouraging these efforts, EPA continuously rejected Colorado's regulation implementing the program until the state rule was drafted to be word-for-word like a comparable federal regulation.

Another example in the area of the environment concerns air quality. Our state has been developing strategies to deal with air quality issues for years. But our problems and solutions are unique since Colorado is a high elevation state. A federal "one size fits

all" approach does not work here. The Environmental Protection Agency's answer—a centralized emissions testing program—has created large implementation costs and reduced state flexibility in addressing pollution problems. Even though Colorado drivers will expend hundreds of millions of dollars in testing costs over the next few years, State officials have no practical alternatives if the program does not work or if better solutions are discovered.

Another example of federal intrusion into matters of state concern arose recently in Colorado with regard to the Medicaid program. As you know, Congress' 1993 change to the Hyde Amendment made federal funds available for abortions terminating pregnancies resulting from rape and incest, but did not require that States pay for any abortions. However, an official at the federal Health Care Financing Administration wrote a letter concluding that states must pay for the disputed abortions. Based solely upon this letter, and without any change in federal statutes or regulations, several federal appellate courts have required States to pay for these procedures, notwithstanding state laws to the contrary.

Colorado state officials are in an impossible dilemma because our state constitution forbids the use of public funds to pay for these procedures. To avoid violating the state constitution but still be consistent with federal mandates, state officials must either (1) withdraw from the Medicaid program and forfeit hundreds of millions of dollars in federal funds, thereby denying thousands of low income Colorado residents access to needed medical care or (2) face contempt citations from federal judges. This problem could have been avoided if federal officials clearly understood their own responsibility to protect state prerogatives.

The federal "motor voter" law presents a different type of intrusion. This law doesn't treat States just like the private sector, it actually imposes special burdens simply because they are States. As the Supreme Court recognized in *Oregon* v. *Mitchell*, 400 U.S. 112 (1970), it is peculiarly the right of States to establish the qualifications of voters in state elections. In the absence of a constitutional violation such as an outright denial of the right to vote, the States should have control over voter registration. This sort of unfunded mandate is simply not justified, particularly since even though this law unquestionably interferes with the States' internal affairs, it has not appreciably increased turnout at the polls.

The Tenth Amendment Enforcement Act helps turn the tide in favor of State prerogatives. Particularly noteworthy is the proposal's focus upon agency rulemaking. This is important in two respects. First, many of the most intrusive instances of federal preemption come not by virtue of congressionally-enacted legislation, but through extensive regulations promulgated by administrative agencies and expanding upon the congressional authorization.

Second, statutes seeking to limit subsequent congressional enactments are of limited efficacy, since each subsequent Congress is not bound by the acts of its predecessors. However, focusing upon the regulatory process does not present this problem. My only suggestion would be to include a review or sunset provision requiring every agency to ensure that all of its current rules comply with this new requirement by some date certain, or risk having them invalidated. This would ensure that agencies review the numerous existing federal regulations currently impinging upon Tenth Amendment values—which is, after all, what led to this proposal.

I appreciate your willingness to carry this proposal forward, and encourage you to continue your efforts to restore a proper balance in our federal system.

Sincerely,

GALE A. NORTON,
Colorado Attorney General.

By Mr. WELLSTONE (for himself and Mr. WYDEN):

S. 1630. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

THE VICTIMS OF ABUSE INSURANCE PROTECTION ACT

• Mr. WELLSTONE. Mr. President, I am very pleased to be joined by Senator RON WYDEN today in introducing the Victims of Abuse Insurance Protection Act, legislation that will outlaw discrimination by insurance companies against the victims of domestic violence in all lines of insurance.

With this legislation, we are trying to correct an abhorrent practice by many insurance companies—the denial of coverage to battered women. It is plain, old fashioned discrimination. It is profoundly unjust and wrong. And, it is the worst of blaming the victim. Denying women access to the insurance they require to foster their mobility out of an abusive situation must be stopped.

There are many stories of women who have been physically abused and have sought proper medical care only to be turned away by insurance companies who said they were too high risk to insure.

In Minnesota, three insurance companies denied an entire women's shelter insurance because, "as a battered women's shelter, we were high risk." The Women's Shelter in Rochester, MN, was told that it was considered uninsurable because its employees are almost all battered women.

Another shelter in rural Minnesota purchased a car so that women and children in danger who were trying to leave an abusive situation could use this anonymous vehicle and thus the abuser could not track their automobile to find them. The shelter could not find a company to provide them with automobile insurance once the companies knew of the risks surrounding battered women.

A woman in Iowa named Sandra was denied life insurance after the company found out that she had been beaten up twice. In one incident, she had been so badly beaten by an ex-boyfriend that her cheekbones were splintered, and one of her eyes had to be put back in its socket. Her mother, Mary, was the one who originally applied for the life insurance policy, explaining

I didn't ask for a lot of coverage. I just wanted to apply for thousand dollar coverage, just enough that if something happened, God forbid, that we could at least bury her.

Mary was angry about the denial, so she wrote to State officials and the Iowa Insurance Commissioners Office tried to intervene on their behalf. In four separate letters, the insurance company officials stated they denied the coverage because of a history of assaults. In one letter they defended their decision by citing numerous documents which showed that people involved in domestic violence incidents are at a higher risk of death and injury than others, and, therefore, not a good risk.

There are so many stories about victims of domestic abuse being denied fire insurance, homeowners insurance, life insurance, and health insurance—denied because they were victims of a crime. Domestic violence is the leading cause of injury to women, more common than auto accidents, muggings, and rapes by a stranger combined. It is the No. 1 reason that women go to emergency rooms.

This bill goes a long way toward treating domestic violence as the crime that it is—not a voluntary risky behavior that can be easily changed and not as a preexisting condition. Insurance company policies that deny coverage to victims only serve to perpetuate the myth that victims are responsible for their abuse.

In order to address the practice of insurers using domestic violence as a basis for determining whom to cover and how much to charge with respect to health, life, disability, homeowners and auto insurance, this legislation prohibits insurance companies from discriminating against victims in any of the following ways: Denying or terminating insurance; limiting coverage or denying claims; charging higher premiums; or terminating health coverage for victims of abuse in situations where coverage was originally issued in the abuser's name, and acts of the abuser would cause the victim to lose coverage.

This legislation also keeps victims' information confidential by prohibiting insurers from improperly using, disclosing, or transferring abuse-related information for any purpose unrelated to the direct provision of health care services.

Mr. President, insurance companies should not be allowed to discriminate against anyone for being a victim of domestic violence. We may never know the full extent of the problem, but it is grossly unfair practice and should be prohibited.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 1630

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 "Victims of Abuse Insurance Protection Act".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "abuse" means the occurrence of one or more of the following acts between household or family (including in-laws or extended family) members, spouses or former spouses, or individuals engaged in or formerly engaged in a sexually intimate relationship:

(A) Attempting to cause or intentionally, knowingly, or recklessly causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or intentionally, knowingly, or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) The term "abuse-related medical condition" means a medical condition which arises in whole or in part out of an action or pattern of abuse.

(3) The term "abuse status" means the fact or perception that a person is, has been, or may be a subject of abuse, irrespective of whether the person has sustained abuse-related medical conditions or has incurred abuse-related claims.

(4) The term "health benefit plan" means any public or private entity or program that provides for payments for health care, including—

(A) a group health plan (as defined in section 607 of the Employee Retirement Income Security Act of 1974) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act) that provides health benefits;

(B) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;

(C) workers' compensation or similar insurance to the extent that it relates to workers' compensation medical benefits (as defined by the Federal Trade Commission); and

(D) automobile medical insurance to the extent that it relates to medical benefits (as defined by the Federal Trade Commission).

(5) The term "health carrier" means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for or reimburse any of the cost of health care services unless the person assuming the risk is accepting the risk from a duly licensed health carrier.

(6) The term "insured" means a party named on a policy, certificate, or health benefit plan as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, such term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan.

(7) The term "insurer" means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third party administrators. The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(8) The term "policy" means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(9) The term "subject of abuse" means a person to whom an act of abuse is directed, a person who has had prior or current injuries, illnesses, or disorders that resulted from abuse, or a person who seeks, may have sought, or should have sought medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 3. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer or health carrier may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse:

(1) Denying, refusing to issue, renew or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance or health benefit plan coverage for losses as a result of abuse or denying a claim incurred by an insured as a result of abuse, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(4) Terminating health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986. Nothing in this paragraph prohibits the insurer from requiring the subject of abuse to pay the full premium for the subject's coverage under the health plan. The insurer may terminate group coverage after the continuation coverage required by this paragraph has been in force for 18 months if it offers conversion to an equivalent individual plan. The continuation of health coverage required by this paragraph shall be satisfied by any extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage provided under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986.

(b) USE OF INFORMATION.—

(1) IN GENERAL.—No insurer may use, disclose, or transfer information relating to an applicant's or insured's abuse status or abuse-related medical condition or the applicant's or insured's status as a family member, employer or associate, person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction or by abuse reporting laws. Nothing in this paragraph shall be construed as limiting or precluding a subject of abuse from obtaining the subject's own medical records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 4. REASONS FOR ADVERSE ACTIONS.

An insurer that takes any adverse action relating to any plan or policy of a subject of abuse, shall advise the subject of abuse applicant or insured of the specific reasons for the action in writing. Reference to general underwriting practices or guidelines does not constitute a specific reason.

SEC. 5. LIFE INSURANCE.

Nothing in this Act shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse.

SEC. 6. SUBROGATION WITHOUT CONSENT PROHIBITED.

Except where the subject of abuse has already recovered damages, subrogation of claims resulting from abuse is prohibited with the informed consent of the subject of abuse.

SEC. 7. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been or is engaged in any act or practice prohibited by this Act. If the Federal Trade Commission determines an insurer has been or is engaged in any act or practice prohibited by this Act, the Commission may take action against such insurer by the issuance of a cease and desist order as if the insurer was in violation of section 5 of the Federal Trade Commission Act. Such cease and desist order may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(b) PRIVATE CAUSE OF ACTION.—An applicant or insured claiming to be adversely affected by an act or practice of an insurer in violation of this Act may maintain an action against the insurer in a Federal or State court of original jurisdiction. Upon proof of such conduct by a preponderance of the evidence, the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses. With respect to compensatory damages, the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.●

By Mr. PELL:

S. 1631. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Extreme*, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COASTWISE TRADING PRIVILEGES LEGISLATION

Mr. PELL. Mr. President, I am introducing a bill today to direct that the vessel *Extreme*, official No. 1022278, be accorded coastwise trading privileges and be issued a coastwise endorsement under 46 U.S.C. 12106 through 12108.

The *Extreme* is 70.9 feet in length, 18 feet in breadth, has a depth of 10.8 feet, and is self-propelled.

The purpose of the legislation I am introducing is to allow the *Extreme* to engage in coastwise trade and fisheries of the United States. When the owners purchased the boat, they were unaware of the coastwise trade and fisheries restrictions of the Jones Act. They assumed that there would be no restrictions on engaging the vessel in such limited operation. Although the vessel was constructed in North Carolina, it was built for a foreign customer; thus it did not meet the coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purpose.

The owners of the *Extreme* are therefore seeking a waiver of the existing law because they wish to engage the vessel in limited commercial use. Their desired intentions for the vessel's use will not adversely affect the coastwise trade in U.S. waters. If they are granted this waiver, it is their intention to comply fully with U.S. documentation and safety requirements.

Mr. President, I ask unanimous consent that the text of the bill and my statement be printed in the CONGRESSIONAL RECORD.

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

S. 1631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATE OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 through 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EXTREME, United States official number 1022278.

ADDITIONAL COSPONSORS

S. 582

At the request of Mr. HATFIELD, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 582, a bill to amend title 28, United States Code, to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 942

At the request of Mr. BOND, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 953

At the request of Mr. CHAFEE, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Arkansas [Mr. BUMPERS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Maine [Mr. COHEN], and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

At the request of Mr. DOLE, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 953, supra.

S. 956

At the request of Mr. AKAKA, his name was withdrawn as a cosponsor of S. 956, a bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1129

At the request of Mr. ASHCROFT, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1129, a bill to amend the Fair Labor Standards Act of 1938 to permit employers to provide for flexible and compressed schedules, to permit employers to give priority treatment in hiring decisions to former employees after periods of family care responsibility, to maintain the minimum wage and overtime exemption for employees subject to certain leave policies, and for other purposes.

S. 1386

At the request of Mr. BURNS, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1386, a bill to provide for soft-metric conversion, and for other purposes.

S. 1453

At the request of Mr. BURNS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1453, a bill to prohibit the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activities of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboy Association, its agents or affiliates, or any other professional rodeo association, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1612

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Oklahoma [Mr. INHOFE] were added as cosponsors of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1623

At the request of Mr. WARNER, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.

SENATE CONCURRENT RESOLUTION 25

At the request of Ms. SNOWE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Concurrent Resolution 25, a concurrent resolution concerning the protection and continued

viability of the Eastern Orthodox Ecumenical Patriarchate.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE CONCURRENT RESOLUTION 47—RELATIVE TO A JOINT CONGRESSIONAL COMMITTEE

Mr. WARNER (for himself and Mr. FORD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 47

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of 3 Senators and 3 Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1997.

SENATE CONCURRENT RESOLUTION 48—RELATIVE TO THE INAUGURATION OF THE PRESIDENT-ELECT AND THE VICE PRESIDENT-ELECT

Mr. WARNER (for himself and Mr. FORD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That (a) the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1997, by the Joint Congressional Committee on Inaugural Ceremonies (the "Joint Committee") in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States.

(b) The Joint Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies. The Joint Committee may accept gifts and donations of goods and services to carry out its responsibilities.

AMENDMENTS SUBMITTED

THE PUBLIC RANGELANDS MANAGEMENT ACT OF 1996 NATIONAL GRASSLANDS MANAGEMENT ACT OF 1996

DOMENICI (AND OTHERS) AMENDMENT NO. 3555

Mr. DOMENICI (for himself, Mr. MURKOWSKI, Mr. CRAIG, Mr. THOMAS, Mr. BURNS, Mr. KYL, Mr. CAMPBELL, Mr. HATCH, Mr. BENNETT, Mr. KEMPTHORNE, Mr. SIMPSON, Mr. PRESSLER, and Mr. DOLE) to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This title may be cited as the "Public Rangelands Management Act of 1995."

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments and repeals make by this Act shall become effective on the date of enactment.

(b) APPLICABLE REGULATIONS.—

(1) Except as provided in paragraph (2), grazing of domestic livestock on lands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, shall be administered in accordance with the applicable regulations in effect for each agency as of February 1, 1995, until such time as the Secretary of Agriculture and the Secretary of the Interior promulgate new regulations in accordance with this Act.

(2) Resource Advisory Councils established by the Secretary of the Interior after August 21, 1995, may continue to operate in accordance with their charters for a period not to extend beyond February 28, 1997, and shall be subject to the provisions of this Act.

(c) NEW REGULATIONS.—With respect to title I of this Act—

(1) the Secretary of Agriculture and the Secretary of the Interior shall provide, to the maximum extent practicable, for consistent and coordinated administration of livestock grazing and management of rangelands administered by the Chief of the Forest Service and the Director of the Bureau of Land Management, as defined in section 104(11) of this Act, consistent with the laws governing the public lands and the National Forest System;

(2) the Secretary of Agriculture and the Secretary of the Interior shall, to the maximum extent practicable, coordinate the promulgation of new regulations and shall publish such regulations simultaneously.

TITLE I. MANAGEMENT OF GRAZING ON FEDERAL LAND

Subtitle A—General Provisions

SEC. 101. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) multiple use, as set forth in current law, has been and continues to be a guiding principle in the management of public lands and national forests;

(2) through the cooperative and concerted efforts of the Federal rangeland livestock industry, Federal and State land management agencies, and the general public, the Federal rangelands are in the best condition they have been in during this century, and their conditions continues to improve;

(3) as a further consequence of those efforts, populations of wildlife are increasing and stabilizing across vast areas of the West;

(4) grazing preferences must continue to be adequately safeguarded in order to promote the economic stability of the western livestock industry;

(5) it is in the public interest to charge a fee for livestock grazing permits and leases on Federal land that is based on a formula that—

(A) reflects a fair return to the Federal Government and the true costs to the permittee or lessee; and

(B) promotes continuing cooperative stewardship efforts;

(6) opportunities exist for improving efficiency in the administration of the range programs on Federal land by—

(A) reducing planning and analysis costs and their associated paperwork, procedural, and clerical burdens; and

(B) refocusing efforts to the direct management of the resources themselves;

(7) in order to provide meaningful review and oversight of the management of the public rangelands and the grazing allotment on those rangelands, refinement of the reporting of costs of various components of the land management program is needed;

(8) greater local input into the management of the public rangelands is in the best interests of the United States;

(9) the western livestock industry that relies on Federal land plays an important role in preserving the social, economic, and cultural base of rural communities in the western States and further plays an integral role in the economies of the 16 contiguous western States with Federal rangelands;

(10) maintaining the economic viability of the western livestock industry is in the best interest of the United States in order to maintain open space and fish and wildlife habitat;

(11) since the enactment of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the amendment of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) by the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.), the Secretary of the Interior and the Secretary of Agriculture have been charged with coordinating land use inventory, planning and management programs on Bureau of Land Management and National Forest System lands with each other, other Federal departments and agencies, Indian tribes, and State and local governments within which the lands are located, but to date such coordination has not existed to the extent allowed by law; and

(12) it shall not be the policy of the United States to increase or reduce total livestock numbers on Federal land except as is necessary to provide for proper management of resources, based on local conditions, and as provided by existing law related to the management of Federal land and this title.

(b) REPEAL OF EARLIER FINDING.—Section 2(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901(a)) is amended—

(1) by striking paragraphs (1), (2), (3), and (4);

(2) by redesignating paragraphs (5) and (6) as paragraphs (1) and (2), respectively;

(3) in paragraph (1) (as so redesignated), by adding "and" at the end; and

(4) in paragraph (2) (as so redesignated)

(A) by striking "harrassment" and inserting "harassment"; and

(B) by striking the semicolon at the end and inserting a period.

SEC. 102. APPLICATION OF ACT.

(a) This Act applies to—

(1) the management of grazing on Federal land by the Secretary of the Interior under—

(A) the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1269, chapter 865; 43 U.S.C. 315 et seq.);

(B) the Act of August 28, 1937 (commonly known as the "Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937") (50 Stat. 874, chapter 876; 43 U.S.C. 1181a et seq.);

(C) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(D) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.);

(2) the management of grazing on Federal land by the Secretary of Agriculture under—

(A) the 12th undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS." under the heading "UNDER THE DEPARTMENT OF THE INTERIOR." in the first section of the Act of June 4, 1897 (commonly known as the "Organic Administration Act of 1897") (30 Stat. 11,35, chapter 2; 16 U.S.C. 511);

(B) the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 85, 88, chapter 97; 16 U.S.C. 580g, 580h, 5801);

(C) the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.);

(C) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. et seq.);

(E) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(F) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(G) the Public Rangelands Improvements Act of 1978 (43 U.S.C. 1901 et seq.); and

(3) management of grazing by the Secretary on behalf of the head of another department or agency under a memorandum of understanding.

(b) Nothing is this title shall authorize grazing in any unit of the National Park System, National Wildlife Refuge System, or on any other Federal lands where such use is prohibited by statute, nor supersedes or amends any limitation on the levels of use for grazing that may be specified in other Federal law, nor expands or enlarges any such prohibition or limitation.

(c) Nothing in this title shall limit or preclude the use of and access to Federal land for hunting, fishing, recreational, watershed management or other appropriate multiple use activities in accordance with applicable Federal and State laws and the principles of multiple use.

(d) Nothing in this title shall affect valid existing rights. Section 1323(a) and 1323(b) of Public Law 96-487 shall continue to apply to nonfederally owned lands.

SEC. 103. OBJECTIVE.

The objective of this title is to—

(1) promote healthy, sustained rangeland;

(2) provide direction for the administration of livestock grazing on Federal land;

(3) enhance productivity of Federal land by conservation of forage resources, reduction of soil erosion, and proper management of other resources such as control of noxious species invasion;

(4) provide stability to the livestock industry that utilizes the public rangeland;

(5) emphasize scientific monitoring of trends and condition to support sound rangeland management;

(6) maintain and improve the condition of riparian areas which are critical to wildlife habitat and water quality; and

(7) promote the consideration of wildlife populations and habitat, consistent with land use plans, principles of multiple-use, and other objectives stated in this section.

SEC. 104. DEFINITIONS.

IN GENERAL.—In this title:

(1) ACTIVE USE.—The term "active use" means the amounts of authorized livestock grazing use made at any time.

(2) ACTUAL USE.—The term "actual use" means the number and kinds or classes of livestock, and the length of time that livestock graze on, an allotment.

(3) AFFECTED INTEREST.—The term "affected interest" means an individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on a specific allotment, for the purpose of receiving notice of and the opportunity for comment and informal consultation on proposed decisions of the Secretary affecting the allotment.

(4) ALLOTMENT.—The term "allotment" means an area of designated Federal land that includes management for grazing of livestock.

(5) ALLOTMENT MANAGEMENT PLAN.—The term "allotment management plan" has the same meaning as defined in section 103(k) of Pub. L. 94-579 (43 U.S.C. 1702(k)).

(6) AUTHORIZED OFFICER.—The term "authorized officer" means a person authorized by the Secretary to administer this title, the Acts cited in section 102, and regulations issued under this title and those Acts.

(7) BASE PROPERTY.—The term "base property" means—

(A) private land that has the capability of producing crops or forage that can be used to support authorized livestock for a specified period of the year; or

(B) water that is suitable for consumption by livestock and is available to and accessible by authorized livestock when the land is used for livestock grazing.

(8) CANCEL; CANCELLATION.—The terms "cancel" and "cancellation" refer to a permanent termination, in whole or in part, of—

(A) a grazing permit or lease and grazing preference; or

(B) other grazing authorization.

(9) CONSULTATION, COOPERATION, AND COORDINATION.—The term "consultation, cooperation, and coordination" means, for the purposes of this title and section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)), engagement in good faith efforts to reach consensus.

(10) COORDINATED RESOURCE MANAGEMENT.—The term "coordinated resource management"—

(A) means the planning and implementation of management activities in a specified geographic area that require the coordination and cooperation of the Bureau of Land Management or the Forest Service with affected State agencies, private land owners, and Federal land users; and

(B) may include, but is not limited to practices that provide for conservation, resource protection, resource enhancement or integrated management of multiple-use resources.

(11) FEDERAL LAND.—The term "Federal land"—

(A) means land outside the State of Alaska that is owned by the United States and administered by—

(i) the Secretary of the Interior, acting through the Director of the Bureau of Land Management; or

(ii) the Secretary of Agriculture, acting through the Chief of the Forest Service; but

(B) does not include—

(i) land held in trust for the benefit of Indians; or

(ii) the National Grasslands as defined in section 203.

(12) GRAZING PERMIT OR LEASE.—The term "grazing permit or lease" means a document authorizing use of the Federal land—

(A) within a grazing district under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b), for the purpose of grazing livestock;

(B) outside grazing districts under section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1275, chapter 865; 43 U.S.C. 315m), for the purpose of grazing livestock; or

(C) in a national forest under section 19 of the Act of April 24, 1950 (commonly known as the "Granger-Thye Act of 1950") (64 Stat. 88, chapter 97; 16 U.S.C. 5801), for the purposes of grazing livestock.

(13) GRAZING PREFERENCE.—The term "grazing preference" means the number of animal unit months of livestock grazing on Federal land as adjudicated or apportioned and attached to base property owned or controlled by a permittee or lessee.

(14) LAND BASE PROPERTY.—The term "land base property" means base property described in paragraph (7)(A).

(15) LAND USE PLAN.—The term "land use plan" means—

(A) with respect to Federal land administered by the Bureau of Land Management, one of the following developed in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)—

(i) a resource management plan; or

(ii) a management framework plan that is in effect pending completion of a resource management plan; and

(B) with respect to Federal land administered by the Forest Service, a land and resource management plan developed in accordance with section 6 of the Forest and Rangeland Resources Planning Act of 1974 (16 U.S.C. 1604).

(16) LIVESTOCK CARRYING CAPACITY.—The term "livestock carrying capacity" means the maximum sustainable stocking rate that is possible without inducing long-term damage to vegetation or related resources.

(17) MONITORING.—The term "monitoring" means the orderly collection of data using scientifically-based techniques to determine trend and condition of rangeland resources. Data may include historical information, but must be sufficiently reliable to evaluate—

(A) effects of ecological changes and management actions; and

(B) effectiveness of actions in meeting management objectives.

(18) RANGE IMPROVEMENT.—The term "range improvement"—

(A) means an authorized activity or program on or relating to rangeland that is designed to—

(i) improve production of forage;

(ii) change vegetative composition;

(iii) control patterns of use;

(iv) provide water;

(v) stabilize soil and water conditions; or

(vi) provide habitat for livestock, wild horses and burros, and wildlife; and

(B) includes structures, treatment projects, and use of mechanical means to accomplish the goals described in subparagraph (A).

(19) RANGELAND STUDY.—The term "rangeland study" means a documented study or analysis of data obtained on actual use, utilization, climatic conditions, other special events, production trend, and resource condition and trend to determine whether management objectives are being met, that—

(A) relies on the examination of physical measurements of range attributes and not on cursory visual scanning of land, unless the condition to be assessed is patently obvious and requires no physical measurements;

(B) utilizes a scientifically based and verifiable methodology; and

(C) is accepted by an authorized officer.

(20) SECRETARY; SECRETARIES.—The terms "Secretary" or "Secretaries" mean—

(A) the Secretary of the Interior, in reference to livestock grazing on Federal land administered by the Director of the Bureau of Land Management; and

(B) the Secretary of Agriculture, in reference to livestock grazing on Federal land administered by the Chief of the Forest Service or the National Grasslands referred to in title II.

(21) SUBLEASE.—The term "sublease" means an agreement by a permittee or lessee that—

(A) allows a person other than the permittee or lessee to graze livestock on Federal land without controlling the base property supporting the grazing permit or lease; or

(B) allows grazing on Federal land by livestock not owned or controlled by the permittee or lessee.

(22) SUSPEND; SUSPENSION.—The terms "suspend" and "suspension" refer to a temporary withholding, in whole or in part, of a grazing preference from active use, ordered by the Secretary or done voluntarily by a permittee or lessee.

(23) UTILIZATION.—The term "utilization" means the percentage of a year's forage production consumed or destroyed by herbivores.

(24) WATER BASE PROPERTY.—The term "water base property" means base property described in paragraph (7)(B).

SEC. 105. FUNDAMENTALS OF RANGELAND HEALTH.

(a) STANDARDS AND GUIDELINES.—The Secretary shall establish standards and guidelines for addressing resource condition and trend on a State or regional level in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture and other appropriate State agencies, and academic institutions in each interested State. Standards and guidelines developed pursuant to this subsection shall be consistent with the objectives provided in section 103 and incorporated, by operation of law, into the applicable land use plan to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) COORDINATED RESOURCE MANAGEMENT.—The Secretary shall, where appropriate, authorize and encourage the use of coordinated resource management practices. Coordinated resource management practices shall be—

(1) scientifically based;

(2) consistent with goals and management objectives of the applicable land use plan;

(3) for the purposes of promoting good stewardship and conservation of multiple-use rangeland resources; and

(4) authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees in a specified geographic area. Notwithstanding the mandatory qualifications required to obtain a grazing permit or lease by this or any other act, such agreement may include other individuals, organizations, or Federal land users.

(c) COORDINATION OF FEDERAL AGENCIES.—Where coordinated resource management involves private land, State land, and Federal land managed by the Bureau of Land Management or the Forest Service, the Secretaries are hereby authorized and directed to enter into cooperative agreements to coordinate the associated activities of—

(1) the Bureau of Land Management;

(2) the Forest Service; and

(3) the Natural Resources Conservation Service.

(d) RULE OF CONSTRUCTION.—Nothing in this title or any other law implies that a minimum national standard or guideline is necessary.

SEC. 106. LAND USE PLANS.

(a) PRINCIPLE OF MULTIPLE USE AND SUSTAINED YIELD.—An authorized officer shall manage livestock grazing on Federal land under the principles of multiple use and sustained yield and in accordance with applicable land use plans.

(b) CONTENTS OF LAND USE PLAN.—With respect to grazing administration, a land use plan shall—

(1) consider the impacts of all multiple uses, including livestock and wildlife grazing, on the environment and condition of public rangelands, and the contributions of these uses to the management, maintenance and improvement of such rangelands;

(2) establish available animal unit months for grazing use, related levels of allowable grazing use, resource condition goals, and management objectives for the Federal land covered by the plan; and

(3) set forth programs and general management practices needed to achieve the purposes of this title.

(c) APPLICATION OF NEPA.—Land use plans and amendments thereto shall be developed in conformance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) CONFORMANCE WITH LAND USE PLAN.—Livestock grazing activities, management actions and decisions approved by the authorized officer, including the issuance, renewal, or transfer of grazing permits or leases, shall not constitute major Federal actions requiring consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in addition to that which is necessary to support the land use plan, and amendments thereto.

(e) Nothing in this section is intended to override the planning and public involvement processes of any other Federal law pertaining to Federal lands.

SEC. 107. REVIEW OF RESOURCE CONDITION.

(a) Upon the issuance, renewal, or transfer of a grazing permit or lease, and at least once every six (6) years, the Secretary shall review all available monitoring data for the affected allotment. If the Secretary's review indicates that the resource condition is not meeting management objectives, then the Secretary shall prepare a brief summary report which—

(1) evaluates the monitoring data;

(2) identifies the unsatisfactory resource conditions and the use or management activities contributing to such conditions; and

(3) makes recommendations of any modifications to management activities, or permit or lease terms and conditions necessary to meet management objectives.

(b) The Secretary shall make copies of the summary report available to the permittee or lessee, and affected interests, and shall allow for a 30-day comment period to coincide with the 30-day time period provided in section 155. At the end of such comment period, the Secretary shall review all comments, and as the Secretary deems necessary, modify management activities, and pursuant to section 134, the permit or lease terms and conditions.

(c) If the Secretary determines that available monitoring data are insufficient to make recommendations pursuant to subsection (a)(3), the Secretary shall establish a reasonable schedule to gather sufficient data pursuant to section 123. Insufficient monitoring data shall not be grounds for the Secretary to refuse to issue, renew or transfer a grazing permit or lease, or to terminate or modify the terms and conditions of an existing grazing permit or lease.

Subtitle B—Qualifications and Grazing Preferences

SEC. 111. SPECIFYING GRAZING PREFERENCE.

(a) IN GENERAL.—A grazing permit or lease shall specify—

(1) a historical grazing preference;

(2) active use, based on the amount of forage available for livestock grazing established in the land use plan;

(3) suspended use; and

(4) voluntary and temporary nonuse.

(b) ATTACHMENT OF GRAZING PREFERENCE.—A grazing preference identified in a grazing permit or lease shall attach to the base property supporting the grazing permit or lease.

(c) ATTACHMENT OF ANIMAL UNIT MONTHS.—The animal unit months of a grazing preference shall attach to—

(1) the acreage of land base property on a pro rata basis; or

(2) water base property on the basis of livestock forage production within the service area of the water.

Subtitle C—Grazing Management

SEC. 121. ALLOTMENT MANAGEMENT PLANS.

If the Secretary elects to develop or revise an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and landowners involved, the grazing advisory councils established pursuant to section 162, and any State or States having lands within the area to be covered by such allotment management plan. The Secretary shall provide for public participation in the development or revision of an allotment management plan as provided in section 155.

SEC. 122. RANGE IMPROVEMENTS.

(a) RANGE IMPROVEMENT COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into a cooperative agreement with a permittee or lessee for the construction, installation, modification, removal, or use of a permanent range improvement or development of a rangeland to achieve a management or resource condition objection.

(2) COST-SHARING.—A range improvement cooperative agreement shall specify how the costs or labor, or both, shall be shared between the United States and the other parties to the agreement.

(3) TITLE.—

(A) IN GENERAL.—Subject to valid existing rights, title to an authorized structural range improvement under a range improvement cooperative agreement shall be shared by the cooperator(s) and the United States in proportion to the value of the contributions (funding, material, and labor) toward the initial cost of construction.

(B) VALUE OF FEDERAL LAND.—For the purpose of subparagraph (A), only a contribution to the construction, installation, or modification of a permanent rangeland improvement itself, and not the value of Federal land on which the improvement is placed, shall be taken into account.

(4) NONSTRUCTURAL RANGE IMPROVEMENTS.—A range improvement cooperative agreement shall ensure that the respective

parties enjoy the benefits of any nonstructural range improvement, such as seeding, spraying, and chaining, in proportion to each party's contribution to the improvement.

(5) INCENTIVE.—A range improvement cooperative agreement shall contain terms and conditions that are designed to provide a permittee or lessee an incentive for investing in range improvements.

(b) RANGE IMPROVEMENT PERMITS.—

(1) APPLICATION.—A permittee or lessee may apply for a range improvement permit to construct, install, modify, maintain, or use a range improvement that is needed to achieve management objectives within the permittee's or lessee's allotment.

(2) FUNDING.—A permittee or lessee shall agree to provide full funding for construction, installation, modification, or maintenance of a range improvement covered by a range improvement permit.

(3) AUTHORIZED OFFICER TO ISSUE.—A range improvement permit shall be issued at the discretion of the authorized officer.

(4) TITLE.—Title to an authorized permanent range improvement under a range improvement permit shall be in the name of the permittee or lessee.

(5) CONTROL.—The use by livestock of stock ponds or wells authorized by a range improvement permit shall be controlled by the permittee or lessee holding a range improvement permit.

(c) ASSIGNMENT OF RANGE IMPROVEMENTS.—An authorized officer shall not approve the transfer of a grazing preference, or approve use by the transferee of existing range improvements unless the transferee has agreed to compensate the transferor for the transferor's interest in the authorized permanent improvements within the allotment as of the date of the transfer.

SEC. 123. MONITORING AND INSPECTION.

(a) MONITORING.—Monitoring of resource condition and trend of Federal land on an allotment shall be performed by qualified persons approved by the Secretary, including but not limited to Federal, State, or local government personnel, consultants, and grazing permittees or lessees.

(b) INSPECTION.—Inspection of a grazing allotment shall be performed by qualified Federal, State or local agency personnel, or qualified consultants retained by the United States.

(c) MONITORING CRITERIA AND PROTOCOLS.—Rangeland monitoring shall be conducted according to regional or State criteria and protocols that are scientifically based. Criteria and protocols shall be developed by the Secretary in consultation with the Resource Advisory Councils established in section 161, State departments of agriculture or other appropriate State agencies, and academic institutions in each interested State.

(d) OVERSIGHT.—The authorized officer shall provide sufficient oversight to ensure that all monitoring is conducted in accordance with criteria and protocols established pursuant to subsection (c).

(e) NOTICE.—In conducting monitoring activities, the Secretary shall provide reasonable notice of such activities to permittees or lessees, including prior notice to the extent practicable of not less than 48 hours. Prior notice shall not be required for the purposes of inspections, if the authorized officer has substantial grounds to believe that a violation of this or any other act is occurring on the allotment.

SEC. 124. WATER RIGHTS.

(a) IN GENERAL.—No water rights on Federal land shall be acquired, perfected, owned, controlled, maintained, administered, or transferred in connection with livestock grazing management other than in accordance with State law concerning the use and appropriation of water within the State.

(b) STATE LAW.—In managing livestock grazing on Federal land, the Secretary shall follow State law with regard to water right ownership and appropriation.

(c) AUTHORIZED USE OR TRANSPORT.—The Secretary cannot require permittees or lessees to transfer or relinquish all or a portion of their water right to another party, including but not limited to the United States, as a condition to granting a grazing permit or lease, range improvement cooperative agreement or range improvement permit.

(d) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to create an expressed or implied reservation of water rights in the United States.

(e) VALID EXISTING RIGHTS.—Nothing in this act shall affect valid existing water rights.

Subtitle D—Authorization of Grazing Use

SEC. 131. GRAZING PERMITS OR LEASES.

(a) TERM.—A grazing permit or lease shall be issued for a term of 12 years unless—

(1) the land is pending disposal;

(2) the land will be devoted to a public purpose that precludes grazing prior to the end of 12 years; or

(3) the Secretary determines that it would be in the best interest of sound land management to specify a shorter term, if the decision to specify a shorter term is supported by appropriate and accepted resource analysis and evaluation, and a shorter term is determined to be necessary, based upon monitoring information, to achieve resource condition goals and management objectives.

(b) RENEWAL.—A permittee or lessee holding a grazing permit or lease shall be given first priority at the end of the term for renewal of the grazing permit or lease if—

(1) the land for which the grazing permit or lease is issued remains available for domestic livestock grazing;

(2) the permittee or lessee is in compliance with this title and the terms and conditions of the grazing permit or lease; and

(3) the permittee or lessee accepts the terms and conditions included by the authorized officer in the new grazing permit or lease.

SEC. 132. SUBLEASING.

(a) IN GENERAL.—The Secretary shall only authorize subleasing of a Federal grazing permit or lease, in whole or in part—

(1) if the permittee or lessee is unable to make full grazing use due to ill health or death; or

(2) under a cooperative agreement with a grazing permittee or lessee (or group of grazing permittees or lessees), pursuant to section 105(b).

(b) CONSIDERATIONS.—

(1) Livestock owned by a spouse, child, or grandchild of a permittee or lessee shall be considered as owned by the permittee or lessee for the sole purposes of this title.

(2) Leasing or subleasing of base property, in whole or in part, shall not be considered as subleasing of a Federal grazing permit or lease: *Provided*, That the grazing preference associated with such base property is transferred to the person controlling the leased or subleased base property.

SEC. 133. OWNERSHIP AND IDENTIFICATION OF LIVESTOCK.

(a) IN GENERAL.—A permittee or lessee shall own or control and be responsible for the management of the livestock that graze the Federal land under a grazing permit or lease.

(b) MARKING OR TAGGING.—An authorized officer shall not impose any marking or tagging requirement in addition to the requirement under State law.

SEC. 134. TERMS AND CONDITIONS.

(a) IN GENERAL.—

(1) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use (stated in animal unit months) in a grazing permit or lease.

(2) A grazing permit or lease shall be subject to such other reasonable terms or conditions as may be necessary to achieve the objectives of this title, and as contained in an approved allotment management plan.

(3) No term or condition of a grazing permit or lease shall be imposed pertaining to past practice or present willingness of an applicant, permittee or lessee to relinquish control of public access to Federal land across private land.

(4) A grazing permit or lease shall reflect such standards and guidelines developed pursuant to section 105 as are appropriate to the permit or lease.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with permittees and lessees, an authorized officer shall modify the terms and conditions of a grazing permit or lease if monitoring data show that the grazing use is not meeting the management objectives established in a land use plan or allotment management plan, and if modification of such terms and conditions is necessary to meet specific management objectives.

SEC. 135. FEES AND CHARGES.

(a) GRAZING FEES.—The fee for each animal unit month in a grazing fee year to be determined by the Secretary shall be equal to the three-year average of the total gross value of production for beef cattle for the three years preceding the grazing fee year, multiplied by the 10-year average of the United States Treasury Securities 6-month bill "new issue" rate, and divided by 12. The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For the purposes of billing only, the term "animal unit month" means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule, seven sheep, or seven goats, each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal land; and

(3) any such animal that will become 12 months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date on which the animal begins grazing on Federal land and is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming 12 months of age.

(d) OTHER FEES AND CHARGES.—

(1) CROSSING PERMITS, TRANSFERS, AND BILLING NOTICES.—A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) AMOUNT OF FLPMA FEES AND CHARGES.—The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) NOTICE OF CHANGE.—Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—

(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as in currently published by the Service in: "Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy" (Cow-calf production cash costs and returns).

(2) For the purposes of determining the grazing fee for a given grazing fee year, the gross value of production (as described above) for the previous calendar year shall be made available to the Secretary of the Interior and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC 136. USE OF STATE SHARE OF GRAZING FEES.

Section 10 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(2) at the end of subsection (a), by striking ";" and inserting ": *Provided further*, That no such money shall be expended for litigation purposes;";

(3) in subsection (b), by striking "for the benefit of" and inserting "in a manner that will result in direct benefit to, improved access to, or more effective management of the rangeland resources in";

(4) at the end of subsection (b), by striking "." and inserting ": *Provided further*, That no such moneys shall be expended for litigation purposes.".

Subtitle E—Unauthorized Grazing Use

SEC. 141. NONMONETARY SETTLEMENT.

An authorized officer may approve a nonmonetary settlement of a case of a violation described in section 141 if the authorized officer determines that each of the following conditions in satisfied:

(1) NO FAULT.—Evidence shows that the unauthorized use occurred through no fault of the livestock operator.

(2) INSIGNIFICANCE.—The forage use is insignificant.

(3) NO DAMAGE.—Federal land has not been damaged.

(4) BEST INTERESTS.—Nonmonetary settlement is in the best interests of the United States.

SEC. 142. IMPOUNDMENT AND SALE.

Any impoundment and sale of unauthorized livestock on Federal land shall be conducted in accordance with State law.

Subtitle F—Procedure

SEC. 151. PROPOSED DECISION.

(a) SERVICE ON APPLICANTS, PERMITTEES, LESSEES, AND LIENHOLDERS.—The authorized officer shall serve, by certified mail or personal delivery, a proposed decision on any applicant, permittee lessee, or lienholder (or agent of record of the applicant, permittee, lessee, or lienhold) that is affected by—

(1) a proposed action on an application for a grazing permit or lease, or range improvement permit; or

(2) a proposed action relating to a term or condition of a grazing permit or lease, or a range improvement permit.

(b) NOTIFICATION OF AFFECTED INTERESTS.—The authorized officer shall send copies of a proposed decision to affected interests.

(c) CONTENTS.—A proposed decision described in subsection (a) shall—

(1) state reasons for the action, including reference to applicable law (including regulations); and

(2) be based upon, and supported by rangeland studies, where appropriate, and;

(3) state that any protest to the proposed decision must be filed not later than 30 days after service.

SEC. 152. PROTESTS.

An applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision.

SEC. 153. FINAL DECISIONS.

(1) NO PROTEST.—In the absence of a timely filed protest, a proposed decision described in section 151(a) shall become the final decision of the authorized officer without further notice.

(b) RECONSIDERATION.—If a protest is timely filed, the authorized officer shall reconsider the proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case.

(C) SERVICE AND NOTIFICATION.—After reviewing the protest, the authorized officer shall serve a final decision on the parties to the proceeding, and notify affected interests of the final decision.

SEC. 154. APPEALS.

(a) IN GENERAL.—Any person whose interest in adversely affected by a final decision of an authorized officer, within the meaning of 5 U.S.C. 702, may appeal the decision within 30 days after the receipt of the decision, or within 60 days after the receipt of a proposed decision if further notice of a final decision is not required under this title, pursuant to applicable laws and regulations governing the administrative appeals process of the agency serving the decision. Being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization.

(b) SUSPENSION PENDING APPEAL.—

(1) IN GENERAL.—An appeal of a final decision shall suspend the effect of the decision pending final action on the appeal unless the decision is made effective pending appeal under paragraph (2).

(2) EFFECTIVENESS PENDING APPEAL.—The authorized officer may place a final decision in full force and effect in an emergency to stop resource deterioration or economic distress, if authorized officer has substantial grounds to believe that resource deterioration or economic distress is imminent. Full force and effect decisions shall take effect on the date specified, regardless of an appeal.

(c) In the case of an appeal under this section, the authorized officer shall, within 30 days of receipt, forward the appeal, all documents and information submitted by the applicant, permittee, lessee, or lienholder, and any pertinent information that would be useful in the rendering of a decision on such appeal, to the appropriate authority responsible for issuing the final decision on the appeal.

SEC. 155. PUBLIC PARTICIPATION AND CONSULTATION.

(a) GENERAL PUBLIC.—The Secretary shall provide for public participation, including a reasonable opportunity to comment, on—

(1) land use plans and amendments thereto; and,

(2) development of standards and guidelines to provide guidance and direction for Federal land managers in the performance of their assigned duties.

(b) AFFECTED INTERESTS.—At least 30 days prior to the issuance of a final decision, the Secretary shall notify affected interests of such proposed decision, and provide a reasonable opportunity for comment and informal consultation regarding the proposed decision within such 30-day period, for—

(1) the designation or modification of allotment boundaries;

(2) the development, revision, or termination of allotment management plans;

(3) the increase or decrease of permitted use;

(4) the issuance, renewal, or transfer of grazing permits or leases;

(5) the modification of terms and conditions of permits or leases;

(6) reports evaluating monitoring data for a permit or lease; and

(7) the issuance of temporary non-renewable use permits.

Subtitle G—Advisory Committees

SEC. 161. RESOURCE ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary of Agriculture and the Secretary of the Interior, in consultation with the Governors of the affected States, shall establish and operate joint Resource Advisory Councils on a State or regional level to provide advice on management issues for all lands administered by the Bureau of Land Management and the Forest Service within such State or regional area, except where the Secretaries determine that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretaries and appropriate State officials on—

(1) matters regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area; and on

(2) major management decisions while working within the broad management objectives established for the district or national forest.

(c) DISREGARD OF ADVICE.—

(1) REQUEST FOR RESPONSE.—If a Resource Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Resource Advisory Council may, by majority vote of its members, request that the Secretaries respond directly to the Resource Advisory Council's concerns within 60 days after the Secretaries receive the request.

(2) EFFECT OF RESPONSE.—The response of the Secretaries to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—

(1) The Secretaries, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than nine members and not more than fifteen members.

(2) In appointing members to a Resource Advisory Council, the Secretaries shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users,

representatives of recognized local environmental or conservation organizations, educational, professional, or academic interests, representatives of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretaries shall appoint at least one elected official of general purpose government serving the people of the area of each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(e) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups.

(f) TERMS.—Resource Advisory Council members shall be appointed for two-year terms. Members may be appointed to additional terms at the discretion of the Secretaries.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretaries to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

SEC. 162. GRAZING ADVISORY COUNCILS.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Governor of the affected State and with affected counties, shall appoint not fewer than five nor more than nine persons to serve on a Grazing Advisory Council for each district and each national forest within the 16 contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing. The Secretaries may establish joint Grazing Advisory Councils wherever practicable.

(b) DUTIES.—The duties of Grazing Advisory Councils established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands, including—

(1) range improvement objectives;

(2) the expenditure of range improvement or betterment funds under the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.) or the Taylor Grazing Act (43 U.S.C. 315 et seq.);

(3) development and implementation of grazing management programs; and

(4) range management decisions and actions at the allotment level.

(c) DISREGARD OF ADVICE—

(1) REQUEST FOR RESPONSE.—If a Grazing Advisory Council becomes concerned that its advice is being arbitrarily disregarded, the Grazing Advisory Council may, be unanimous vote of its members, request that the Secretary respond directly to the Grazing Advisory Council's concerns within 60 days after the Secretary receives the request.

(2) EFFECT OF RESPONSE.—The response of the Secretary to a request under paragraph (1) shall not—

(A) constitute a decision on the merits of any issue that is or might become the subject of an administrative appeal; or

(B) be subject to appeal.

(d) MEMBERSHIP.—The members of a Grazing Advisory Council established pursuant to this section shall represent permittees, lessees, affected landowners, social and economic interests within the district or national forest, and elected State or county officers. All members shall have a demonstrated knowledge of grazing management and range improvement practices appropriate for the region, and shall be residents of a community within or adjacent to the district or national forest, or control a permit or lease within the same area. Members shall be appointed by the Secretary for a term of two years, and may be appointed for additional consecutive terms. The membership of Grazing Advisory Councils shall be equally divided between permittees or lessees, and other interests: *Provided*, That one elected State or county officer representing the people of an area within the district or national forest shall be appointed to create an odd number of members: *Provided further*, That permittees or lessees appointed as members of each Grazing Advisory Council shall be recommended to the Secretary by the permittees or lessees of the district or national forest through an election conducted under rules and regulations prescribed by the Secretary.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this subtitle, the Federal Advisory Committee Act shall apply to the Grazing Advisory Councils established pursuant to this section.

SEC. 163. GENERAL PROVISIONS.

(a) DEFINITION OF DISTRICT.—For the purposes of this subtitle, the term "district" means—

(1) a grazing district administered under section 3 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315b); or

(2) other lands within a State boundary which are eligible for grazing pursuant to section 15 of the Act of June 28, 1934 (commonly known as the "Taylor Grazing Act") (48 Stat. 1270, chapter 865; 43 U.S.C. 315m).

(b) TERMINATION OF SERVICE.—The Secretary may, after written notice, terminate the service of a member of an advisory committee if—

(1) the member—

(A) no longer meets the requirements under which appointed;

(B) fails or is unable to participate regularly in committee work; or

(C) has violated Federal law (including a regulation); or

(2) in the judgment of the Secretary, termination is in the public interest.

(c) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—A member of an advisory committee established under sections 161 or 162 shall not receive any compensation in connection with the performance of the member's duties as a member of the advisory committee, but shall be reimbursed for travel and per diem expenses only while on official business, as authorized by 5 U.S.C. 5703.

SEC. 164. CONFORMING AMENDMENT AND REPEAL.

(a) AMENDMENT.—The third sentence of section 402(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(d)) is amended by striking "district grazing advisory boards established pursuant to section 403 of the Federal Land Policy and Management Act (43 U.S.C. 1753)" and inserting "Resource Advisory Councils and Grazing Advisory Councils established under section 161 and section 162 of the Public Rangelands Management Act of 1995".

(b) REPEAL.—Section 403 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1753) is repealed.

Subtitle H Reports

SEC. 171. REPORTS.

(a) IN GENERAL.—Not later than March 1, 1997, and annually thereafter, the Secretaries shall submit to Congress a report that contains—

(1) an itemization of revenues received and costs incurred directly in connection with the management of grazing on Federal land; and

(2) recommendations for reducing administrative costs and improving the overall efficiency of Federal rangeland management.

(b) ITEMIZATION.—If the itemization of costs under subsection (a)(1) includes any costs incurred in connection with the implementation of any law other than a statute cited in section 102, the Secretaries shall indicate with specificity the costs associated with implementation of each such statute.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Grasslands Management Act of 1995".

SEC. 202. FINDINGS AND PURPOSE.

(A) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving hunting, fishing, and recreational activities, and protecting wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) "National Grasslands" means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) "Secretary" means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase "the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525, 7 U.S.C. 1010–1012),".

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State

and local governmental entities, and other interested individuals and organizations in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purposes of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010). Such regulations shall facilitate the efficient administration of grazing and provide protection for the environment, wildlife, wildlife habitat, and Federal lands equivalent to that on the National Grasslands on the day prior to the date of enactment of this act.

(e) CONFORMING AMENDMENT TO BANKHEAD-JONES ACT.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

"To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety and welfare, but not to build industrial parks or commercial enterprises.".

(f) HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) VALID EXISTING RIGHTS.—

(1) IN GENERAL.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96-487 shall continue to apply to nonfederal land and interests therein within the boundaries of the National Grasslands.

(2) INTERIM USE AND OCCUPANCY.—

(A) Until such time as regulations concerning the use and occupancy of the National Grasslands are promulgated pursuant to this title, the Secretary shall regulate the use and occupancy of such lands in accordance with regulations applicable to such lands on May 25, 1995, to the extent practicable and consistent with the provisions of this Act.

(B) Any applications for National Grasslands use and occupancy authorizations submitted prior to the date of enactment of this Act, shall continue to be processed without interruption and without reinitiating any processing activity already completed or begun prior to such date.

SEC. 206. FEES AND CHARGES.

Fees and charges for grazing on the National Grasslands shall be determined in accordance with section 135, except that the Secretary may adjust the amount of a grazing fee to compensate for approved conservation practices expenditures."

BUMPERS (AND OTHERS) AMENDMENT NO. 3556

Mr. BUMPERS (for himself, Mr. JEFFORDS, Mr. BRADLEY, and Mr. KERRY) proposed an amendment to amendment No. 3555 proposed by Mr. DOMENICI to the bill S. 1459, supra; as follows:

Strike Section 135 of the substitute and insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands. The fee shall be equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B)(1) the fee provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than: $1.50 per animal unit month for the 1997 grazing year; $1.75 per animal unit month for the 1998 grazing year; and $2.00 per animal unit month for the 1999 grazing year and thereafter; plus

(2) 25 percent.

(b) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

JEFFORDS AMENDMENT NO. 3557

Mr. JEFFORDS proposed an amendment to amendment No. 3556 proposed by Mr. BUMPERS to amendment No. 3555 proposed by Mr. DOMENICI to the bill S. 1459, supra; as follows:

In lieu of the language proposed to be inserted by the Bumpers amendment insert the following:

SEC. 135. GRAZING FEES.

(a) GRAZING FEE.—Notwithstanding any other provision of law and subject to subsections (b) and (c), the Secretary of the Interior and the Secretary of Agriculture shall charge a fee for domestic livestock grazing on public rangelands as provided for in section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905(a)) and Executive Order 12548 (51 F.R. 5985): *Provided*, That the grazing fee shall not be less than: $1.50 per animal unit month for the 1997 grazing year; $1.75 per animal unit month for the 1998 grazing year; and $2.00 per animal unit month for the 1999 grazing year and thereafter.

(b) DETERMINATION OF FEE.—(1) Permittees or lessees who own or control livestock comprising less than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee as set forth in subsection (a).

(2) Permittees or lessees who own or control livestock comprising more than 2,000 animal unit months on the public rangelands during a grazing year pursuant to one or more grazing permits or leases shall pay the fee equal to the higher of either—

(A) the average grazing fee (weighted by animal unit months) charged by the State during the previous grazing year for grazing on State lands in which the lands covered by the permit or lease are located; or

(B) the Federal grazing fee set forth in subsection (a), plus 25 percent.

(c) DEFINITIONS.—For the purposes of this section—

(1) State lands shall include school, education department, and State land board lands; and

(2) individual members of a grazing association shall be considered as individual permittees or lessees in determining the appropriate grazing fee.

THE NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1996

FEINSTEIN (AND OTHERS) AMENDMENT NO. 3558

Mr. MURKOWSKI (for Mrs. FEINSTEIN, for herself, Mr. REID, Mr. BURNS, Mr. BIDEN, Mr. KENNEDY, and Mr. AKAKA) proposed an amendment to the bill (S. 956) to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; as follows:

Strike all after the enacting clause and insert:

COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS

SECTION 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal courts of appeals with particular reference to the ninth circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate of the expeditious and effective disposition of the caseload of the Federal Courts of Appeal, consistent with fundamental concepts of fairness and due process.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of eleven members appointed as follows:

(1) Two members appointed by the President of the United States.

(2) Three members appointed by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

SEC. 3. COMPENSATION.

(a) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 per diem for each day (including travel-time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC 4. PERSONNEL.

(a) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The Executive Director, with approval of the Commission, may appoint and fix the compensation of such additional personnel as he determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

SEC 5. INFORMATION.

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it determines necessary to carry out it functions under this title and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

SEC 6. REPORT.

The Commission shall transmit its report to the President and the Congress no later than February 28, 1997. The Commission shall terminate ninety days after the date of the submission of its report.

SEC 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriate to the Commission such sums, not to exceed $500,000, as may be necessary to carry out the purpose of this title. Such sums as are appropriated shall remain available until expended.

SEC 8. CONGRESSIONAL CONSIDERATION.

Within sixty days of the transmission of the report, the Committee on the Judiciary of the Senate shall act on the Report.

Amend the title so as to read: "A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to receive testimony regarding S. 1605, a bill to amend and extend certain authorities in the Energy Policy and Conservation Act which either have expired or will expire June 30, 1996.

The hearing will be held on Wednesday, March 27, 1996, it will begin at 9:30 a.m., and will take place in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

For further information, please call Karen Hunsicker or Betty Nevitt at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, March 20, 1996, at 2 p.m. in SH–216.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 20, 1996, at 9:30 a.m., to hold an oversight hearing on the Congressional Research Service.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. GORTON. The Committee on Veterans' Affairs would like to request unanimous consent to hold a hearing on veterans' health care eligibility priorities. The hearing will be held on March 20, 1996, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. GORTON. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, March 20, 1996, in open session, to receive testimony on technology base program in the Department of Defense in review of the Defense Authorization request for fiscal year 1997 and the future years defense program.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 20, 1996 for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. the purpose of this oversight hearing is to receive testimony on S. 1077, a bill to authorize research, development, and demonstration of hydrogen as an energy carrier and for other purposes, S. 1153, a bill to authorize research, development, and demonstration of hydrogen as an energy carrier, and a demonstration-commercialization project which produces hydrogen as an energy source produced from solid and complex waste for on-site use in fuel cells, and for other purposes, and H.R. 655, a bill to authorize the hydrogen research, development, and demonstration programs of the Department of Energy, and for other purposes.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 20, 1996, at 10:00 a.m.

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

SUBCOMMITTEE ON INVESTIGATIONS

Mr. GORTON. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Government Affairs, be authorized to meet during the session of the Senate on Wednesday, March 20, 1996 to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 20, 1996, at 2:00 p.m.

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

SUBCOMMITTEE ON PERSONNEL

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 20, 1996, in open session, to receive testimony regarding the manpower, personnel, and compensation programs of the Department of Defense in review of the National Defense Authorization Request for fiscal Year 1997.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet at 9:30 a.m. on Wednesday, March 20, 1996, in open session, to receive testimony on the Department of Defense space programs and issues in review of the Defense Authorization request for fiscal year 1997 and the future years defense program.

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

ADDITIONAL STATEMENTS

THE TULALIP SUPERFUND SITE

• Mr. GORTON. Mr. President, I ask that a copy of a letter from Elliot Laws, EPA Assistant Administrator, on the subject of the Tulalip Superfund site be printed in the RECORD immediately following my remarks.

The letter from EPA clarifies that the Agency fully intends to comply with the report language included in the fiscal year 1996 Senate VA–HUD and independent agencies report on the Tulalip Superfund site. In addition, the letter promises to provide further information on the liability of the Tulalip Tribe for the cleanup of the Superfund site.

The letter follows:

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, March 19, 1996.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR GORTON: Thank you for inviting us to meet with you on Monday, March 11, 1996, concerning the Tulalip Landfill Superfund Project. This is to summarize the meeting with Timothy Fields, Jr., Deputy Assistant Administrator, Office of Solid Waste and Emergency Response, and Kathryn Schmoll, Comptroller, and to reiterate the U.S. Environmental Protection Agency's (EPA) commitment to work closely with you and to carefully and thoroughly consider issues you have raised regarding this matter.

The meeting focused on three key issues you raised: conducting alternative dispute resolution (ADR) with the interested parties, performing a baseline risk assessment, and incorporating the results of these activities into a new review of remedial alternatives for the site. We also discussed EPA's recent decision to issue an Interim Record of Decision (ROD) for the source areas of the site, and other issues relating to allocation of remedial costs.

EPA has already taken a number of steps consistent with the goals you have laid out. For example, we have engaged the potentially responsible parties (PRPs) and others in an extensive dialogue on Tulalip. The Region extended the public comment period on the proposed remedial action plan from 30 days to 80 days, held two public meetings, reviewed and responded to voluminous comments, and thoroughly documented the remedy selection process before publishing the interim ROD. The Agency also generated an extensive record of written communications with the PRPs addressing the cleanup alternatives and the differences between the reviews which the PRPs and EPA have performed. Senior EPA Headquarters management also met with representatives of the PRPs in order to hear and respond to their concerns with the remedy selection process.

Publishing the interim ROD is part of a comprehensive effort to identify and address all actual and potential risks associated with this site. It is designed to control migration of contaminants from the source areas of the site and follows the Agency's guidance of presumptive remedies for landfills. This allows for a prompt remedy selection process based on a brief site characterization and risk assessment effort.

Nevertheless, the Agency is currently conducting a full baseline risk assessment to evaluate the off-source portions of the site. Thus, concurrent with this interim action to prevent further environmental degradation, EPA is evaluating the impacts of the site on the surrounding area and the risks associated with those impacts. This baseline risk assessment is scheduled for completion in the Summer of 1996. It will form the basis for the final ROD, which will address all remaining aspects of the site. EPA expects to issue this final ROD in Summer 1997, after receiving and responding to public comment on the risk evaluation. Again, the issuance of the interim ROD was in no way intended to interfere with our ability to address the interests and concerns raised by yourself and by other parties.

Since, the interim remedy will address the source contamination at the Tulalip site in the most timely and cost-effective manner, EPA designed the baseline risk assessment assuming the interim action would be taken for the on-source areas while continuing investigation of off-source areas. The findings of the baseline risk assessment will be used as the basis for review of the interim ROD, to the extent practicable, and the selection of the final remedy.

EPA has furthermore initiated an ADR settlement project for Tulalip. In cooperation with many of the principal respondents for the site, the Agency has employed a neutral, third-party facilitator to assist in allocating remediation costs. The PRPs are currently working to establish the criteria which the facilitator will use to assign liability for the costs of the cleanup. We understand that the facilitator will most likely consider a combination of factors in assigning liability which will probably include both tonnage (contribution) and the degree of involvement/responsibility for the activities which led to the current site conditions. However, the exact terms of this agreement are the subject of ongoing discussions among the PRPs and their representatives.

In the meeting, you asked a hypothetical question regarding the Tulalip tribe's liability for a portion of the cleanup costs. With respect to estimates of liability, EPA notes that it has published costs estimates only for de minimis settlers as part of an early settlement offer. If other PRPs have estimates of their potential liability, these may represent their own estimates, made for business and planning purposes. However, they are not EPA estimates, and we have not reviewed or concurred with the assumptions on which they may have been based. Again, these issues relating to liability for cleanup costs are to be resolved through the ADR process. We will provide a further update on this issue to you in the future.

As a final note, EPA also seriously evaluated the lower-cost options which several of the PRPs have supported. These alternatives do not provide a cap for the site and would therefore not comply with the minimum applicable State landfill closure requirements. I have enclosed letters from the State of Washington and tribal representatives that present their views in support of EPA's remedy selection decisions.

I believe this letter is responsive to the concerns you raised at the March 11 meeting, and I appreciate your continued interest in the Superfund program and the Tulalip Landfill Superfund cleanup.

Sincerely,

ELLIOTT P. LAWS,
Assistant Administrator.•

COMMENDING TUNISIA ON ITS 40TH ANNIVERSARY OF INDEPENDENCE

• Mr. INOUYE. Mr. President, I rise today to recognize the country of Tunisia which will celebrate its 40th anniversary of independence on March 20, 1996. I would like to congratulate this country, which has made tremendous strides in socio-economic development and in furthering the Middle East peace process.

In the last four decades, Tunisia has played a key role in preserving stability and peace in North Africa. Tunisia is also playing a key role in the Middle East peace process. It was the first Arab country to host a United Nations multilateral meeting in the peace process. Tunisia also hosted an official Israeli delegation in Tunis to encourage the dialog between Arabs and Israelis. Most recently, in January 1996, Tunisia and Israel agreed to establish formal diplomatic relations, and interest sections will be opened in Tunis and Tel Aviv by mid-April 1996.

Tunisia has been a leader in the struggle against terrorism, intolerance, and blind violence. Tunisia appealed to the world community, within the framework of the United Nations, the Organization of African Unity, the Arab League, and the Organization of Islamic Countries, to adopt strict measures in order to combat terrorism and extremism.

I would also like to commend Tunisia on its social and economic achievements. Tunisia has devoted the bulk of its resources to improving the quality of life of its people and to the development of its economy. Education is a key issue in Tunisia. The Government

appropriates approximately 30 percent of the annual budget to education, social services, housing, and health care. This results in a highly skilled labor force. Today, 23 percent of Tunisian job seekers are university graduates and 42 percent are vocational training school graduates.

The private sector is playing a key role in the economic development of Tunisia, and as a result, Tunisians have created a diversified, market-oriented economy. Manufacturing accounts for 21 percent of domestic production, agriculture for 15 percent, and tourism for 7 percent. Domestic growth rates have averaged more than 4 percent per year, and the budget deficit has been halved in the last 4 years.

Tunisia welcomes and encourages foreign investment and has preferential access to a number of important regional markets. Tunisia is a member of the World Trade Organization. It enjoys duty free access for Tunisian products in European Union countries and most Arab countries. The United States assisted Tunisian economic growth through focused development programs such as the Generalized System of Preferences. As a result, Tunisia has proudly graduated from United States economic assistance and is now entering an era of economic partnership with the United States.

Tunisia has been a close and reliable ally of the United States and has cooperated with the United States in advancing tolerance, openness, peace, and stability. The bonds that have been created over the years between our two countries have continued to improve. I can only share the aspirations of all Tunisians for a prosperous and peaceful future on this, the 40th anniversary of independence.•

THE ATKINSON GRADUATE SCHOOL OF MANAGEMENT ACCREDITATION

• Mr. HATFIELD. Mr. President, this year Willamette University's Atkinson Graduate School of Management celebrates its 20th anniversary with an extremely prestigious award. Already considered a pioneering spirit in management education, the Atkinson School can profess a singularly unique achievement: accreditation from both the National Association of Schools of Public Affairs and Administration [NASPAA] and the American Assembly of Collegiate Schools of Business [AACSB]. It is the first school in the country to receive both accreditations—it is my alma mater, located in Salem, OR.

Representatives from both the AACSB and the NASPAA visited the school in February 1995 and initiated an intense review process. After the review, the two organizations awarded the Atkinson school unanimous recommendations for accreditation. The two review boards commended the school for the program's focus on teamwork and practical application, the teaching staff's commitment to quality instruction and growth of their students, the uniqueness of the school's mission, and the outstanding facilities. The admissions and placement services received high praise as well.

These two distinguished national and international accreditations testify to the impressive and ground-breaking work being done at the Atkinson School. Long recognized as a leading institute of management education, the accreditations provide the school with recognition world wide, recognition that is duly deserved and places the school among the elite institutions of the Pacific region. Out of the more than 700 business schools in the Nation, the AACSB accredits 292. Among the Nation's 220 programs offering master's degrees in public management, the NASPAA accredits about half.

The Atkinson School offers a curriculum that features quality instruction in both business and public management that will prepare students for the future in our global business community. It is telling that in a school that recognizes the importance of global management and multinational influence, international students comprise 25 percent of the total student body. The Atkinson School has distinguished itself as a model for the expanded role of an American institution, a role that embraces the cultures and perspectives of other nations.

The Willamette University, nestled in the fertile Willamette Valley of Oregon, has long cultivated and developed inquisitive minds. The Atkinson School continues this storied tradition as its devotion to quality business management education aims for the 21st century. I wish to congratulate all the staff, supporters, and students who have participated in the unequaled success of the Atkinson School. I would also like to mention the outstanding leadership of the Atkinson School dean, G. Dave Weight, and the agenda of former Willamette University president, George Herbert Smith, whose vision led to the creation of the Atkinson School. A promising future faces the Atkinson School as it prepares its students to compete successfully in the demanding global business environment.

Mr. President, I ask that the Atkinson School's formal mission statement be printed in the RECORD.

The statement follows:

MISSION STATEMENT

The Mission of the Atkinson Graduate School of Management is to identify and convey principles of management shared by successful enterprises in the business, government and not-for-profit sectors. Consistent with these principles, the School educates managers to cooperate as well as compete, to create as well as to operate, and to learn as well as to know. Atkinson extends to management education the teaching and learning traditions of Willamette University, a small, liberal arts institution. Pursuing Willamette's mission to serve its community with distinctive graduate, professional education, the Atkinson School aims to be the preeminent small, independent management program in the Pacific region.•

MICHAEL SHEA

• Mr. BAUCUS. Mr. President, Michael Shea, age 8, of Dillon MT, was tragically killed in an accident on June 30, 1995.

Although Michael's life was taken, he helped save the lives of four other people. All are in good health, leading normal lives today because Michael was an organ donor.

On the day of his death his heart was flown from Montana to Seattle to be transplanted in a 4-year-old girl, Paige Roberts. Paige, who was born with a complex heart defect, had been waiting for a donor for 3 months. This 4-year-old little girl is alive today thanks to Michael.

Michael also donated his liver to a Baltimore woman. One of his kidneys was given to a girl in Seattle and the other to a woman in southwest Washington. All are now in good health.

The tragedy of Michael's death has given other people the hope of life. We so easily forget how fragile life is. We take for granted the advancement of medicine in this country. Michael's heart was used for the second pediatric heart transplant in Children's history. It is so easy to forget that medicine is about saving people's lives. We get caught up in debates about health care and forget the real importance of it—it is about saving people's lives.

I would also like to mention Michael's mother, Eileen, for her strength. The void left by the absence of Michael can not be easily filled for Eileen or any of the Shea family. It is certainly not easy to lose a child that should—in theory—outlive you. Eileen is a model mother. She took the time to explain death to Michael when his grandfather died, to explain the significance of being a donor for herself and let him come to his own decision on the subject. And Michael told her he wanted to be an organ donor. I admire her courage when faced with the death of a son, she understood the importance of giving life to others.

While the sound of Michael's footsteps racing up and down the stairs may have been silenced in Eileen's house, the echo of his generosity reminds us all of the fragility of life and the importance of medicine. Although modern medicine could not save Michael, it did help save four other people's lives.

We can all learn from Michael's generosity and remember the importance of being a donor. This 8-year-old boy from Dillon, MT, is a heroic example for children and adults alike. We

should all take the time to fill out a donor card. It is as easy as writing to Living Bank, P.O. Box 6725, Houston, TX 77265.●

BALANCED BUDGET DOWNPAYMENT ACT, II

● Mr. ABRAHAM. Mr. President, yesterday the Senate voted to adopt H.R. 3019, a bill to make continuing appropriations for the remainder of fiscal year 1996. During consideration of this legislation, the Senate debated and then voted upon two amendments which I would like to discuss at this time. The first was an amendment by Senators BOND and MIKULSKI and the second was an amendment by Senator GRAMM.

The Bond-Mikulski amendment included provisions to boost funding for environment and housing programs. These increases include funding directed to the States to clean up our Nation's water and funding to streamline the programs at the Department of Housing and Urban Development. I believe the EPA funding level approved in last year's appropriations bill represented a reasonable, responsible allocation for environmental programs and oversight. At the same time, I understand how important the Superfund program and the EPA's State revolving loan fund for waste and drinking water infrastructure are to the State of Michigan and States across the country. Therefore, largely because the additional funding was fully offset, I supported this measure.

On the other hand, my support of this en bloc amendment should not be interpreted as support for several of the programs listed, including additional funding for the National Corporation of National Community Service. Paying Americans tens of thousands of dollars per year to volunteer for community service may be President Clinton's idea of a good program, but it's not mine, and I would prefer to see this funding eliminated.

The Gramm amendment would have struck that spending which remained in title IV of the bill following the adoption of the Bond/Mikulski and Specter amendments. This funding included $235 million for the Advanced Technology Program and several hundred million in international accounts. The President has indicated that without additional funding for programs like the ATP—which provides direct subsidies to some of America's wealthiest corporations—he would veto the overall bill and shut down the Federal Government once again. I think it is unconscionable that the President is willing to threaten all the programs of the Federal Government in order to provide McDonalds, AT&T, and Eastman Kodak with millions in direct subsidies, and for that reason I supported Senator GRAMM. Earlier amendments by Senators SPECTER and BOND had gone a long way toward meeting the demands of the President with regard to education, the environment, and housing. While some programs remaining in title IV are worthy of support, an overwhelming amount of the funding would have gone to corporate subsidies and other unnecessary spending.●

BALANCED BUDGET DOWNPAYMENT ACT, II

The text of the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, as passed by the Senate on March 19, 1996, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 3019) entitled "An Act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert: *That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1996, and for other purposes, namely:*

TITLE I—OMNIBUS APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $74,282,000; including not to exceed $3,317,000 for the Facilities Program 2000, and including $5,000,000 for management and oversight of Immigration and Naturalization Service activities, both sums to remain available until expended: Provided, That not to exceed 76 permanent positions and 90 full-time equivalent workyears and $9,487,000 shall be expended for the Offices of Legislative Affairs, Public Affairs and Policy Development: Provided further, That the latter three aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Attorney General, $16,898,000, to remain available until expended, to reimburse any Department of Justice organization for (1) the costs incurred in reestablishing the operational capability of an office or facility which has been damaged or destroyed as a result of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City or any domestic or international terrorist incident, (2) the costs of providing support to counter, investigate or prosecute domestic or international terrorism, including payment of rewards in connection with these activities, and (3) the costs of conducting a terrorism threat assessment of Federal agencies and their facilities: Provided, That funds provided under this section shall be available only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

ADMINISTRATIVE REVIEW AND APPEALS

For expenses necessary for the administration of pardon and clemency petitions and immigration related activities, $38,886,000: Provided, That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation for the Executive Office for Immigration Review and the Office of the Pardon Attorney shall be merged with this appropriation.

VIOLENT CRIME REDUCTION PROGRAMS, ADMINISTRATIVE REVIEW AND APPEALS

For activities authorized by sections 130005 and 130007 of Public Law 103–322, $47,780,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund: Provided, That the obligated and unobligated balances of funds previously appropriated to the General Administration, Salaries and Expenses appropriation under title VIII of Public Law 103–317 for the Executive Office for Immigration Review shall be merged with this appropriation.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,960,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $5,446,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia; $401,929,000; of which not to exceed $10,000,000 for litigation support contracts shall remain available until expended: Provided, That of the funds available in this appropriation, not to exceed $22,618,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: Provided further, That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: Provided further, That notwithstanding 31 U.S.C. 1342, the Attorney

General may accept on behalf of the United States and credit to this appropriation, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1996.

In addition, for reimbursement of expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $4,028,000, to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act, 1989, as amended by Public Law 101-512 (104 Stat. 1289).

In addition, for Salaries and Expenses, General Legal Activities, $12,000,000 shall be made available to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS, GENERAL LEGAL ACTIVITIES

For the expeditious deportation of denied asylum applicants, as authorized by section 130005 of Public Law 103-322, $7,591,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindered laws, $65,783,000: Provided, That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premeger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $17,521,000: Provided further, That any fees received in excess of $48,262,000 in fiscal year 1996, shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, including intergovernmental agreements, $895,509,000, of which not to exceed $2,500,000 shall be available until September 30, 1997 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $10,000,000 of those funds available for automated litigation support contracts and $4,000,000 for security equipment shall remain available until expended: Provided further, That in addition to reimbursable full-time equivalent workyears available to the Office of the United States Attorneys, not to exceed 8,595 positions and 8,862 full-time equivalent workyears shall be supported from the funds appropriated in this Act for the United States Attorneys.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES ATTORNEYS

For activities authorized by sections 190001(d), 40114 and 130005 of Public Law 103-322, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $20,269,000 shall be available to help meet increased demands for litigation and related activities, $500,000 to implement a program to appoint additional Federal Victim's Counselors, and $9,231,000 for expeditious deportation of denied asylum applicants.

UNITED STATES TRUSTEE SYSTEM FUND

For necessary expenses of the United States Trustee Program, $102,390,000, as authorized by 28 U.S.C. 589a(a), to remain available until expended, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554), which shall be derived from the United States Trustee System Fund: Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: Provided further, That, notwithstanding any other provision of law, not to exceed $44,191,000 of offsetting collections derived from fees collected pursuant to section 589a(f) of title 28, United States Code, as amended, shall be retained and used for necessary expenses in this appropriation: Provided further, That the $102,390,000 herein appropriated from the United States Trustee System Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from such Fund estimated at not more than $58,199,000: Provided further, That any of the aforementioned fees collected in excess of $44,191,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $830,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $423,248,000, as authorized by 28 U.S.C. 561(i), of which not to exceed $6,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS, UNITED STATES MARSHALS SERVICE

For activities authorized by section 190001(b) of Public Law 103-322, $25,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

FEDERAL PRISONER DETENTION

(INCLUDING TRANSFER OF FUNDS)

For expenses related to United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $252,820,000, as authorized by 28 U.S.C. 561(i), to remain available until expended.

In addition, for Federal Prisoner Detention, $9,000,000 shall be made available until expended to be derived by transfer from unobligated balances of the Working Capital Fund in the Department of Justice.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $85,000,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovations, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses; and of which not to exceed $4,000,000 may be made available for the purchase, installation and maintenance of a secure automated information network to store and retrieve the identities and locations of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $5,319,000: Provided, That notwithstanding any other provision of this title, upon a determination by the Attorney General that emergent circumstances require additional funding for conflict prevention and resolution activities of the Community Relations Service, the Attorney General may transfer such amounts to the Community Relations Service, from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: Provided further, That any transfer pursuant to this section shall be treated as a reprogramming under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $30,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,655,000.

PAYMENT TO RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $16,264,000, to become available on October 1, 1996.

INTERAGENCY LAW ENFORCEMENT

INTERAGENCY CRIME AND DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $359,843,000, of which $50,000,000 shall remain available until expended: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: Provided further, That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in succeeding fiscal years, subject to the reprogramming procedures described in section 605 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-

type use of not to exceed 1,815 passenger motor vehicles of which 1,300 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; $2,189,183,000, of which not to exceed $50,000,000 for automated data processing and telecommunications and technical investigative equipment and $1,000,000 for undercover operations shall remain available until September 30, 1997; of which not less than $102,345,000 shall be for counterterrorism investigations, foreign counterintelligence, and other activities related to our national security; of which not to exceed $98,400,000 shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism, organized crime, and drug investigations; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Criminal Justice Information Services Division and the automation of fingerprint identification services: Provided, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That $58,000,000 shall be made available for NCIC 2000, of which not less than $35,000,000 shall be derived from ADP and Telecommunications unobligated balances, and of which $22,000,000 shall be derived by transfer and available until expended from unobligated balances in the Working Capital Fund of the Department of Justice.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by Public Law 103–322, $218,300,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, of which $208,800,000 shall be for activities authorized by section 190001(c); $4,000,000 for Training and Investigative Assistance authorized by section 210501(c)(2); and $5,500,000 for establishing DNA quality assurance and proficiency testing standards, establishing an index to facilitate law enforcement exchange of DNA identification information, and related activities authorized by section 210306.

CONSTRUCTION

For necessary expenses to construct or acquire buildings and sites by purchase, or as otherwise authorized by law (including equipment for such buildings); conversion and extension of federally-owned buildings; and preliminary planning and design of projects; $97,589,000, to remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,208 passenger motor vehicles, of which 1,178 will be for replacement only, for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $750,168,000, of which not to exceed $1,800,000 for research and $15,000,000 for transfer to the Drug Diversion Control Fee Account for operating expenses shall remain available until expended, and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, and not to exceed $2,000,000 for technical and laboratory equipment shall remain available until September 30, 1997, and of which not to exceed $50,000 shall be available for official reception and representation expenses.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 180104 and 190001(b) of Public Law 103–322, $60,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 813 of which 177 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $1,394,825,000, of which $36,300,000 shall remain available until September 30, 1997; of which $506,800,000 is available for the Border Patrol; of which not to exceed $400,000 for research shall remain available until expended; and of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 during the calendar year beginning January 1, 1996: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses: Provided further, That the Attorney General may transfer to the Department of Labor and the Social Security Administration not to exceed $10,000,000 for programs to verify the immigration status of persons seeking employment in the United States: Provided further, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless: (1) the checkpoints are open and traffic is being checked on a continuous 24-hour basis and (2) the Immigration and Naturalization Service undertakes a commuter lane facilitation pilot program at the San Clemente checkpoint within 90 days of enactment of this Act: Provided further, That the Immigration and Naturalization Service shall undertake the renovation and improvement of the San Clemente checkpoint, to include the addition of two to four lanes, and which shall be exempt from Federal procurement regulations for contract formation, from within existing balances in the Immigration and Naturalization Service Construction account: Provided further, That if renovation of the San Clemente checkpoint is not completed by July 1, 1996, the San Clemente checkpoint will close until such time as the renovations and improvements are completed unless funds for the continued operation of the checkpoint are provided and made available for obligation and expenditure in accordance with procedures set forth in section 605 of this Act, as the result of certification by the Attorney General that exigent circumstances require the checkpoint to be open and delays in completion of the renovations are not the result of any actions that are or have been in the control of the Department of Justice: Provided further, That the Office of Public Affairs at the Immigration and Naturalization Service shall conduct its business in areas only relating to its central mission, including: research, analysis, and dissemination of information, through the media and other communications outlets, relating to the activities of the Immigration and Naturalization Service: Provided further, That the Office of Congressional Relations at the Immigration and Naturalization Service shall conduct business in areas only relating to its central mission, including: providing services to Members of Congress relating to constituent inquiries and requests for information; and working with the relevant congressional committees on proposed legislation affecting immigration matters: Provided further, That in addition to amounts otherwise made available in this title to the Attorney General, the Attorney General is authorized to accept and utilize, on behalf of the United States, the $100,000 Innovation in American Government Award for 1995 from the Ford Foundation for the Immigration and Naturalization Service's Operation Jobs program.

VIOLENT CRIME REDUCTION PROGRAMS

For activities authorized by sections 130005, 130006, and 130007 of Public Law 103–322, $316,198,000, to remain available until expended, which will be derived from the Violent Crime Reduction Trust Fund, of which $38,704,000 shall be for expeditious deportation of denied asylum applicants, $231,570,000 for improving border controls, and $45,924,000 for expanded special deportation proceedings: Provided, That of the amounts made available, $75,765,000 shall be for the Border Patrol.

CONSTRUCTION

For planning, construction, renovation, equipping and maintenance of buildings and facilities necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, not otherwise provided for, $25,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 853, of which 559 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $2,567,578,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $6,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1997: Provided further,

That of the amounts provided for Contract Confinement, not to exceed $20,000,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses authorized by section 501(c) of the Refugee Education Assistance Act of 1980 for the care and security in the United States of Cuban and Haitian entrants: Provided further, That no funds appropriated in this Act shall be used to privatize any Federal prison facilities located in Forrest City, Arkansas, and Yazoo City, Mississippi.

VIOLENT CRIME REDUCTION PROGRAMS

For substance abuse treatment in Federal prisons as authorized by section 32001(e) of Public Law 103-322, $13,500,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $334,728,000, to remain available until expended, of which not to exceed $14,074,000 shall be available to construct areas for inmate work programs: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 percent of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 605 of this Act: Provided further, That of the total amount appropriated, not to exceed $22,351,000 shall be available for the renovation and construction of United States Marshals Service prisoner holding facilities.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,559,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's current prescribed accounting system, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, and with the Victims of Crime Act of 1984, as amended, $99,977,000, to remain available until expended, as authorized by section 1001 of title I of the Omnibus Crime Control and Safe Streets Act, as amended by Public Law 102-534 (106 Stat. 3524).

VIOLENT CRIME REDUCTION PROGRAMS, JUSTICE ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $202,400,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $6,000,000 shall be for the Court Appointed Special Advocate Program, as authorized by section 218 of the 1990 Act; $750,000 for Child Abuse Training Programs for Judicial Personnel and Practitioners, as authorized by section 224 of the 1990 Act; $130,000,000 for Grants to Combat Violence Against Women to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(18) of the 1968 Act; $28,000,000 for Grants to Encourage Arrest Policies to States, units of local governments and Indian tribal governments, as authorized by section 1001(a)(19) of the 1968 Act; $7,000,000 for Rural Domestic Violence and Child Abuse Enforcement Assistance Grants, as authorized by section 40295 of the 1994 Act; $1,000,000 for training programs to assist probation and parole officers who work with released sex offenders, as authorized by section 40152(c) of the Violent Crime Control and Law Enforcement Act of 1994; $50,000 for grants for televised testimony, as authorized by section 1001(a)(7) of the Omnibus Crime Control and Safe Streets Act of 1968; $200,000 for the study of State databases on the incidence of sexual and domestic violence, as authorized by section 40292 of the Violent Crime Control and Law Enforcement Act of 1994; $1,500,000 for national stalker and domestic violence reduction, as authorized by section 40603 of the 1994 Act; $27,000,000 for grants for residential substance abuse treatment for State prisoners authorized by section 1001(a)(17) of the 1968 Act; and $900,000 for the Missing Alzheimer's Disease Patient Alert Program, as authorized by section 240001(d) of the 1994 Act: Provided, That any balances for these programs shall be transferred to and merged with this appropriation.

STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, notwithstanding the provisions of section 511 of said Act, $388,000,000, to remain available until expended, as authorized by section 1001 of title I of said Act, as amended by Public Law 102-534 (106 Stat. 3524), of which $60,000,000 shall be available to carry out the provisions of chapter A of subpart 2 of part E of title I of said Act, for discretionary grants under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs: Provided, That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

For assistance (including amounts for administrative costs for management and administration, which amounts shall be transferred to and merged with the "Justice Assistance" account) authorized by the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322 ("the 1994 Act"); the Omnibus Crime Control and Safe Streets Act of 1968, as amended ("the 1968 Act"); and the Victims of Child Abuse Act of 1990, as amended ("the 1990 Act"); $3,005,200,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund; of which $1,903,000,000 shall be for Local Law Enforcement Block Grants, pursuant to H.R. 728 as passed by the House of Representatives on February 14, 1995 for the purposes set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728 and for establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals: Provided, That recipients are encouraged to use these funds to hire additional law enforcement officers: Provided further, That no less than $975,000,000 of this amount shall be available for Public Safety and Community Policing grants pursuant to title I of the 1994 Act: Provided further, That no less than $20,000,000 shall be for the District of Columbia Metropolitan Police Department to be used at the discretion of the police chief for law enforcement purposes, conditioned upon prior written consultation and notification being given to the chairman and ranking members of the House and Senate Committees on the Judiciary and Appropriations: Provided further, That no less than $25,000,000 of this amount shall be for drug courts pursuant to title V of the 1994 Act: Provided further, That not less than $20,000,000 of this amount shall be for Boys & Girls Clubs of America for the establishment of Boys & Girls Clubs in public housing facilities and other areas in cooperation with State and local law enforcement: Provided further, That not less than $80,000,000 of such amount shall be for crime prevention block grants pursuant to subtitle B of title III of the 1994 Act: Provided further, That funds may also be used to defray the costs of indemnification insurance for law enforcement officers: Provided further, That $10,000,000 of this amount shall be available for programs of Police Corps education, training and service as set forth in sections 200101-200113 of the 1994 Act; $25,000,000 for grants to upgrade criminal records, as authorized by section 106(b) of the Brady Handgun Violence Prevention Act of 1993, as amended, and section 4(b) of the National Child Protection Act of 1993; $147,000,000 as authorized by section 1001 of title I of the 1968 Act, which shall be available to carry out the provisions of subpart 1, part E of title I of the 1968 Act, notwithstanding section 511 of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; $300,000,000 for the State Criminal Alien Assistance Program, as authorized by section 242(j) of the Immigration and Nationality Act, as amended; $617,500,000 for Violent Offender Incarceration and Truth in Sentencing Incentive Grants pursuant to subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by section 114 of this Act), of which $200,000,000 shall be available for payments to States for incarceration of criminal aliens, and of which $12,500,000 shall be available for the Cooperative Agreement Program; $1,000,000 for grants to States and units of local government for projects to improve DNA analysis, as authorized by section 1001(a)(22) of the 1968 Act; $9,000,000 for Improved Training and Technical Automation

Grants, as authorized by section 210501(c)(1) of the 1994 Act; $1,000,000 for Law Enforcement Family Support Programs, as authorized by section 1001(a)(21) of the 1968 Act; $500,000 for Motor Vehicle Theft Prevention Programs, as authorized by section 220002(h) of the 1994 Act; $1,000,000 for Gang Investigation Coordination and Information Collection, as authorized by section 150006 of the 1994 Act; $200,000 for grants as authorized by section 32201(c)(3) of the 1994 Act: Provided further, That funds made available in fiscal year 1996 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions: Provided further, That any 1995 balances for these programs shall be transferred to and merged with this appropriation: Provided further, That if a unit of local government uses any of the funds made available under this title to increase the number of law enforcement officers, the unit of local government will achieve a net gain in the number of law enforcement officers who perform nonadministrative public safety service.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $28,500,000, which shall be derived from discretionary grants provided under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: Provided, That funds designated by Congress through language for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: Provided further, That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 605 of this Act.

JUVENILE JUSTICE PROGRAMS

For grants, contracts, cooperative agreements, and other assistance authorized by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith to be transferred to and merged with the appropriations for Justice Assistance, $144,000,000, to remain available until expended, as authorized by section 299 of part I of title II and section 506 of title V of the Act, as amended by Public Law 102–586, of which: (1) $100,000,000 shall be available for expenses authorized by parts A, B, and C of title II of the Act; (2) $10,000,000 shall be available for expenses authorized by sections 281 and 282 of part D of title II of the Act for prevention and treatment programs relating to juvenile gangs; (3) $10,000,000 shall be available for expenses authorized by section 285 of part E of title II of the Act; (4) $4,000,000 shall be available for expenses authorized by part G of title II of the Act for juvenile mentoring programs; and (5) $20,000,000 shall be available for expenses authorized by title V of the Act for incentive grants for local delinquency prevention programs.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by the Victims of Child Abuse Act of 1990, as amended, $4,500,000, to remain available until expended, as authorized by section 214B, of the Act: Provided, That balances of amounts appropriated prior to fiscal year 1995 under the authorities of this account shall be transferred to and merged with this account.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340), and, in addition, $2,134,000, to remain available until expended, for payments as authorized by section 1201(b) of said Act.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. In addition to amounts otherwise made available in this title for official reception and representation expenses, a total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available to the Attorney General for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. Subject to section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993, as amended by section 112 of this Act, authorities contained in Public Law 96–132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term, or in the case of rape: Provided, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Notwithstanding any other provision of law, not to exceed $10,000,000 of the funds made available in this Act may be used to establish and publicize a program under which publicly-advertised, extraordinary rewards may be paid, which shall not be subject to spending limitations contained in sections 3059 and 3072 of title 18, United States Code: Provided, That any reward of $100,000 or more, up to a maximum of $2,000,000, may not be made without the personal approval of the President or the Attorney General and such approval may not be delegated.

SEC. 107. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in this Act, including those derived from the Violent Crime Reduction Trust Fund, may be transferred between such appropriations, but no such appropriation, except "salaries and expenses, Community Relations Service" or as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 108. For fiscal year 1996 and each fiscal year thereafter, amounts in the Federal Prison System's Commissary Fund, Federal Prisons, which are not currently needed for operations, shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investment shall be deposited in the Commissary Fund.

SEC. 109. (a) Section 524(c)(8)(E) of title 28, United States Code, is amended by deleting "1994" and inserting "1995" in place thereof.

(b) Section 524(c)(9) is amended to read as follows: "(9) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such property.".

SEC. 110. Hereafter, notwithstanding any other provision of law—

(1) No transfers may be made from Department of Justice accounts other than those authorized in this Act, or in previous or subsequent appropriations Acts for the Department of Justice, or in part II of title 28 of the United States Code, or in section 10601 of title 42 of the United States Code; and

(2) No appropriation account within the Department of Justice shall have its allocation of funds controlled by other than an apportionment issued by the Office of Management and Budget or an allotment advice issued by the Department of Justice.

SEC. 111. (a) Section 1930(a)(6) of title 28, United States Code, is amended by striking "a plan is confirmed or".

(b) Section 589a(b)(5) of such title is amended by striking ";" and inserting, "until a reorganization plan is confirmed;".

(c) Section 589a(f) of such title is amended—

(1) in paragraph (2) by striking "." and inserting, "until a reorganization plan is confirmed;", and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) 100 percent of the fees collected under section 1930(a)(6) of this title after a reorganization plan is confirmed.".

SEC. 112. Public Law 102–395, section 102 is amended as follows: (1) in subsection (b)(1) strike "years 1993, 1994, and 1995" and insert "year 1996"; (2) in subsection (b)(1)(C) strike "years 1993, 1994, and 1995" and insert "year 1996"; and (3) in subsection (b)(5)(A) strike "years 1993, 1994, and 1995" and insert "year 1996".

SEC. 113. Public Law 101–515 (104 Stat. 2112; 28 U.S.C. 534 note) is amended by inserting "and criminal justice information" after "for the automation of finger-print identification".

SEC. 114. (a) GRANT PROGRAM.—Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

"Subtitle A—Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants

"SEC. 20101. DEFINITIONS.

"As used in this subtitle—

"(1) the term 'indeterminate sentencing' means a system by which—

"(A) the court may impose a sentence of a range defined by statute; and

"(B) an administrative agency, generally the parole board, or the court, controls release within the statutory range;

"(2) the term 'sentencing guidelines' means a system of sentences which—

"(A) is established for use by a sentencing court in determining the sentence to be imposed in a criminal case; and

"(B) increases certainty in sentencing, thereby providing assurances to victims of the sentence to be served;

"(3) the term 'part 1 violent crime' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports; and

"(4) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

"SEC. 20102. AUTHORIZATION OF GRANTS.

"(a) IN GENERAL.—The Attorney General shall provide Violent Offender Incarceration grants under section 20103(a) and Truth-in-Sentencing Incentive grants under section 20103(b) to eligible States—

"(1) to build or expand correctional facilities to increase the bed capacity for the confinement of persons convicted of a part 1 violent crime or adjudicated delinquent for an act which if committed by an adult, would be a part 1 violent crime;

"(2) to build or expand temporary or permanent correctional facilities, including facilities on military bases, prison barges, and boot camps, for the confinement of convicted nonviolent offenders and criminal aliens, for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a part 1 violent crime; and

"(3) to build or expand jails.

"(b) REGIONAL COMPACTS.—

"(1) IN GENERAL.—Subject to paragraph (2), States may enter into regional compacts to carry out this subtitle. Such compacts shall be treated as States under this subtitle.

"(2) REQUIREMENT.—To be recognized as a regional compact for eligibility for a grant under section 20103 (a) or (b), each member State must be eligible individually.

"(3) LIMITATION ON RECEIPT OF FUNDS.—No State may receive a grant under this subtitle both individually and as part of a compact.

"(c) APPLICABILITY.—Notwithstanding the eligibility requirements of section 20103, a State that certifies to the Attorney General that, as of the date of enactment of the Department of Justice Appropriations Act, 1996, such State has enacted legislation in reliance on subtitle A of title II of the Violent Crime Control and Law Enforcement Act, as enacted on September 13, 1994, and would in fact qualify under those provisions, shall be eligible to receive a grant for fiscal year 1996 as though such State qualifies under section 20103 of this subtitle.

"SEC. 20103. GRANT ELIGIBILITY.

"(a) VIOLENT OFFENDER INCARCERATION GRANTS.—To be eligible to receive a grant under this subtitle, a State shall submit an application to the Attorney General that provides assurances that the State has implemented, or will implement, correctional policies and programs, including truth-in-sentencing laws that ensure that violent offenders serve a substantial portion of the sentences imposed, that are designed to provide sufficiently severe punishment for violent offenders, including violent juvenile offenders, and that the prison time served is appropriately related to the determination that the inmate is a violent offender and for a period of time deemed necessary to protect the public.

"(b) TRUTH-IN-SENTENCING INCENTIVES.—

"(1) ELIGIBILITY.—To be eligible to receive an additional grant award under this subsection, a State shall submit an application to the Attorney General that demonstrates that—

"(A) such State has implemented truth-in-sentencing laws that—

"(i) require persons convicted of a part 1 violent crime to serve not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior); or

"(ii) result in persons convicted of a part 1 violent crime serving on average not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior);

"(B) such State has truth-in-sentencing laws that have been enacted, but not yet implemented, that require such State, not later than 3 years after such State submits an application to the Attorney General, to provide that persons convicted of a part 1 violent crime serve not less than 85 percent of the sentence imposed (not counting time not actually served, such as administrative or statutory incentives for good behavior);

"(C) in the case of a State that on the date of enactment of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1996, practices indeterminate sentencing with regard to any part 1 violent crime, persons convicted of a part 1 violent crime in such State on average serve not less than 85 percent of the sentence established under the State's sentencing guidelines (not counting time not actually served, such as administrative or statutory incentives for good behavior); or

"(D) the number of new court commitments to prison for part 1 violent crimes has increased by 10 percent or more over the most recent 3-year period.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a State may provide that the Governor of the State may allow for the earlier release of—

"(A) a geriatric prisoner; or

"(B) a prisoner whose medical condition precludes the prisoner from posing a threat to the public, but only after a public hearing in which representatives of the public and the prisoner's victims have had an opportunity to be heard regarding a proposed release.

"SEC. 20104. SPECIAL RULES.

"(a) SHARING OF FUNDS WITH COUNTIES AND OTHER UNITS OF LOCAL GOVERNMENT.—

"(1) RESERVATION.—Each State shall reserve not more than 15 percent of the amount of funds allocated in a fiscal year pursuant to section 20105 for counties and units of local government to construct, develop, expand, modify, or improve jails and other correctional facilities.

"(2) FACTORS FOR DETERMINATION OF AMOUNT.—To determine the amount of funds to be reserved under this subsection, a State shall consider the burden placed on a county or unit of local government that results from the implementation of policies adopted by the State to carry out section 20103.

"(b) ADDITIONAL REQUIREMENT.—To be eligible to receive a grant under section 20103, a State shall provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle policies that provide for the recognition of the rights and needs of crime victims.

"(c) FUNDS FOR JUVENILE OFFENDERS.—Notwithstanding any other provision of this subtitle, if a State, or unit of local government located in a State that otherwise meets the requirements of section 20103, certifies to the Attorney General that exigent circumstances exist that require the State to expend funds to build or expand facilities to confine juvenile offenders other than juvenile offenders adjudicated delinquent for an act which, if committed by an adult, would be a part 1 violent crime, the State may use funds received under this subtitle to build or expand juvenile correctional facilities or pretrial detention facilities for juvenile offenders.

"(d) PRIVATE FACILITIES.—A State may use funds received under this subtitle for the privatization of facilities to carry out the purposes of section 20102.

"(e) DEFINITION.—In a case in which a State defines a part 1 violent crime differently than the definition provided in the Uniform Crime Reports, the Attorney General shall determine and designate whether the definition by such State is substantially similar to the definition provided in the Uniform Crime Reports.

"SEC. 20105. FORMULA FOR GRANTS.

"In determining the amount of funds that may be granted to each State eligible to receive a grant under section 20103, the Attorney General shall apply the following formula:

"(1) MINIMUM AMOUNT FOR GRANTS UNDER SECTION 20103(a).—Of the amount set aside for grants for section 20103(a), 0.75 percent shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.05 percent.

"(2) MINIMUM AMOUNT FOR GRANTS UNDER SECTION 20103(b).—Of the amount set aside for additional grant awards under section 20103(b)—

"(A) if fewer than 20 States are awarded grants under section 20103(b), 2.5 percent of the amounts paid shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.05 percent; and

"(B) if 20 or more States are awarded grants under section 20103(b), 2.0 percent of the amounts awarded shall be allocated to each eligible State, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands shall each be allocated 0.04 percent.

"(3) ALLOCATION OF ADDITIONAL AMOUNTS.—

"(A) ALLOCATION OF REMAINING AMOUNTS UNDER SECTION 20103(a).—The amounts remaining after the application of paragraph (1) shall be allocated to each eligible State in the ratio that the population of such State bears to the population of all States.

"(B) DISTRIBUTION OF REMAINING AMOUNTS UNDER SECTION 20103(b).—The amounts remaining after the application of paragraph (2) shall be allocated to each eligible State in the ratio that the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by all such States to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.

"(C) UNAVAILABLE DATA.—If data regarding part 1 violent crimes in any State is unavailable for the 3 years preceding the year in which the determination is made or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for the previous year for the State for the purposes of allocation of funds under this subtitle.

"(4) REGIONAL COMPACTS.—In determining the funds that States organized as a regional compact may receive, the Attorney General shall first apply the formula in either paragraph (1) or (2) and (3) of this section to each member State of the compact. The States organized as a regional compact may receive the sum of the amounts so determined.

"SEC. 20106. ACCOUNTABILITY.

"(a) FISCAL REQUIREMENTS.—A State that receives funds under this subtitle shall use accounting, audit, and fiscal procedures that conform to guidelines prescribed by the Attorney General, and shall ensure that any funds used to carry out the programs under section 20102(a)

shall represent the best value for the State governments at the lowest possible cost and employ the best available technology.

"(b) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General under this subtitle in the same manner that such provisions apply to the officials listed in such sections.

"SEC. 20107. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—

"(1) AUTHORIZATIONS.—There are authorized to be appropriated to carry out this subtitle—

"(A) $997,500,000 for fiscal year 1996;

"(B) $1,330,000,000 for fiscal year 1997;

"(C) $2,527,000,000 for fiscal year 1998;

"(D) $2,660,000,000 for fiscal year 1999; and

"(E) $2,753,100,000 for fiscal year 2000.

"(2) DISTRIBUTION.—

"(A) IN GENERAL.—Subject to section 20108, of the amount appropriated pursuant to paragraph (1), the Attorney General shall reserve—

"(i) in fiscal year 1996, 50 percent for grants under section 20103(a), and 50 percent for additional incentive awards under section 20103(b);

"(ii) in fiscal year 1997, 30 percent for grants under section 20103(a), and 70 percent for additional incentive awards under section 20103(b);

"(iii) in fiscal year 1998, 20 percent for grants under section 20103(a), and 80 percent for additional incentive awards under section 20103(b);

"(iv) in fiscal year 1999, 15 percent for grants under section 20103(a), and 85 percent for additional incentive awards under section 20103(b); and

"(v) in fiscal year 2000, 10 percent for grants under section 20103(a), and 90 percent for additional incentive awards under section 20103(b);

"(B) DISTRIBUTION OF MINIMUM AMOUNTS.—The Attorney General shall distribute minimum amounts allocated under section 20105 (1) and (2) to an eligible State not later than 30 days after receiving an application that demonstrates that such State qualifies for a Violent Offender Incarceration grant under section 20103(a) or a Truth-in-Sentencing Incentive grant under section 20103(b).

"(b) LIMITATIONS ON FUNDS.—

"(1) USES OF FUNDS.—Except as provided in section 20110, funds made available pursuant to this section shall be used only to carry out the purposes described in section 20102(a).

"(2) NONSUPPLANTING REQUIREMENT.—Funds made available pursuant to this section 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.

"(3) ADMINISTRATIVE COSTS.—Not more than 3 percent of the funds made available pursuant to this section shall be used for administrative costs.

"(4) CARRYOVER OF APPROPRIATIONS.—Funds appropriated pursuant to this section during any fiscal year shall remain available until expended.

"(5) MATCHING FUNDS.—The Federal share of a grant received under this subtitle may not exceed 90 percent of the costs of a proposal as described in an application approved under this subtitle.

"SEC. 20108. PAYMENTS FOR INCARCERATION ON TRIBAL LANDS.

"(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this subtitle, from amounts appropriated under section 20107 to carry out section 20103, the Attorney General shall reserve, to carry out this section—

"(1) 0.3 percent in each of fiscal years 1996 and 1997; and

"(2) 0.2 percent in each of fiscal years 1998, 1999, and 2000.

"(b) GRANTS TO INDIAN TRIBES.—From the amounts reserved under subsection (a), the Attorney General may make grants to Indian tribes for the purposes of constructing jails on tribal lands for the incarceration of offenders subject to tribal jurisdiction.

"(c) APPLICATIONS.—To be eligible to receive a grant under this section, an Indian tribe shall submit to the Attorney General an application in such form and containing such information as the Attorney General may by regulation require.

"SEC. 20109. PAYMENTS TO ELIGIBLE STATES FOR INCARCERATION OF CRIMINAL ALIENS.

"(a) IN GENERAL.—The Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act and which meets the eligibility requirements of section 20103, in such amount as is determined under section 242(j) and for which payment is not made to such State for such fiscal year under such section.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated to carry out this section from amounts authorized under section 20107, an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for fiscal year 1996 equals $500,000,000 and for each of the fiscal years 1997 through 2000 does not exceed $650,000,000.

"(c) REPORT TO CONGRESS.—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.

"SEC. 20110. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

"(a) IN GENERAL.—The Attorney General may make payments to States and units of local government for the purposes authorized in section 4013 of title 18, United States Code.

"(b) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any other provision of this subtitle, there are authorized to be appropriated from amounts authorized under section 20107 for each of fiscal years 1996 through 2000 such sums as may be necessary to carry out this section.

"SEC. 20111. REPORT BY THE ATTORNEY GENERAL.

"Beginning on July 1, 1996, and each July 1 thereafter, the Attorney General shall report to the Congress on the implementation of this subtitle, including a report on the eligibility of the States under section 20103, and the distribution and use of funds under this subtitle.".

(b) PREFERENCE IN PAYMENTS.—Section 242(j)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(j)(4)) is amended by adding at the end the following:

"(C) In carrying out paragraph (1)(A), the Attorney General shall give preference in making payments to States and political subdivisions of States which are ineligible for payments under section 20109 of the Violent Crime Control and Law Enforcement Act of 1994.".

(c) CONFORMING AMENDMENTS.—

(1) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—

(A) PART V.—Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(B) FUNDING.—

(i) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

(ii) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as if such Act was in effect on the day preceding the date of enactment of this Act.

(2) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(A) TABLE OF CONTENTS.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V.

(B) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under title V of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as if such subtitle was in effect on the day preceding the date of enactment of this Act.

(C) TRUTH-IN-SENTENCING.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II and inserting the following:

"SUBTITLE A—VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING INCENTIVE GRANTS

"Sec. 20101. Definitions.
"Sec. 20102. Authorization of Grants.
"Sec. 20103. Grant eligibility.
"Sec. 20104. Special rules.
"Sec. 20105. Formula for grants.
"Sec. 20106. Accountability.
"Sec. 20107. Authorization of appropriations.
"Sec. 20108. Payments for Incarceration on Tribal Lands.
"Sec. 20109. Payments to eligible States for incarceration of criminal aliens.
"Sec. 20110. Support of Federal prisoners in non-Federal institutions.
"Sec. 20111. Report by the Attorney General.".

SEC. 115. Notwithstanding provisions of 41 U.S.C. 353 or any other provision of law, the Federal Prison System may enter into contracts and other agreements with private entities for a period not to exceed 3 years and 7 additional option years for the confinement of Federal prisoners.

SEC. 116. The pilot debt collection project authorized by Public Law 99–578, as amended, is extended through September 30, 1997.

SEC. 117. The definition of "educational expenses" in Section 200103 of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 is amended to read as follows:

"educational expenses" means expenses that are directly attributable to—

(A) a course of education leading to the award of the baccalaureate degree; or

(B) a course of graduate study following award of a baccalaureate degree,

including the cost of tuition, fees, books, supplies, transportation, room and board and miscellaneous expenses.

SEC. 118. (a) STATE COMPATIBILITY WITH FEDERAL BUREAU OF INVESTIGATION SYSTEMS.—(1) The Attorney General shall make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) USES.—The executive officer of each State shall use the funds made available under this subsection in conjunction with units of local government, other States, or combinations thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(A) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(B) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(C) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the

combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(D) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall require that each person convicted of a felony of a sexual nature shall provide a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(c) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this section.

(d) ALLOCATION.—The Attorney General shall allocate the funds appropriated under subsection (e) to each State based on the following formula:

(1) .25 percent shall be allocated to each of the participating States.

(2) Of the total funds remaining after the allocation under paragraph (1), each State shall be allocated an amount that bears the same ratio to the amount of such funds as the population of such State bears to the population of all States.

(e) APPROPRIATION.—$11,800,000 is appropriated to carry out the provisions in this section and shall remain available until expended.

This title may be cited as the "Department of Justice Appropriations Act, 1996".

TITLE II—DEPARTMENT OF COMMERCE AND RELATED AGENCIES

TRADE AND INFRASTRUCTURE DEVELOPMENT

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,889,000, of which $2,500,000 shall remain available until expended: Provided, That not to exceed $98,000 shall be available for official reception and representation expenses.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,000,000, to remain available until expended.

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad, including expenses of grants and cooperative agreements for the purpose of promoting exports of United States firms, without regard to 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; purchase of passenger motor vehicles for official use abroad, not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles; and rent tie lines and teletype equipment; $264,885,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $15,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $38,604,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities: Provided further, That payments and contributions collected and accepted for materials or services provided as part of such activities may be retained for use in covering the cost of such activities, and for providing information to the public with respect to the export administration and national security activities of the Department of Commerce and other export control programs of the United States and other governments.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, and for trade adjustment assistance, $328,500,000: Provided, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That, notwithstanding any other provision of law, the Secretary of Commerce may provide financial assistance for projects to be located on military installations closed or scheduled for closure or realignment to grantees eligible for assistance under the Public Works and Economic Development Act of 1965, as amended, without it being required that the grantee have title or ability to obtain a lease for the property, for the useful life of the project, when in the opinion of the Secretary of Commerce, such financial assistance is necessary for the economic development of the area: Provided further, That the Secretary of Commerce may, as the Secretary considers appropriate, consult with the Secretary of Defense regarding the title to land on military installations closed or scheduled for closure or realignment.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $20,000,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $32,000,000.

ECONOMIC AND INFORMATION INFRASTRUCTURE

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $45,900,000, to remain available until September 30, 1997.

ECONOMICS AND STATISTICS ADMINISTRATION

REVOLVING FUND

The Secretary of Commerce is authorized to disseminate economic and statistical data products as authorized by 15 U.S.C. 1525–1527 and, notwithstanding 15 U.S.C. 4912, charge fees necessary to recover the full costs incurred in their production. Notwithstanding 31 U.S.C. 3302, receipts received from these data dissemination activities shall be credited to this account, to be available for carrying out these purposes without further appropriation.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $133,812,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $150,300,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $17,000,000 to remain available until expended: Provided, That notwithstanding 31 U.S.C. 1535(d), the Secretary of Commerce is authorized to charge Federal agencies for spectrum management, analysis, and operations, and related services: Provided further, That the Secretary of Commerce is authorized to retain and use as offsetting collections all funds transferred, or previously transferred, from other Government agencies for spectrum management, analysis, and operations, and related services and for all costs incurred in telecommunications research, engineering, and related activities by the Institute for Telecommunication Sciences of the NTIA in furtherance of its assigned functions under this paragraph, and such funds received from other Government agencies shall remain available until expended.

PUBLIC BROADCASTING FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended,

$15,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed $2,200,000 shall be available for program administration as authorized by section 391 of the Act: Provided further, That notwithstanding the provisions of section 391 of the Act, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year.

INFORMATION INFRASTRUCTURE GRANTS

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,500,000, to remain available until expended as authorized by section 391 of the Act, as amended: Provided, That not to exceed $3,000,000 shall be available for program administration and other support activities as authorized by section 391 of the Act including support of the Advisory Council on National Information Infrastructure: Provided further, That of the funds appropriated herein, not to exceed 5 percent may be available for telecommunications research activities for projects related directly to the development of a national information infrastructure: Provided further, That notwithstanding the requirements of section 392(a) and 392(c) of the Act, these funds may be used for the planning and construction of telecommunications networks for the provision of educational, cultural, health care, public information, public safety or other social services.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $82,324,000, to remain available until expended: Provided, That the funds made available under this heading are to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: Provided further, That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, shall remain available until expended.

SCIENCE AND TECHNOLOGY

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $259,000,000, to remain available until expended, of which not to exceed $8,500,000 may be transferred to the "Working Capital Fund".

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Manufacturing Extension Partnership of the National Institute of Standards and Technology, $80,000,000, to remain available until expended, of which not to exceed $500,000 may be transferred to the "Working Capital Fund": Provided, That none of the funds made available under this heading in this or any other Act may be used for the purposes of carrying out additional program competitions under the Advanced Technology Program: Provided further, That any unobligated balances available from carryover of prior year appropriations under the Advanced Technology Program may be used only for the purposes of providing continuation grants.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, including architectural and engineering design, and for renovation of existing facilities, not otherwise provided for the National Institute of Standards and Technology, as authorized by 15 U.S.C. 278c–278e, $60,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; not to exceed 358 commissioned officers on the active list; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,802,677,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302 but consistent with other existing law, fees shall be assessed, collected, and credited to this appropriation as offsetting collections to be available until expended, to recover the costs of administering aeronautical charting programs: Provided further, That the sum herein appropriated from the general fund shall be reduced as such additional fees are received during fiscal year 1996, so as to result in a final general fund appropriation estimated at not more than $1,799,677,000: Provided further, That any such additional fees received in excess of $3,000,000 in fiscal year 1996 shall not be available for obligation until October 1, 1996: Provided further, That fees and donations received by the National Ocean Service for the management of the national marine sanctuaries may be retained and used for the salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302: Provided further, That in addition, $63,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": Provided further, That grants to States pursuant to sections 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to 16 U.S.C. 1456a, not to exceed $7,800,000, for purposes set forth in 16 U.S.C. 1456a(b)(2)(A), 16 U.S.C. 1456a(b)(2)(B)(v), and 16 U.S.C. 1461(e).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $50,000,000, to remain available until expended.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the repair, acquisition, leasing, or conversion of vessels, including related equipment to maintain and modernize the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $8,000,000, to remain available until expended.

FISHING VESSEL AND GEAR DAMAGE COMPENSATION FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,032,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $999,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $196,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $250,000: Provided, That none of the funds made available under this heading may be used to guarantee loans for any new fishing vessel that will increase the harvesting capacity in any United States fishery.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

For necessary expenses for the Under Secretary for Technology/Office of Technology Policy, $5,000,000.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $29,100,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $19,849,000.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

CONSTRUCTION OF RESEARCH FACILITIES

(RESCISSION)

Of the unobligated balances available under this heading, $75,000,000 are rescinded.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by the Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal

year for the Department of Commerce in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 206. (a) Should legislation be enacted to dismantle or reorganize the Department of Commerce, the Secretary of Commerce, no later than 90 days thereafter, shall submit to the Committees on Appropriations of the House and the Senate a plan for transferring funds provided in this Act to the appropriate successor organizations: Provided, That the plan shall include a proposal for transferring or rescinding funds appropriated herein for agencies or programs terminated under such legislation: Provided further, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of Commerce or the appropriate head of any successor organization(s) may use any available funds to carry out legislation dismantling or reorganizing the Department of Commerce to cover the costs of actions relating to the abolishment, reorganization or transfer of functions and any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 205 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: Provided further, That no monies appropriated under this Act or any other law shall be used by the Secretary of Commerce to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act.

SEC. 207. Notwithstanding any other provision of law (including any regulation and including the Public Works and Economic Development Act of 1965), the transfer of title to the Rutland City Industrial Complex to Hilinex, Vermont (as related to Economic Development Administration Project Number 01-11-01742) shall not require compensation to the Federal Government for the fair share of the Federal Government of that real property.

SEC. 208. (a) IN GENERAL.—The Secretary of Commerce, acting through the Assistant Secretary for Economic Development of the Department of Commerce, shall—

(1) not later than January 1, 1996, commence the demolition of the structures on, and the cleanup and environmental remediation on, the parcel of land described in subsection (b);

(2) not later than March 31, 1996, complete the demolition, cleanup, and environmental remediation under paragraph (1); and

(3) not later than April 1, 1996, convey the parcel of land described in subsection (b), in accordance with the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), to the Tuscaloosa County Industrial Development Authority, on receipt of payment of the fair market value for the parcel by the Authority, as agreed on by the Secretary and the Authority.

(b) LAND PARCEL.—The parcel of land referred to in subsection (a) is the parcel of land consisting of approximately 41 acres in Holt, Alabama (in Tuscaloosa County), that is generally known as the "Central Foundry Property", as depicted on a map, and as described in a legal description, that the Secretary, acting through the Assistant Secretary for Economic Development, determines to be satisfactory.

SEC. 209. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

This title may be cited as the "Department of Commerce and Related Agencies Appropriations Act, 1996".

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve, $25,834,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,313,000, of which $500,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $14,288,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,859,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the United States Court of Federal Claims, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $2,433,141,000 (including the purchase of firearms and ammunition); of which not to exceed $13,454,000 shall remain available until expended for space alteration projects; of which not to exceed $10,000,000 shall remain available until expended for furniture and furnishings related to new space alteration and construction projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the United States Court of Federal Claims associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,318,000, to be appropriated from the Vaccine Injury Compensation Trust Fund.

VIOLENT CRIME REDUCTION PROGRAMS

For activities of the Federal Judiciary as authorized by law, $30,000,000, to remain available until expended, which shall be derived from the Violent Crime Reduction Trust Fund, as authorized by section 190001(a) of Public Law 103–322.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $267,217,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i): Provided, That none of the funds provided in this Act shall be available for Death Penalty Resource Centers or Post-Conviction Defender Organizations after April 1, 1996.

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $59,028,000, to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $102,000,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $47,500,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,914,000; of which $1,800,000 shall remain available through September 30, 1997, to provide education and training to Federal court personnel; and of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund, as authorized by 28 U.S.C. 377(o), $24,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), $7,000,000, and to the United States Court of Federal Claims Judges' Retirement Fund, as authorized by 28 U.S.C. 178(l), $1,900,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,500,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in this Act may be transferred between such appropriations, but no such appropriation, except "Courts of Appeals, District Courts, and other Judicial Services, Defender Services", shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Notwithstanding any other provision of law, the salaries and expenses appropriation for district courts, courts of appeals, and other judicial services shall be available for official reception and representation expenses of the Judicial Conference of the United States: Provided, That such available funds shall not exceed $10,000 and shall be administered by the Director of the Administrative Office of the United States Courts in his capacity as Secretary of the Judicial Conference.

SEC. 305. Section 333 of title 28, United States Code, is amended—

(1) in the first paragraph by striking "shall" the first, second, and fourth place it appears and inserting "may"; and

(2) in the second paragraph—

(A) by striking "shall" the first place it appears and inserting "may"; and

(B) by striking ", and unless excused by the chief judge, shall remain throughout the conference".

This title may be cited as "The Judiciary Appropriations Act, 1996".

TITLE IV—DEPARTMENT OF STATE AND RELATED AGENCIES

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For necessary expenses of the Department of State and the Foreign Service not otherwise provided for, including expenses authorized by the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674; and for expenses of general administration, $1,708,800,000: Provided, That notwithstanding section 140(a)(5), and the second sentence of section 140(a)(3) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), not to exceed $125,000,000 of fees may be collected during fiscal year 1996 under the authority of section 140(a)(1) of that Act: Provided further, That all fees collected under the preceding proviso shall be deposited in fiscal year 1996 as an offsetting collection to appropriations made under this heading to recover the costs of providing consular services and shall remain available until expended: Provided further, That starting in fiscal year 1997, a system shall be in place that allocates to each department and agency the full cost of its presence outside of the United States.

Of the funds provided under this heading, $24,856,000 shall be available only for the Diplomatic Telecommunications Service for operation of existing base services and not to exceed $17,144,000 shall be available only for the enhancement of the Diplomatic Telecommunications Service and shall remain available until expended. Of the latter amount, $9,600,000 shall not be made available until expiration of the 15 day period beginning on the date when the Secretary of State and the Director of the Diplomatic Telecommunications Service submit the pilot program report required by section 507 of Public Law 103–317.

In addition, not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717; and in addition not to exceed $1,223,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553, as amended by section 120 of Public Law 101–246); and in addition not to exceed $15,000 which shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State of Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)).

Notwithstanding section 402 of this Act, not to exceed 20 percent of the amounts made available in this Act in the appropriation accounts, "Diplomatic and Consular Programs" and "Salaries and Expenses" under the heading "Administration of Foreign Affairs" may be transferred between such appropriation accounts: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

For an additional amount for security enhancements to counter the threat of terrorism, $9,720,000, to remain available until expended.

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of State and the Foreign Service, provided for by law, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended, $363,276,000.

For an additional amount for security enhancements to counter the threat of terrorism, $1,870,000, to remain available until expended.

CAPITAL INVESTMENT FUND

For necessary expenses of the Capital Investment Fund, $16,400,000, to remain available until expended, as authorized in Public Law 103–236: Provided, That section 135(e) of Public Law 103–236 shall not apply to funds appropriated under this heading.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App.), $27,369,000, notwithstanding section 209(a)(1) of the Foreign Service Act of 1980 (Public Law 96–465), as it relates to post inspections: Provided, That notwithstanding any other provision of law, (1) the Office of the Inspector General of the United States Information Agency is hereby merged with the Office of the Inspector General of the Department of State; (2) the functions exercised and assigned to the Office of the Inspector General of the United States Information Agency before the effective date of this Act (including all related functions) are transferred to the Office of the Inspector General of the Department of State; and (3) the Inspector General of the Department of State shall also serve as the Inspector General of the United States Information Agency.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,500,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and 3 U.S.C. 208, $8,579,000.

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $385,760,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): Provided, That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $6,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $1,000,000 may be transferred to and merged with the Repatriation Loans Program Account, subject to the same terms and conditions.

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $593,000, as authorized by 22 U.S.C. 2671: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry

out the direct loan program, $183,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,165,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $125,402,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $700,000,000: Provided, That any payment of arrearages shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: Provided further, That 20 percent of the funds appropriated in this paragraph for the assessed contribution of the United States to the United Nations shall be withheld from obligation and expenditure until a certification is made under section 401(b) of Public Law 103–236 for fiscal year 1996: Provided further, That certification under section 401(b) of Public Law 103–236 for fiscal year 1996 may only be made if the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives are notified of the steps taken, and anticipated, to meet the requirements of section 401(b) of Public Law 103–236 at least 15 days in advance of the proposed certification: Provided further, That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For necessary expenses to pay assessed and other expenses of international peacekeeping activities directed to the maintenance or restoration of international peace and security, $225,000,000: Provided, That none of the funds made available under this Act shall be obligated or expended for any new or expanded United Nations peacekeeping mission unless, at least fifteen days in advance of voting for the new or expanded mission in the United Nations Security Council (or in an emergency, as far in advance as is practicable), (1) the Committees on Appropriations of the House of Representatives and the Senate and other appropriate Committees of the Congress are notified of the estimated cost and length of the mission, the vital national interest that will be served, and the planned exit strategy; and (2) a reprogramming of funds pursuant to section 605 of this Act is submitted, and the procedures therein followed, setting forth the source of funds that will be used to pay for the cost of the new or expanded mission: Provided further, That funds shall be available for peacekeeping expenses only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for United Nations peacekeeping activities equal to those being given to foreign manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $3,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $12,058,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $6,644,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for the International Joint Commission and the International Boundary Commission, United States and Canada, as authorized by treaties between the United States and Canada or Great Britain, and for the Border Environment Cooperation Commission as authorized by Public Law 103–182; $5,800,000, of which not to exceed $9,000 shall be available for representation expenses incurred by the International Joint Commission.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,669,000: Provided, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $5,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses not otherwise provided, for arms control, nonproliferation, and disarmament activities, $35,700,000, of which not to exceed $50,000 shall be for official reception and representation expenses as authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.).

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $445,645,000: Provided, That not to exceed $1,400,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: Provided further, That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: Provided further, That not to exceed $1,700,000 to remain available until expended may be used to carry out projects involving security construction and related improvements for agency facilities not physically located together with Department of State facilities abroad.

TECHNOLOGY FUND

For expenses necessary to enable the United States Information Agency to provide for the procurement of information technology improvements, as authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $5,050,000, to remain available until expended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of educational and cultural exchange programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $200,000,000, to remain available until expended as authorized by 22 U.S.C. 2455: Provided, That $1,800,000 of this amount shall be available for the Mike Mansfield Fellowship Program as authorized by section 252 of Public Law 103–236.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated, as authorized by sections 4 and 5 of the Eisenhower Exchange Fellowship Act of 1990 (20 U.S.C. 5204–05), all interest and earnings accruing to the Eisenhower Exchange Fellowship Program Trust Fund on or before September 30, 1996, to remain available until expended: Provided, That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Non-profit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452), all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1996, to remain available until expended.

AMERICAN STUDIES COLLECTIONS ENDOWMENT FUND

For necessary expenses of American Studies Collections as authorized by section 235 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, all interest and earnings accruing to the American Studies Collections Endowment Fund on or before September 30, 1996, to remain available until expended.

INTERNATIONAL BROADCASTING OPERATIONS

For expenses necessary to enable the United States Information Agency, as authorized by the United States Information and Educational Exchange Act of 1948, as amended, the United States International Broadcasting Act of 1994, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication activities; $325,191,000, of which $5,000,000 shall remain available until expended, not to exceed $16,000 may be used for official receptions within the United States as authorized by 22 U.S.C. 1474(3), not to exceed $35,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085, and not to exceed $39,000 may be used for official reception and representation expenses of Radio Free Europe/Radio Liberty; and in addition, not to exceed $250,000 from fees as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended, to remain available until expended for carrying out authorized purposes; and in addition, notwithstanding any other provision of law, not to exceed $1,000,000 in monies received (including receipts from advertising, if any) by or for the use of the United States Information Agency from or in connection with broadcasting resources owned by or on behalf of the Agency, to be available until expended for carrying out authorized purposes.

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended, the Television Broadcasting to Cuba Act, and the International Broadcasting Act of 1994, including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception, $24,809,000 to remain available until expended: Provided, That not later than April 1, 1996, the headquarters of the Office of Cuba Broadcasting shall be relocated from Washington, D.C. to south Florida, and that any funds available under the headings "International Broadcasting Operations", "Broadcasting to Cuba", and "Radio Construction" may be available to carry out this relocation.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $40,000,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $11,750,000: Provided, That none of the funds appropriated herein shall be used to pay any salary, or enter into any contract providing for the payment thereof, in excess of the rate authorized by 5 U.S.C. 5376.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991 (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $2,000,000, to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE AND RELATED AGENCIES

SEC. 401. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 402. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: Provided further, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 403. Funds appropriated or otherwise made available under this Act or any other Act may be expended for compensation of the United States Commissioner of the International Boundary Commission, United States and Canada, only for actual hours worked by such Commissioner.

SEC. 404. (a) No later than 90 days after enactment of legislation consolidating, reorganizing or downsizing the functions of the Department of State, the United States Information Agency, and the Arms Control and Disarmament Agency, the Secretary of State, the Director of the United States Information Agency and the Director of the Arms Control and Disarmament Agency shall submit to the Committees on Appropriations of the House and the Senate a proposal for transferring or rescinding funds appropriated herein for functions that are consolidated, reorganized or downsized under such legislation: Provided, That such plan shall be transmitted in accordance with section 605 of this Act.

(b) The Secretary of State, the Director of the United States Information Agency, and the Director of the Arms Control and Disarmament Agency, as appropriate, may use any available funds to cover the costs of actions to consolidate, reorganize or downsize the functions under their authority required by such legislation, and of any related personnel action, including voluntary separation incentives if authorized by such legislation: Provided, That the authority to transfer funds between appropriations accounts that may be necessary to carry out this section is provided in addition to authorities included under section 402 of this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 405. Funds appropriated by this Act for the United States Information Agency, the Arms Control and Disarmament Agency, and the Department of State may be obligated and expended notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948 and section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995, section 53 of the Arms Control and Disarmament Act, and section 15 of the State Department Basic Authorities Act of 1956.

SEC. 406. Section 36(a)(1) of the State Department Authorities Act of 1956, as amended (22 U.S.C. 2708), is amended to delete "may pay a reward" and insert in lieu thereof "shall establish and publicize a program under which rewards may be paid".

SEC. 407. Section 8 of the Eisenhower Exchange Fellowship Act of 1990 is amended in the last sentence by striking "fiscal year 1995" and inserting "fiscal year 1999".

SEC. 408. Sections 6(a) and 6(b) of Public Law 101–454 are repealed. In addition, notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996–1998.

SEC. 409. It is the sense of the Senate that none of the funds appropriated or otherwise made available pursuant to this Act should be used for the deployment of combat-equipped forces of the Armed Forces of the United States for any ground operations in Bosnia and Herzegovina unless—

(1) Congress approves in advance the deployment of such forces of the Armed Forces; or

(2) the temporary deployment of such forces of the Armed Forces of the United States into Bosnia and Herzegovina is necessary to evacuate United Nations peacekeeping forces from a situation of imminent danger, to undertake emergency air rescue operations, or to provide for the airborne delivery of humanitarian supplies, and the President reports as soon as practicable to Congress after the initiation of the temporary deployment, but in no case later than 48 hours after the initiation of the deployment.

SEC. 410. Any costs incurred by a Department or agency funded under this title resulting from personnel actions taken in response to funding reductions included in this title shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 411. Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) is amended by inserting "Tinian," after "Sao Tome,".

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1996".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $162,610,000, to remain available until expended.

MARITIME NATIONAL SECURITY PROGRAM

For necessary expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States as determined by the Secretary of Defense in consultation with the Secretary of Transportation, $46,000,000, to remain available until expended: Provided, That these funds will be available only upon enactment of an authorization for this program.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,600,000, to remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies and may be transferred to the Secretary of the Interior for use as provided in the National Maritime Heritage Act (Public Law 103-451): Provided further, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

For the cost of guaranteed loans, as authorized by the Merchant Marine Act of 1936, $40,000,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,000,000,000.

In addition, for administrative expenses to carry out the guaranteed loan program, not to exceed $3,500,000, which shall be transferred to and merged with the appropriation for Operations and Training.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $206,000, as authorized by Public Law 99-83, section 1303.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $8,750,000: Provided, That not to exceed $50,000 may be used to employ consultants: Provided further, That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: Provided further, That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairperson who is permitted 125 billable days.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $1,894,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $1,090,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council, $100,000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $26,500,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991; $233,000,000: Provided, That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by 5 U.S.C. 5901-02; not to exceed $600,000 for land and structure; not to exceed $500,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $195,709,000, of which not to exceed $300,000 shall remain available until September 30, 1997, for research and policy studies: Provided, That $136,400,000 of offsetting collections shall be assessed and collected pursuant to section 9 of title I of the Communications Act of 1934, as amended, and shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1996 so as to result in a final fiscal year 1996 appropriation estimated at $59,309,000: Provided further, That any offsetting collections received in excess of $136,400,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1, 1996: Provided further, That the Commission shall amend its schedule of regulatory fees set forth in section 1.1153 of title 47, CFR, authorized by section 9 of title I of the Communications Act of 1934, as amended by: (1) striking "$22,420" in the Annual Regulatory Fee column for VHF Commercial Markets 1 through 10 and inserting "$32,000"; (2) striking "$19,925" in the Annual Regulatory Fee column for VHF Commercial Markets 11 through 25 and inserting "$26,000"; (3) striking "$14,950" in the Annual Regulatory Fee column for VHF Commercial Markets 26 through 50 and inserting "$17,000"; (4) striking "$9,975" in the Annual Regulatory Fee column for VHF Commercial Markets 51 through 100 and inserting "$9,000"; (5) striking "$6,225" in the Annual Regulatory Fee column for VHF Commercial Remaining Markets and inserting "$2,500"; and (6) striking "$17,925" in the Annual Regulatory Fee column for UHF Commercial Markets 1 through 10 and inserting "$25,000"; (7) striking "$15,950" in the Annual Regulatory Fee column for UHF Commercial Markets 11 through 25 and inserting "$20,000"; (8) striking "$11,950" in the Annual Regulatory Fee column for UHF Commercial Markets 26 through 50 and inserting "$13,000"; (9) striking "$7,975" in the Annual Regulatory Fee column for UHF Commercial Markets 51 through 100 and inserting "$7,000"; and (10) striking "$4,975" in the Annual Regulatory Fee column for UHF Commercial Remaining Markets and inserting "$2,000": Provided further, That the FCC shall pay the travel-related expenses of the Federal-State Joint Board on Universal Service for those activities described in the Telecommunications Act of 1996 (47 U.S.C. 254(a)(1)).

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $14,855,000: Provided, That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $79,568,000: Provided, That not to exceed $300,000 shall be available for use to contract with a person or persons for collection services in accordance with the terms of 31 U.S.C. 3718, as amended: Provided further, That notwithstanding any other provision of law, not to exceed $48,262,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: Provided further, That the sum herein appropriated from the General Fund shall be reduced as such offsetting collections are received during fiscal year 1996, so as to result in a final fiscal year 1996 appropriation from the General Fund estimated at not more than $31,306,000, to remain available until expended: Provided further, That any fees received in excess of $48,262,000 in fiscal year 1996 shall remain available until expended, but shall not be available for obligation until October 1,

1996: Provided further, That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285).

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission, as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,247,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $300,000,000, of which $290,750,000 is for basic field programs and required independent audits carried out in accordance with section 509; $250,000 is for a payment to an opposing party for attorney's fees and expenses relating to civil actions named In the Matter of Baby Boy Doe, and Doe v. Roe and Indian tribe, with docket numbers 19512 and 21723 (Idaho February 23, 1996); $1,500,000 is for the Office of the Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients in accordance with section 509 of this Act; and $7,500,000 is for management and administration: Provided, That $198,750,000 of the total amount provided under this heading for basic field programs shall not be available except for the competitive award of grants and contracts under section 503 of this Act.

ADMINISTRATIVE PROVISIONS—LEGAL SERVICES CORPORATION

SEC. 501. (a) Funds appropriated under this Act to the Legal Services Corporation for basic field programs shall be distributed as follows:

(1) The Corporation shall define geographic areas and make the funds available for each geographic area on a per capita basis relative to the number of individuals in poverty determined by the Bureau of the Census to be within the geographic area, except as provided in paragraph (2)(B). Funds for such a geographic area may be distributed by the Corporation to 1 or more persons or entities eligible for funding under section 1006(a)(1)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)), subject to sections 502 and 504.

(2) Funds for grants from the Corporation, and contracts entered into by the Corporation for basic field programs, shall be allocated so as to provide—

(A) except as provided in subparagraph (B), an equal figure per individual in poverty for all geographic areas, as determined on the basis of the most recent decennial census of population conducted pursuant to section 141 of title 13, United States Code (or, in the case of the Republic of Palau, the Federated States of Micronesia, the Republic of the Marshall Islands, Alaska, Hawaii, and the United States Virgin Islands, on the basis of the adjusted population counts historically used as the basis for such determinations); and

(B) an additional amount for Native American communities that received assistance under the Legal Services Corporation Act for fiscal year 1995, so that the proportion of the funds appropriated to the Legal Services Corporation for basic field programs for fiscal year 1996 that is received by the Native American communities shall be not less than the proportion of such funds appropriated for fiscal year 1995 that was received by the Native American communities.

(b) As used in this section:

(1) The term "individual in poverty" means an individual who is a member of a family (of 1 or more members) with an income at or below the poverty line.

(2) The term "poverty line" means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

SEC. 502. None of the funds appropriated in this Act to the Legal Services Corporation shall be used by the Corporation to make a grant, or enter into a contract, for the provision of legal assistance unless the Corporation ensures that the person or entity receiving funding to provide such legal assistance is—

(1) a private attorney admitted to practice in a State or the District of Columbia;

(2) a qualified nonprofit organization, chartered under the laws of a State or the District of Columbia, that—

(A) furnishes legal assistance to eligible clients; and

(B) is governed by a board of directors or other governing body, the majority of which is comprised of attorneys who—

(i) are admitted to practice in a State or the District of Columbia; and

(ii) are appointed to terms of office on such board or body by the governing body of a State, county, or municipal bar association, the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance;

(3) a State or local government (without regard to section 1006(a)(1)(A)(ii) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1)(A)(ii)); or

(4) a substate regional planning or coordination agency that serves a substate area and whose governing board is controlled by locally elected officials.

SEC. 503. (a)(1) Not later than April 1, 1996, the Legal Services Corporation shall implement a system of competitive awards of grants and contracts for all basic field programs, which shall apply to all such grants and contracts awarded by the Corporation after March 31, 1996, from funds appropriated in this Act.

(2) Any grant or contract awarded before April 1, 1996, by the Legal Services Corporation to a basic field program for 1996—

(A) shall not be for an amount greater than the amount required for the period ending March 31, 1996;

(B) shall terminate at the end of such period; and

(C) shall not be renewable except in accordance with the system implemented under paragraph (1).

(3) The amount of grants and contracts awarded before April 1, 1996, by the Legal Services Corporation for basic field programs for 1996 in any geographic area described in section 501 shall not exceed an amount equal to 3/12 of the total amount to be distributed for such programs for 1996 in such area.

(b) Not later than 60 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate regulations to implement a competitive selection process for the recipients of such grants and contracts.

(c) Such regulations shall specify selection criteria for the recipients, which shall include—

(1) a demonstration of a full understanding of the basic legal needs of the eligible clients to be served and a demonstration of the capability of serving the needs;

(2) the quality, feasibility, and cost effectiveness of a plan submitted by an applicant for the delivery of legal assistance to the eligible clients to be served; and

(3) the experience of the Legal Services Corporation with the applicant, if the applicant has previously received financial assistance from the Corporation, including the record of the applicant of past compliance with Corporation policies, practices, and restrictions.

(d) Such regulations shall ensure that timely notice regarding an opportunity to submit an application for such an award is published in periodicals of local and State bar associations and in at least 1 daily newspaper of general circulation in the area to be served by the person or entity receiving the award.

(e) No person or entity that was previously awarded a grant or contract by the Legal Services Corporation for the provision of legal assistance may be given any preference in the competitive selection process.

(f) For the purposes of the funding provided in this Act, rights under sections 1007(a)(9) and 1011 of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(9) and 42 U.S.C. 2996j) shall not apply.

SEC. 504. (a) None of the funds appropriated in this Act to the Legal Services Corporation may be used to provide financial assistance to any person or entity (which may be referred to in this section as a "recipient")—

(1) that makes available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or represents any party or participates in any other way in litigation, that is intended to or has the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census;

(2) that attempts to influence the issuance, amendment, or revocation of any executive order, regulation, or other statement of general applicability and future effect by any Federal, State, or local agency;

(3) that attempts to influence any part of any adjudicatory proceeding of any Federal, State, or local agency if such part of the proceeding is designed for the formulation or modification of any agency policy of general applicability and future effect;

(4) that attempts to influence the passage or defeat of any legislation, constitutional amendment, referendum, initiative, or any similar procedure of the Congress or a State or local legislative body;

(5) that attempts to influence the conduct of oversight proceedings of the Corporation or any person or entity receiving financial assistance provided by the Corporation;

(6) that pays for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, administrative expense, or related expense, associated with an activity prohibited in this section;

(7) that initiates or participates in a class action suit;

(8) that files a complaint or otherwise initiates or participates in litigation against a defendant, or engages in a precomplaint settlement negotiation with a prospective defendant, unless—

(A) each plaintiff has been specifically identified, by name, in any complaint filed for purposes of such litigation or prior to the precomplaint settlement negotiation; and

(B) a statement or statements of facts written in English and, if necessary, in a language that the plaintiffs understand, that enumerate the particular facts known to the plaintiffs on which the complaint is based, have been signed by the plaintiffs, are kept on file by the recipient, and are made available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation:

Provided, That upon establishment of reasonable cause that an injunction is necessary to prevent probable, serious harm to such potential plaintiff, a court of competent jurisdiction may enjoin the disclosure of the identity of any potential plaintiff pending the outcome of such litigation or negotiations after notice and an opportunity for a hearing is provided to potential parties to the litigation or the negotiations: Provided further, That other parties to the litigation or negotiation shall have access to the statement of facts referred to in subparagraph (B) only through the discovery process after litigation has begun;

(9) unless—

(A) prior to the provision of financial assistance—

(i) if the person or entity is a nonprofit organization, the governing board of the person or entity has set specific priorities in writing, pursuant to section 1007(a)(2)(C)(i) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)(i)), of the types of matters and cases to which the staff of the nonprofit organization shall devote time and resources; and

(ii) the staff of such person or entity has signed a written agreement not to undertake cases or matters other than in accordance with the specific priorities set by such governing board, except in emergency situations defined by such board and in accordance with the written procedures of such board for such situations; and

(B) the staff of such person or entity provides to the governing board on a quarterly basis, and to the Corporation on an annual basis, information on all cases or matters undertaken other than cases or matters undertaken in accordance with such priorities;

(10) unless—

(A) prior to receiving the financial assistance, such person or entity agrees to maintain records of time spent on each case or matter with respect to which the person or entity is engaged;

(B) any funds, including Interest on Lawyers Trust Account funds, received from a source other than the Corporation by the person or entity, and disbursements of such funds, are accounted for and reported as receipts and disbursements, respectively, separate and distinct from Corporation funds; and

(C) the person or entity agrees (notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)) to make the records described in this paragraph available to any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and to any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation;

(11) that provides legal assistance for or on behalf of any alien, unless the alien is present in the United States and is—

(A) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(B) an alien who—

(i) is married to a United States citizen or is a parent or an unmarried child under the age of 21 years of such a citizen; and

(ii) has filed an application to adjust the status of the alien to the status of a lawful permanent resident under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), which application has not been rejected;

(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) (relating to refugee admission) or who has been granted asylum by the Attorney General under such Act;

(D) an alien who is lawfully present in the United States as a result of withholding of deportation by the Attorney General pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h));

(E) an alien to whom section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note) applies, but only to the extent that the legal assistance provided is the legal assistance described in such section; or

(F) an alien who is lawfully present in the United States as a result of being granted conditional entry to the United States before April 1, 1980, pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)), as in effect on March 31, 1980, because of persecution or fear of persecution on account of race, religion, or political calamity;

(12) that supports or conducts a training program for the purpose of advocating a particular public policy or encouraging a political activity, a labor or antilabor activity, a boycott, picketing, a strike, or a demonstration, including the dissemination of information about such a policy or activity, except that this paragraph shall not be construed to prohibit the provision of training to an attorney or a paralegal to prepare the attorney or paralegal to provide—

(A) adequate legal assistance to eligible clients; or

(B) advice to any eligible client as to the legal rights of the client;

(13) that claims (or whose employee claims), or collects and retains, attorneys' fees pursuant to any Federal or State law permitting or requiring the awarding of such fees;

(14) that participates in any litigation with respect to abortion;

(15) that participates in any litigation on behalf of a person incarcerated in a Federal, State, or local prison;

(16) that initiates legal representation or participates in any other way, in litigation, lobbying, or rulemaking, involving an effort to reform a Federal or State welfare system, except that this paragraph shall not be construed to preclude a recipient from representing an individual eligible client who is seeking specific relief from a welfare agency if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation;

(17) that defends a person in a proceeding to evict the person from a public housing project if—

(A) the person has been charged with the illegal sale or distribution of a controlled substance; and

(B) the eviction proceeding is brought by a public housing agency because the illegal drug activity of the person threatens the health or safety of another tenant residing in the public housing project or employee of the public housing agency;

(18) unless such person or entity agrees that the person or entity, and the employees of the person or entity, will not accept employment resulting from in-person unsolicited advice to a nonattorney that such nonattorney should obtain counsel or take legal action, and will not refer such nonattorney to another person or entity or an employee of the person or entity, that is receiving financial assistance provided by the Corporation; or

(19) unless such person or entity enters into a contractual agreement to be subject to all provisions of Federal law relating to the proper use of Federal funds, the violation of which shall render any grant or contractual agreement to provide funding null and void, and, for such purposes, the Corporation shall be considered to be a Federal agency and all funds provided by the Corporation shall be considered to be Federal funds provided by grant or contract.

(b) Nothing in this section shall be construed to prohibit a recipient from using funds from a source other than the Legal Services Corporation for the purpose of contacting, communicating with, or responding to a request from, a State or local government agency, a State or local legislative body or committee, or a member thereof, regarding funding for the recipient, including a pending or proposed legislative or agency proposal to fund such recipient.

(c) Not later than 30 days after the date of enactment of this Act, the Legal Services Corporation shall promulgate a suggested list of priorities that boards of directors may use in setting priorities under subsection (a)(9).

(d)(1) The Legal Services Corporation shall not accept any non-Federal funds, and no recipient shall accept funds from any source other than the Corporation, unless the Corporation or the recipient, as the case may be, notifies in writing the source of the funds that the funds may not be expended for any purpose prohibited by the Legal Services Corporation Act or this title.

(2) Paragraph (1) shall not prevent a recipient from—

(A) receiving Indian tribal funds (including funds from private nonprofit organizations for the benefit of Indians or Indian tribes) and expending the tribal funds in accordance with the specific purposes for which the tribal funds are provided; or

(B) using funds received from a source other than the Legal Services Corporation to provide legal assistance to a covered individual if such funds are used for the specific purposes for which such funds were received, except that such funds may not be expended by recipients for any purpose prohibited by this Act or by the Legal Services Corporation Act.

(e) Nothing in this section shall be construed to prohibit a recipient from using funds derived from a source other than the Legal Services Corporation to comment on public rulemaking or to respond to a written request for information or testimony from a Federal, State or local agency, legislative body or committee, or a member of such an agency, body, or committee, so long as the response is made only to the parties that make the request and the recipient does not arrange for the request to be made.

(f) As used in this section:

(1) The term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) The term "covered individual" means any person who—

(A) except as provided in subparagraph (B), meets the requirements of this Act and the Legal Services Corporation Act relating to eligibility for legal assistance; and

(B) may or may not be financially unable to afford legal assistance.

(3) The term "public housing project" has the meaning as used within, and the term "public housing agency" has the meaning given the term, in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a).

SEC. 505. None of the funds appropriated in this Act to the Legal Services Corporation or provided by the Corporation to any entity or person may be used to pay membership dues to any private or nonprofit organization.

SEC. 506. None of the funds appropriated in this Act to the Legal Services Corporation may be used by any person or entity receiving financial assistance from the Corporation to file or pursue a lawsuit against the Corporation.

SEC. 507. None of the funds appropriated in this Act to the Legal Services Corporation may be used for any purpose prohibited or contrary to any of the provisions of authorization legislation for fiscal year 1996 for the Legal Services Corporation that is enacted into law. Upon the enactment of such Legal Services Corporation reauthorization legislation, funding provided in

this Act shall from that date be subject to the provisions of that legislation and any provisions in this Act that are inconsistent with that legislation shall no longer have effect.

SEC. 508. (a) The requirements of section 504 shall apply to the activities of a recipient described in section 504, or an employee of such a recipient, during the provision of legal assistance for a case or matter, if the recipient or employee begins to provide the legal assistance on or after the date of enactment of this Act.

(b) If the recipient or employee began to provide legal assistance for the case or matter prior to the date of enactment of this Act—

(1) each of the requirements of section 504 (other than paragraphs (7), (11), and (15) of subsection (a) of such section) shall, beginning on the date of enactment of this Act, apply to the activities of the recipient or employee during the provision of legal assistance for the case or matter; and

(2) the requirements of paragraphs (7), (11), and (15) of section 504(a) shall apply—

(A) beginning on the date of enactment of this Act, to the activities of the recipient or employee during the provision of legal assistance for any additional related claim for which the recipient or employee begins to provide legal assistance on or after such date; and

(B) beginning July 1, 1996, to all other activities of the recipient or employee during the provision of legal assistance for the case or matter.

(c) The Legal Services Corporation shall, every 60 days, submit to the Committees on Appropriations of the Senate and House of Representatives a report setting forth the status of cases and matters referred to in subsection (b)(2).

SEC. 509. (a) An audit of each person or entity receiving financial assistance from the Legal Services Corporation under this Act (referred to in this section as a "recipient") shall be conducted in accordance with generally accepted government auditing standards and guidance established by the Office of the Inspector General and shall report whether—

(1) the financial statements of the recipient present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

(2) the recipient has internal control systems to provide reasonable assurance that it is managing funds, regardless of source, in compliance with Federal laws and regulations; and

(3) the recipient has complied with Federal laws and regulations applicable to funds received, regardless of source.

(b) In carrying out the requirements of subsection (a)(3), the auditor shall select and test a representative number of transactions and report all instances of noncompliance to the recipient. The recipient shall report any noncompliance found by the auditor during the audit under this section within 5 calendar days to the Office of the Inspector General. If the recipient fails to report the noncompliance, the auditor shall report the noncompliance directly to the Office of the Inspector General within 5 calendar days of the recipient's failure to report.

(c) The audits required under this section shall be provided for by the recipients and performed by independent public accountants. The cost of such audits shall be shared on a pro rata basis among all of the recipient's funding providers and the appropriate share shall be an allowable charge to the Federal funds provided by the Legal Services Corporation. No audit costs may be charged to the Federal funds when the audit required by this section has not been made in accordance with the guidance promulgated by the Office of the Inspector General.

If the recipient fails to have an acceptable audit in accordance with the guidance promulgated by the Office of the Inspector General, the following sanctions shall be available to the Corporation as recommended by the Office of the Inspector General:

(1) the withholding of a percentage of the recipient's funding until the audit is completed satisfactorily.

(2) the suspension of recipient's funding until an acceptable audit is completed.

(d) The Office of the Inspector General may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section. The Office of the Inspector General shall develop and issue rules of practice to implement this paragraph.

(e) Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the recipient shall promptly notify the Office of the Inspector General pursuant to such rules as the Office of the Inspector General shall prescribe.

(f) Audits conducted in accordance with this section shall be in lieu of the financial audits otherwise required by section 1009(c) of the Legal Services Corporation Act (42 U.S.C. 2996h(c)).

(g) The Office of the Inspector General is authorized to conduct on-site monitoring, audits, and inspections in accordance with Federal standards.

(h) Notwithstanding section 1006(b)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(3)), financial records, time records, retainer agreements, client trust fund and eligibility records, and client names, for each recipient shall be made available to any auditor or monitor of the recipient, including any Federal department or agency that is auditing or monitoring the activities of the Corporation or of the recipient, and any independent auditor or monitor receiving Federal funds to conduct such auditing or monitoring, including any auditor or monitor of the Corporation, except for reports or records subject to the attorney-client privilege.

(i) The Legal Services Corporation shall not disclose any name or document referred to in subsection (h), except to—

(1) a Federal, State, or local law enforcement official; or

(2) an official of an appropriate bar association for the purpose of enabling the official to conduct an investigation of a rule of professional conduct.

(j) The recipient management shall be responsible for expeditiously resolving all reported audit reportable conditions, findings, and recommendations, including those of sub-recipients.

(k) The Legal Services Corporation shall—

(1) Follow up on significant reportable conditions, findings, and recommendations found by the independent public accountants and reported to Corporation management by the Office of the Inspector General to ensure that instances of deficiencies and noncompliance are resolved in a timely manner, and

(2) Develop procedures to ensure effective follow-up that meet at a minimum the requirements of Office of Management and Budget Circular Number A-50.

(l) The requirements of this section shall apply to a recipient for its first fiscal year beginning on or after January 1, 1996.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $1,190,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $350,000: Provided, That this shall be the final Federal payment to the Martin Luther King, Jr. Federal Holiday Commission for operations and necessary closing costs.

OUNCE OF PREVENTION COUNCIL

For activities authorized by sections 30101 and 30102 of Public Law 103-322 (including administrative costs), $1,500,000, to remain available until expended, for the Ounce of Prevention Grant Program: Provided, That the Council may accept and use gifts and donations, both real and personal, for the purpose of aiding or facilitating the authorized activities of the Council, of which not to exceed $5,000 may be used for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $287,738,000, of which $3,000,000 is for the Office of Economic Analysis, to be headed by the Chief Economist of the Commission, and of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions, and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel and transportation to or from such meetings, and (iii) any other related lodging or subsistence: Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of one percentum to one-twenty-ninth of one percentum, and such increase shall be deposited as an offsetting collection to this appropriation, to remain available until expended, to recover costs of services of the securities registration process: Provided further, That the total amount appropriated for fiscal year 1996 under this heading shall be reduced as such fees are deposited to this appropriation so as to result in a final total fiscal year 1996 appropriation from the General Fund estimated at not more than $103,445,000: Provided further, That any such fees collected in excess of $184,293,000 shall remain available until expended but shall not be available for obligation until October 1, 1996: Provided further, That $1,000,000 of the funds appropriated for the Commission shall be available for the enforcement of the Investment Advisers Act of 1940 in addition to any other appropriated funds designated by the Commission for enforcement of such Act.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 103-403, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation

expenses, $219,190,000: Provided, That the Administrator is authorized to charge fees to cover the cost of publications developed by the Small Business Administration, and certain loan servicing activities: Provided further, That notwithstanding 31 U.S.C. 3302, revenues received from all such activities shall be credited to this account, to be available for carrying out these purposes without further appropriations.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $8,500,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $4,500,000, and for the cost of guaranteed loans, $156,226,000, as authorized by 15 U.S.C. 631 note, of which $1,216,000, to be available until expended, shall be for the Microloan Guarantee Program, and of which $40,510,000 shall remain available until September 30, 1997: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That during fiscal year 1996, commitments to guarantee loans under section 503 of the Small Business Investment Act of 1958, as amended, shall not exceed the amount of financings authorized under section 20(n)(2)(B) of the Small Business Act, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $92,622,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans authorized by section 7(b) of the Small Business Act, as amended, $34,432,000, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct loan program, $71,578,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $2,530,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

ADMINISTRATIVE PROVISION—SMALL BUSINESS ADMINISTRATION

SEC. 510. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Small Business Administration in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 10 percent by any such transfers: Provided, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1992 (Public Law 102–572 (106 Stat. 4515–4516)), $5,000,000 to remain available until expended: Provided, That not to exceed $2,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. 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. 603. 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. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605 (a) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act, or provided under previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 1996, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 606. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 607. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 608. None of the funds made available in this Act may be used to implement, administer, or enforce any guidelines of the Equal Employment Opportunity Commission covering harassment based on religion, when it is made known to the Federal entity or official to which such funds are made available that such guidelines do not differ in any respect from the proposed guidelines published by the Commission on October 1, 1993 (58 Fed. Reg. 51266).

SEC. 610. None of the funds made available by this Act may be used for any United Nations undertaking when it is made known to the Federal official having authority to obligate or expend such funds (1) that the United Nations undertaking is a peacekeeping mission, (2) that such undertaking will involve United States Armed Forces under the command or operational control of a foreign national, and (3) that the President's military advisors have not submitted to the President a recommendation that such involvement is in the national security interests of the United States and the President has not submitted to the Congress such a recommendation.

SEC. 611. None of the funds made available in this Act shall be used to provide the following amenities or personal comforts in the Federal prison system—

(1) in-cell television viewing except for prisoners who are segregated from the general prison population for their own safety;

(2) the viewing of R, X, and NC–17 rated movies, through whatever medium presented;

(3) any instruction (live or through broadcasts) or training equipment for boxing, wrestling, judo, karate, or other martial art, or any bodybuilding or weightlifting equipment of any sort;

(4) possession of in-cell coffee pots, hot plates, or heating elements; or

(5) the use or possession of any electric or electronic musical instrument.

SEC. 612. None of the funds made available in title II for the National Oceanic and Atmospheric Administration under the heading "Fleet Modernization, Shipbuilding and Conversion" may be used to implement sections 603, 604, and 605 of Public Law 102–567.

SEC. 613. None of the funds made available in this Act may be used for "USIA Television Marti Program" under the Television Broadcasting to Cuba Act or any other program of United States Government television broadcasts to Cuba, when it is made known to the Federal official having authority to obligate or expend such funds that such use would be inconsistent with the applicable provisions of the March 1995 Office of Cuba Broadcasting Reinventing Plan of the United States Information Agency.

SEC. 614. (a)(1) Section 5002 of title 18, United States Code, is repealed.

(2) The table of sections for chapter 401 of title 18, United States Code, is amended by striking out the item relating to the Advisory Corrections Council.

(b) This section shall take effect 30 days after the date of the enactment of this Act.

SEC. 615. Any costs incurred by a Department or agency funded under this Act resulting from personnel actions taken in response to funding reductions included in this Act shall be absorbed within the total budgetary resources available to such Department or agency: Provided, That the authority to transfer funds between appropriations accounts as may be necessary to carry out this provision is provided in addition to authorities included elsewhere in this Act: Provided further, That use of funds to carry out this section shall be treated as a reprogramming of funds under section 605 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 616. Section 201(a) of Public Law 104-99 is repealed.

TITLE VII—RESCISSIONS

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

WORKING CAPITAL FUND

(RESCISSION)

Of the unobligated balances available under this heading, $65,000,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the unobligated balances available under this heading, $95,500,000 are rescinded.

RELATED AGENCIES

UNITED STATES INFORMATION AGENCY

RADIO CONSTRUCTION

(RESCISSION)

Of the unobligated balances available under this heading, $7,400,000 are rescinded.

TITLE VIII—PRISON LITIGATION REFORM

SEC. 801. SHORT TITLE.

This title may be cited as the "Prison Litigation Reform Act of 1995".

SEC. 802. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

"§3626. Appropriate remedies with respect to prison conditions

"(a) REQUIREMENTS FOR RELIEF.—

"(1) PROSPECTIVE RELIEF.—(A) Prospective relief in any civil action with respect to prison conditions shall extend no further than necessary to correct the violation of the Federal right of a particular plaintiff or plaintiffs. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

"(B) The court shall not order any prospective relief that requires or permits a government official to exceed his or her authority under State or local law or otherwise violates State or local law, unless—

"(i) Federal law permits such relief to be ordered in violation of State or local law;

"(ii) the relief is necessary to correct the violation of a Federal right; and

"(iii) no other relief will correct the violation of the Federal right.

"(C) Nothing in this section shall be construed to authorize the courts, in exercising their remedial powers, to order the construction of prisons or the raising of taxes, or to repeal or detract from otherwise applicable limitations on the remedial powers of the courts.

"(2) PRELIMINARY INJUNCTIVE RELIEF.—In any civil action with respect to prison conditions, to the extent otherwise authorized by law, the court may enter a temporary restraining order or an order for preliminary injunctive relief. Preliminary injunctive relief must be narrowly drawn, extend no further than necessary to correct the harm the court finds requires preliminary relief, and be the least intrusive means necessary to correct that harm. The court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the preliminary relief and shall respect the principles of comity set out in paragraph (1)(B) in tailoring any preliminary relief. Preliminary injunctive relief shall automatically expire on the date that is 90 days after its entry, unless the court makes the findings required under subsection (a)(1) for the entry of prospective relief and makes the order final before the expiration of the 90-day period.

"(3) PRISONER RELEASE ORDER.—(A) In any civil action with respect to prison conditions, no prisoner release order shall be entered unless—

"(i) a court has previously entered an order for less intrusive relief that has failed to remedy the deprivation of the Federal right sought to be remedied through the prisoner release order; and

"(ii) the defendant has had a reasonable amount of time to comply with the previous court orders.

"(B) In any civil action in Federal court with respect to prison conditions, a prisoner release order shall be entered only by a three-judge court in accordance with section 2284 of title 28, if the requirements of subparagraph (E) have been met.

"(C) A party seeking a prisoner release order in Federal court shall file with any request for such relief, a request for a three-judge court and materials sufficient to demonstrate that the requirements of subparagraph (A) have been met.

"(D) If the requirements under subparagraph (A) have been met, a Federal judge before whom a civil action with respect to prison conditions is pending who believes that a prison release order should be considered may sua sponte request the convening of a three-judge court to determine whether a prisoner release order should be entered.

"(E) The three-judge court shall enter a prisoner release order only if the court finds by clear and convincing evidence that—

"(i) crowding is the primary cause of the violation of a Federal right; and

"(ii) no other relief will remedy the violation of the Federal right.

"(F) Any State or local official or unit of government whose jurisdiction or function includes the appropriation of funds for the construction, operation, or maintenance of program facilities, or the prosecution or custody of persons who may be released from, or not admitted to, a prison as a result of a prisoner release order shall have standing to oppose the imposition or continuation in effect of such relief and to seek termination of such relief, and shall have the right to intervene in any proceeding relating to such relief.

"(b) TERMINATION OF RELIEF.—

"(1) TERMINATION OF PROSPECTIVE RELIEF.—(A) In any civil action with respect to prison conditions in which prospective relief is ordered, such relief shall be terminable upon the motion of any party or intervener—

"(i) 2 years after the date the court granted or approved the prospective relief;

"(ii) 1 year after the date the court has entered an order denying termination of prospective relief under this paragraph; or

"(iii) in the case of an order issued on or before the date of enactment of the Prison Litigation Reform Act, 2 years after such date of enactment.

"(B) Nothing in this section shall prevent the parties from agreeing to terminate or modify relief before the relief is terminated under subparagraph (A).

"(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervener shall be entitled to the immediate termination of any prospective relief if the relief was approved or granted in the absence of a finding by the court that the relief is narrowly drawn, extends no further than necessary to correct the violation of the Federal right, and is the least intrusive means necessary to correct the violation of the Federal right.

"(3) LIMITATION.—Prospective relief shall not terminate if the court makes written findings based on the record that prospective relief remains necessary to correct a current or ongoing violation of the Federal right, extends no further than necessary to correct the violation of the Federal right, and that the prospective relief is narrowly drawn and the least intrusive means to correct the violation.

"(4) TERMINATION OR MODIFICATION OF RELIEF.—Nothing in this section shall prevent any party or intervener from seeking modification or termination before the relief is terminable under paragraph (1) or (2), to the extent that modification or termination would otherwise be legally permissible.

"(c) SETTLEMENTS.—

"(1) CONSENT DECREES.—In any civil action with respect to prison conditions, the court shall not enter or approve a consent decree unless it complies with the limitations on relief set forth in subsection (a).

"(2) PRIVATE SETTLEMENT AGREEMENTS.—(A) Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with the limitations on relief set forth in subsection (a), if the terms of that agreement are not subject to court enforcement other than the reinstatement of the civil proceeding that the agreement settled.

"(B) Nothing in this section shall preclude any party claiming that a private settlement agreement has been breached from seeking in State court any remedy available under State law.

"(d) STATE LAW REMEDIES.—The limitations on remedies in this section shall not apply to relief entered by a State court based solely upon claims arising under State law.

"(e) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

"(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

"(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

"(A)(i) beginning on the 30th day after such motion is filed, in the case of a motion made under paragraph (1) or (2) of subsection (b); or

"(ii) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law; and

"(B) ending on the date the court enters a final order ruling on the motion.

"(f) SPECIAL MASTERS.—

"(1) IN GENERAL.—(A) In any civil action in a Federal court with respect to prison conditions, the court may appoint a special master who shall be disinterested and objective and who will give due regard to the public safety, to conduct hearings on the record and prepare proposed findings of fact.

"(B) The court shall appoint a special master under this subsection during the remedial phase of the action only upon a finding that the remedial phase will be sufficiently complex to warrant the appointment.

"(2) APPOINTMENT.—(A) If the court determines that the appointment of a special master is necessary, the court shall request that the defendant institution and the plaintiff each submit a list of not more than 5 persons to serve as a special master.

"(B) Each party shall have the opportunity to remove up to 3 persons from the opposing party's list.

"(C) The court shall select the master from the persons remaining on the list after the operation of subparagraph (B).

"(3) INTERLOCUTORY APPEAL.—Any party shall have the right to an interlocutory appeal of the judge's selection of the special master

under this subsection, on the ground of partiality.

"(4) COMPENSATION.—The compensation to be allowed to a special master under this section shall be based on an hourly rate not greater than the hourly rate established under section 3006A for payment of court-appointed counsel, plus costs reasonably incurred by the special master. Such compensation and costs shall be paid with funds appropriated to the Judiciary.

"(5) REGULAR REVIEW OF APPOINTMENT.—In any civil action with respect to prison conditions in which a special master is appointed under this subsection, the court shall review the appointment of the special master every 6 months to determine whether the services of the special master continue to be required under paragraph (1). In no event shall the appointment of a special master extend beyond the termination of the relief.

"(6) LIMITATIONS ON POWERS AND DUTIES.—A special master appointed under this subsection—

"(A) may be authorized by a court to conduct hearings and prepare proposed findings of fact, which shall be made on the record;

"(B) shall not make any findings or communications ex parte;

"(C) may be authorized by a court to assist in the development of remedial plans; and

"(D) may be removed at any time, but shall be relieved of the appointment upon the termination of relief.

"(g) DEFINITIONS.—As used in this section—

"(1) the term 'consent decree' means any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlements;

"(2) the term 'civil action with respect to prison conditions' means any civil proceeding arising under Federal law with respect to the conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison, but does not include habeas corpus proceedings challenging the fact or duration of confinement in prison;

"(3) the term 'prisoner' means any person subject to incarceration, detention, or admission to any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program;

"(4) the term 'prisoner release order' includes any order, including a temporary restraining order or preliminary injunctive relief, that has the purpose or effect of reducing or limiting the prison population, or that directs the release from or nonadmission of prisoners to a prison;

"(5) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

"(6) the term 'private settlement agreement' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled;

"(7) the term 'prospective relief' means all relief other than compensatory monetary damages;

"(8) the term 'special master' means any person appointed by a Federal court pursuant to Rule 53 of the Federal Rules of Civil Procedure or pursuant to any inherent power of the court to exercise the powers of a master, regardless of the title or description given by the court; and

"(9) the term 'relief' means all relief in any form that may be granted or approved by the court, and includes consent decrees but does not include private settlement agreements.".

(b) APPLICATION OF AMENDMENT.—

(1) IN GENERAL.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all prospective relief whether such relief was originally granted or approved before, on, or after the date of the enactment of this title.

(2) TECHNICAL AMENDMENT.—Subsections (b) and (d) of section 20409 of the Violent Crime Control and Law Enforcement Act of 1994 are repealed.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended to read as follows:

"3626. Appropriate remedies with respect to prison conditions.".

SEC. 803. AMENDMENTS TO CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT.

(a) INITIATION OF CIVIL ACTIONS.—Section 3(c) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997a(c)) (referred to in this section as the "Act") is amended to read as follows:

"(c) The Attorney General shall personally sign any complaint filed pursuant to this section.".

(b) CERTIFICATION REQUIREMENTS.—Section 4 of the Act (42 U.S.C. 1997b) is amended—

(1) in subsection (a)—

(A) by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by striking "his" and inserting "the Attorney General's"; and

(2) by amending subsection (b) to read as follows:

"(b) The Attorney General shall personally sign any certification made pursuant to this section.".

(c) INTERVENTION IN ACTIONS.—Section 5 of the Act (42 U.S.C. 1997c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "he" each place it appears and inserting "the Attorney General"; and

(B) by amending paragraph (2) to read as follows:

"(2) The Attorney General shall personally sign any certification made pursuant to this section."; and

(2) by amending subsection (c) to read as follows:

"(c) The Attorney General shall personally sign any motion to intervene made pursuant to this section.".

(d) SUITS BY PRISONERS.—Section 7 of the Act (42 U.S.C. 1997e) is amended to read as follows:

"SEC. 7. SUITS BY PRISONERS.

"(a) APPLICABILITY OF ADMINISTRATIVE REMEDIES.—No action shall be brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

"(b) FAILURE OF STATE TO ADOPT OR ADHERE TO ADMINISTRATIVE GRIEVANCE PROCEDURE.—The failure of a State to adopt or adhere to an administrative grievance procedure shall not constitute the basis for an action under section 3 or 5 of this Act.

"(c) DISMISSAL.—(1) The court shall on its own motion or on the motion of a party dismiss any action brought with respect to prison conditions under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.

"(2) In the event that a claim is, on its face, frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief, the court may dismiss the underlying claim without first requiring the exhaustion of administrative remedies.

"(d) ATTORNEY'S FEES.—(1) In any action brought by a prisoner who is confined to any jail, prison, or other correctional facility, in which attorney's fees are authorized under section 2 of the Revised Statutes of the United States (42 U.S.C. 1988), such fees shall not be awarded, except to the extent that—

"(A) the fee was directly and reasonably incurred in proving an actual violation of the plaintiff's rights protected by a statute pursuant to which a fee may be awarded under section 2 of the Revised Statutes; and

"(B)(i) the amount of the fee is proportionately related to the court ordered relief for the violation; or

"(ii) the fee was directly and reasonably incurred in enforcing the relief ordered for the violation.

"(2) Whenever a monetary judgment is awarded in an action described in paragraph (1), a portion of the judgment (not to exceed 25 percent) shall be applied to satisfy the amount of attorney's fees awarded against the defendant. If the award of attorney's fees is not greater than 150 percent of the judgment, the excess shall be paid by the defendant.

"(3) No award of attorney's fees in an action described in paragraph (1) shall be based on an hourly rate greater than 150 percent of the hourly rate established under section 3006A of title 18, United States Code, for payment of court-appointed counsel.

"(4) Nothing in this subsection shall prohibit a prisoner from entering into an agreement to pay an attorney's fee in an amount greater than the amount authorized under this subsection, if the fee is paid by the individual rather than by the defendant pursuant to section 2 of the Revised Statutes of the United States (42 U.S.C. 1988).

"(e) LIMITATION ON RECOVERY.—No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.

"(f) HEARINGS.—(1) To the extent practicable, in any action brought with respect to prison conditions in Federal court pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983), or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, pretrial proceedings in which the prisoner's participation is required or permitted shall be conducted by telephone, video conference, or other telecommunications technology without removing the prisoner from the facility in which the prisoner is confined.

"(2) Subject to the agreement of the official of the Federal, State, or local unit of government with custody over the prisoner, hearings may be conducted at the facility in which the prisoner is confined. To the extent practicable, the court shall allow counsel to participate by telephone, video conference, or other communications technology in any hearing held at the facility.

"(g) WAIVER OF REPLY.—(1) Any defendant may waive the right to reply to any action brought by a prisoner confined in any jail, prison, or other correctional facility under section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) or any other Federal law. Notwithstanding any other law or rule of procedure, such waiver shall not constitute an admission of the allegations contained in the complaint. No relief shall be granted to the plaintiff unless a reply has been filed.

"(2) The court may require any defendant to reply to a complaint brought under this section if it finds that the plaintiff has a reasonable opportunity to prevail on the merits.

"(h) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(e) REPORT TO CONGRESS.—Section 8 of the Act (42 U.S.C. 1997f) is amended by striking "his report" and inserting "the report".

(f) NOTICE TO FEDERAL DEPARTMENTS.—Section 10 of the Act (42 U.S.C. 1997h) is amended—

(1) by striking "his action" and inserting "the action"; and

(2) by striking "he is satisfied" and inserting "the Attorney General is satisfied".

SEC. 804. PROCEEDINGS IN FORMA PAUPERIS.

(a) FILING FEES.—Section 1915 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) Any" and inserting "(a)(1) Subject to subsection (b), any";

(B) by striking "and costs";

(C) by striking "makes affidavit" and inserting "submits an affidavit that includes a statement of all assets such prisoner possesses";

(D) by striking "such costs" and inserting "such fees";

(E) by striking "he" each place it appears and inserting "the person";

(F) by adding immediately after paragraph (1), the following new paragraph:

"(2) A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined."; and

(G) by striking "An appeal" and inserting "(3) An appeal";

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b)(1) Notwithstanding subsection (a), if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee. The court shall assess and, when funds exist, collect, as a partial payment of any court fees required by law, an initial partial filing fee of 20 percent of the greater of—

"(A) the average monthly deposits to the prisoner's account; or

"(B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint or notice of appeal.

"(2) After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of the court each time the amount in the account exceeds $10 until the filing fees are paid.

"(3) In no event shall the filing fee collected exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action or criminal judgment.

"(4) In no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.";

(4) in subsection (c), as redesignated by paragraph (2), by striking "subsection (a) of this section" and inserting "subsections (a) and (b) and the prepayment of any partial filing fee as may be required under subsection (b)"; and

(5) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e)(1) The court may request an attorney to represent any person unable to afford counsel.

"(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—

"(A) the allegation of poverty is untrue; or

"(B) the action or appeal—

"(i) is frivolous or malicious;

"(ii) fails to state a claim on which relief may be granted; or

"(iii) seeks monetary relief against a defendant who is immune from such relief.".

(b) EXCEPTION TO DISCHARGE OF DEBT IN BANKRUPTCY PROCEEDING.—Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (16), by striking the period at the end and inserting "; or"; and

(2) by adding at the end the following new paragraph:

"(17) for a fee imposed by a court for the filing of a case, motion, complaint, or appeal, or for other costs and expenses assessed with respect to such filing, regardless of an assertion of poverty by the debtor under section 1915 (b) or (f) of title 28, or the debtor's status as a prisoner, as defined in section 1915(h) of title 28.".

(c) COSTS.—Section 1915(f) of title 28, United States Code (as redesignated by subsection (a)(2)), is amended—

(1) by striking "(f) Judgment" and inserting "(f)(1) Judgment";

(2) by striking "cases" and inserting "proceedings"; and

(3) by adding at the end the following new paragraph:

"(2)(A) If the judgment against a prisoner includes the payment of costs under this subsection, the prisoner shall be required to pay the full amount of the costs ordered.

"(B) The prisoner shall be required to make payments for costs under this subsection in the same manner as is provided for filing fees under subsection (a)(2).

"(C) In no event shall the costs collected exceed the amount of the costs ordered by the court.".

(d) SUCCESSIVE CLAIMS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.".

(e) DEFINITION.—Section 1915 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

SEC. 805. JUDICIAL SCREENING.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by inserting after section 1915 the following new section:

"§1915A. Screening

"(a) SCREENING.—The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

"(b) GROUNDS FOR DISMISSAL.—On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

"(1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or

"(2) seeks monetary relief from a defendant who is immune from such relief.

"(c) DEFINITION.—As used in this section, the term 'prisoner' means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is amended by inserting after the item relating to section 1915 the following new item:

"1915A. Screening.".

SEC. 806. FEDERAL TORT CLAIMS.

Section 1346(b) of title 28, United States Code, is amended—

(1) by striking "(b)" and inserting "(b)(1)"; and

(2) by adding at the end the following:

"(2) No person convicted of a felony who is incarcerated while awaiting sentencing or while serving a sentence may bring a civil action against the United States or an agency, officer, or employee of the Government, for mental or emotional injury suffered while in custody without a prior showing of physical injury.".

SEC. 807. PAYMENT OF DAMAGE AWARD IN SATISFACTION OF PENDING RESTITUTION ORDERS.

Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner.

SEC. 808. NOTICE TO CRIME VICTIMS OF PENDING DAMAGE AWARD.

Prior to payment of any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, reasonable efforts shall be made to notify the victims of the crime for which the prisoner was convicted and incarcerated concerning the pending payment of any such compensatory damages.

SEC. 809. EARNED RELEASE CREDIT OR GOOD TIME CREDIT REVOCATION.

(a) IN GENERAL.—Chapter 123 of title 28, United States Code, is amended by adding at the end the following new section:

"§1932. Revocation of earned release credit

"In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not yet vested, if, on its own motion or the motion of any party, the court finds that—

"(1) the claim was filed for a malicious purpose;

"(2) the claim was filed solely to harass the party against which it was filed; or

"(3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 123 of title 28, United States Code, is

amended by inserting after the item relating to section 1931 the following:

"1932. Revocation of earned release credit.".

(c) AMENDMENT OF SECTION 3624 OF TITLE 18.—Section 3624(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the first sentence;

(B) in the second sentence—

(i) by striking "A prisoner" and inserting "Subject to paragraph (2), a prisoner";

(ii) by striking "for a crime of violence,"; and

(iii) by striking "such";

(C) in the third sentence, by striking "If the Bureau" and inserting "Subject to paragraph (2), if the Bureau";

(D) by striking the fourth sentence and inserting the following: "In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree."; and

(E) in the sixth sentence, by striking "Credit for the last" and inserting "Subject to paragraph (2), credit for the last"; and

(2) by amending paragraph (2) to read as follows:

"(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.".

SEC. 810. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1996.".

(b) Such amounts as may be necessary for programs, projects or activities provided for in the District of Columbia Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—FISCAL YEAR 1996 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1996, $660,000,000, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

FEDERAL CONTRIBUTION FOR EDUCATION REFORM

For a Federal contribution to Education Reform, $14,930,000 which shall be deposited into an escrow account of the District of Columbia Financial Responsibility and Management Assistance Authority, pursuant to section 205 of Public Law 104-8, approved April 17, 1995 (109 Stat. 131), and shall be disbursed from such account pursuant to the instructions of the Authority and in accordance with title II of this Act, where applicable, as follows:

$200,000 shall be available for payments to charter schools;

$300,000 shall be available for the Public Charter School Board;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities;

$100,000 shall be available to develop a plan for a residential school;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council;

$1,450,000 shall be available to the District Employment and Learning Center;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program;

$70,000 shall be available for the Everybody Wins program: Provided, That $35,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$100,000 shall be available for the Fit Kids program: Provided, That $50,000 of this amount shall not be available until the Superintendent certifies to the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority that he has raised a like amount from private sources;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,250,000 shall be available pursuant to a plan developed by the Superintendent of the District of Columbia Public Schools, in consultation with public and private entities, for repair, modernization, maintenance and planning consistent with subtitle A and subtitle F of title II of this Act, the August 14, 1995 recommendations of the "Superintendent's Task Force on Education Infrastructure for the 21st Century" and the June 13, 1995 "Accelerating Education Reform in the District of Columbia: Building on BESST": Provided, That not more than $250,000 of this amount may be available for planning: Provided further, That these funds shall be available for repair, modernization, maintenance of classroom buildings: Provided further, That these funds shall remain available until expended.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $149,130,000 and 1,498 full-time equivalent positions (end of year) (including $117,464,000 and 1,158 full-time equivalent positions from local funds, $2,464,000 and 5 full-time equivalent positions from Federal funds, $4,474,000 and 71 full-time equivalent positions from other funds, and $24,728,000 and 264 full-time equivalent positions from intra-District funds): Provided, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: Provided further, That $29,500,000 is for pay-as-you-go capital projects of which $1,500,000 shall be for a capital needs assessment study, and $28,000,000 shall be for a new financial management system, if so determined following the evaluation and review process subsequently described in this paragraph, of which $2,000,000 shall be used to develop a needs analysis and assessment of the existing financial management environment, and the remaining $26,000,000 shall be used to procure the necessary hardware and installation of new software, conversion, testing and training: Provided further, That the $26,000,000 shall not be obligated or expended until: (1) the District of Columbia Financial Responsibility and Management Assistance Authority submits a report to the Committees on Appropriations of the House and the Senate, the Committee on Governmental Reform and Oversight of the House, and the Committee on Governmental Affairs of the Senate reporting the results of a needs analysis and assessment of the existing financial management environment, specifying the deficiencies in, and recommending necessary improvements to or replacement of the District's financial management system including a detailed explanation of each recommendation and its estimated cost; and (2) 30 days lapse after receipt of the report by Congress.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $140,983,000 and 1,692 full-time equivalent positions (end-of-year) (including $68,203,000 and 698 full-time equivalent positions from local funds, $38,792,000 and 509 full-time equivalent positions from Federal funds, $17,658,000 and 258 full-time equivalent positions from other funds, and $16,330,000 and 227 full-time equivalent positions from intra-District funds): Provided, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Housing Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: Provided further, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes

issued by the Housing Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Housing Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: Provided further, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $963,848,000 and 11,544 full-time equivalent positions (end-of-year) (including $940,631,000 and 11,365 full-time equivalent positions from local funds, $8,942,000 and 70 full-time equivalent positions from Federal funds, $5,160,000 and 4 full-time equivalent positions from other funds, and $9,115,000 and 105 full-time equivalent positions from intra-District funds): Provided, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: Provided further, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: Provided further, That $250,000 is used for the Georgetown Summer Detail; $200,000 is used for East of the River Detail; $100,000 is used for Adams Morgan Detail; and $100,000 is used for the Capitol Hill Summer Detail: Provided further, That the Metropolitan Police Department shall employ an authorized level of sworn officers not to be less than 3,800 sworn officers for the fiscal year ending September 30, 1996: Provided further, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1975: Provided further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in the fiscal year 1985: Provided further, That funds appropriated for expenses under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6-204; D.C. Code, sec. 21-2060), for the fiscal year ending September 30, 1996, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: Provided further, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: Provided further, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, riots, and similar incidents: Provided further, That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1996, in relation to the Lorton prison complex: Provided further, That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, fires, riots, and similar disturbances involving the prison: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $795,201,000 and 11,670 full-time equivalent positions (end-of-year) (including $676,251,000 and 9,996 full-time equivalent positions from local funds, $87,385,000 and 1,227 full-time equivalent positions from Federal funds, $21,719,000 and 234 full-time equivalent positions from other funds, and $9,846,000 and 213 full-time equivalent positions from intra-District funds), to be allocated as follows: $580,996,000 and 10,167 full-time equivalent positions (including $498,310,000 and 9,014 full-time equivalent positions from local funds $75,786,000 and 1,058 full-time equivalent positions from Federal funds, $4,343,000 and 44 full-time equivalent positions from other funds, and $2,557,000 and 51 full-time equivalent positions from intra-District funds), for the public schools of the District of Columbia; $111,800,000 (including $111,000,000 from local funds and $800,000 from intra-District funds) shall be allocated for the District of Columbia Teachers' Retirement Fund; $79,396,000 and 1,079 full-time equivalent positions (including $45,377,000 and 572 full-time equivalent positions from local funds, $10,611,000 and 156 full-time equivalent positions from Federal funds, $16,922,000 and 189 full-time equivalent positions from other funds, and $6,486,000 and 162 full-time equivalent positions from intra-District funds) for the University of the District of Columbia; $20,742,000 and 415 full-time equivalent positions (including $19,839,000 and 408 full-time equivalent positions from local funds, $446,000 and 6 full-time equivalent positions from Federal funds, $454,000 and 1 full-time equivalent position from other funds, and $3,000 from intra-District funds) for the Public Library; $2,267,000 and 9 full-time equivalent positions (including $1,725,000 and 2 full-time equivalent positions from local funds and $542,000 and 7 full-time equivalent positions from Federal funds) for the Commission on the Arts and Humanities: Provided, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: Provided further, That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: Provided further, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1996, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

EDUCATION REFORM

Education reform, $14,930,000, to be allocated as follows:

$200,000 shall be available for payments to charter schools as authorized under Subtitle B of title II of this Act;

$300,000 shall be available for the Public Charter School Board as authorized under Subtitle B of title II of this Act;

$2,000,000 shall be transferred directly, notwithstanding any other provision of law, to the United States Department of Education for awarding grants to carry out Even Start programs in the District of Columbia as provided for in Subtitle C of title II of this Act;

$1,250,000 shall be available to establish core curriculum, content standards, and assessments as authorized under Subtitle D of title II of this Act;

$500,000 shall be available for payment to the Administrator of the General Services Administration for the costs of developing engineering plans for donated work on District of Columbia public school facilities as authorized under Subtitle F of title II of this Act;

$100,000 shall be available to develop a plan for a residential school as authorized under Subtitle G of title II of this Act;

$860,000 shall be available for the District Education and Learning Technologies Advancement Council as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available to the District Employment and Learning Center as authorized under Subtitle I of title II of this Act;

$1,000,000 shall be available for a professional development program for teachers and administrators administered by the nonprofit corporation selected under section 2701 of title II of this Act as authorized under Subtitle I of title II of this Act;

$1,450,000 shall be available for the Jobs for D.C. Graduates Program as authorized under Subtitle I of title II of this Act;

$70,000 shall be available for the Everybody Wins program;

$100,000 shall be available for the Fit Kids program;

$400,000 shall be available to the District of Columbia Public Schools to improve security (such as installing electronic door locking devices) at such schools, including at a minimum the following schools: Winston Education Center; McKinley High School; Ballou High School; and Cardozo High School; and

$5,250,000 shall be available pursuant to a plan developed by the Superintendent of the District of Columbia Public Schools, in consultation with public and private entities, for repair, modernization, maintenance and planning consistent with subtitle A and subtitle F of title II of this Act, the August 14, 1995 recommendations of the "Superintendent's Task Force on Education Infrastructure for the 21st Century" and the June 13, 1995 "Accelerating Education Reform in the District of Columbia: Building on BESST": Provided, That not more than $250,000 of this amount may be available for planning: Provided further, That these funds shall be available for repair, modernization, maintenance of classroom buildings: Provided further, That these funds shall remain available until expended:

Provided, That the District of Columbia government shall enter into negotiations with Gallaudet University to transfer, at a fair market value rate, Hamilton School from the District of Columbia to Gallaudet University with the proceeds, if such a sale takes place, deposited into the general fund of the District and used to improve public school facilities in the same ward as the Hamilton School.

HUMAN SUPPORT SERVICES

Human support services, $1,855,014,000 and 6,469 full-time equivalent positions (end-of-year) (including $1,076,856,000 and 3,650 full-time equivalent positions from local funds, $726,685,000 and 2,639 full-time equivalent positions from Federal funds, $46,799,000 and 66 full-time equivalent positions from other funds, and $4,674,000 and 114 full-time equivalent positions from intra-District funds): Provided, That $26,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $297,568,000 and 1,914 full-time equivalent positions (end-of-year) (including $225,915,000 and 1,158 full-time equivalent positions from local funds, $2,682,000 and 32 full-time equivalent positions from Federal funds, $18,342,000 and 68 full-time equivalent positions from other funds, and $50,629,000 and 656 full-time equivalent positions from intra-District funds): Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND TRANSFER PAYMENT

For payment to the Washington Convention Center Enterprise Fund, $5,400,000 from local funds.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $327,787,000 from local funds.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,678,000 from local funds, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

REPAYMENT OF INTEREST ON SHORT-TERM BORROWING

For repayment of interest on short-term borrowing, $9,698,000 from local funds.

PAY RENEGOTIATION OR REDUCTION IN COMPENSATION

The Mayor shall reduce appropriations and expenditures for personal services in the amount of $46,409,000, by decreasing rates of compensation for District government employees; such decreased rates are to be realized from employees who are subject to collective bargaining agreements to the extent possible through the renegotiation of existing collective bargaining agreements: Provided, That, if a sufficient reduction from employees who are subject to collective bargaining agreements is not realized through renegotiating existing agreements, the Mayor shall decrease rates of compensation for such employees, notwithstanding the provisions of any collective bargaining agreements: Provided further, That the Congress hereby ratifies and approves legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year: Provided further, That notwithstanding any other provision of law, the legislation enacted by the Council of the District of Columbia during fiscal year 1995 to reduce the compensation and benefits of all employees of the District of Columbia government during that fiscal year shall be deemed to have been ratified and approved by the Congress during fiscal year 1995.

RAINY DAY FUND

For mandatory unavoidable expenditures within one or several of the various appropriation headings of this Act, to be allocated to the budgets for personal services and nonpersonal services as requested by the Mayor and approved by the Council pursuant to the procedures in section 4 of the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–363), $4,563,000 from local funds: Provided, That the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and the Senate quarterly reports by the 15th day of the month following the end of the quarter showing how monies provided under this fund are expended with a final report providing a full accounting of the fund due October 15, 1996 or not later than 15 days after the last amount remaining in the fund is disbursed.

INCENTIVE BUYOUT PROGRAM

For the purpose of funding costs associated with the incentive buyout program, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable, $19,000,000.

OUTPLACEMENT SERVICES

For the purpose of funding outplacement services for employees who leave the District of Columbia government involuntarily, $1,500,000.

BOARDS AND COMMISSIONS

The Mayor shall reduce appropriations and expenditures for boards and commissions under the various headings in this Act in the amount of $500,000.

GOVERNMENT RE-ENGINEERING PROGRAM

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $16,000,000 within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, $168,222,000 (including $82,850,000 from local funds and $85,372,000 from Federal funds), as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: Provided, That $105,660,000 from local funds appropriated under this heading in prior fiscal years is rescinded: Provided further, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1997, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1997: Provided further, That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $242,253,000 and 1,024 full-time equivalent positions (end-of-year) (including $237,076,000 and 924 full-time equivalent positions from local funds, $433,000 from other funds, and $4,744,000 and 100 full-time equivalent positions from

intra-District funds), of which $41,036,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $39,477,000 from Federal funds, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97–91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Code, secs. 2–2501 et seq. and 22–1516 et seq.), $229,950,000 and 88 full-time equivalent positions (end-of-year) (including $7,950,000 and 88 full-time equivalent positions for administrative expenses and $222,000,000 for non-administrative expenses from revenue generated by the Lottery Board), to be derived from non-Federal District of Columbia revenues: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5–36; D.C. Code, sec. 43–1801 et seq.), $2,351,000 and 8 full-time equivalent positions (end-of-year) (including $2,019,000 and 8 full-time equivalent positions from local funds and $332,000 from other funds), of which $572,000 shall be transferred to the general fund of the District of Columbia.

STARPLEX FUND

For the Starplex Fund, $6,580,000 from other funds for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish A District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300; D.C. Code, sec. 2–321 et seq.): Provided, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93–198; D.C. Code, sec. 47–301(b)).

D.C. GENERAL HOSPITAL

For the District of Columbia General Hospital, established by Reorganization Order No. 57 of the Board of Commissioners, effective August 15, 1953, $115,034,000, of which $56,735,000 shall be derived by transfer as intra-District funds from the general fund, $52,684,000 is to be derived from the other funds, and $5,615,000 is to be derived from intra-District funds.

D.C. RETIREMENT BOARD

For the D.C. Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1989, approved November 17, 1989 (93 Stat. 866; D.C. Code, sec. 1–711), $13,440,000 and 11 full-time equivalent positions (end-of-year) from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act, approved October 3, 1964 (78 Stat. 1000; Public Law 88–622), $10,516,000 and 66 full-time equivalent positions (end-of-year) (including $3,415,000 and 22 full-time equivalent positions from other funds and $7,101,000 and 44 full-time equivalent positions from intra-District funds).

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, $37,957,000, of which $5,400,000 shall be derived by transfer from the general fund.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104–8), $3,500,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

Notwithstanding any other provision of law, the Chief Financial Officer established under section 302 of Public Law 104–8, approved April 17, 1995 (109 Stat. 142) shall, on behalf of the Mayor, adjust appropriations and expenditures for personal and nonpersonal services, together with the related full-time equivalent positions, in accordance with the direction of the District of Columbia Financial Responsibility and Management Assistance Authority such that there is a net reduction of $165,837,000, within or among one or several of the various appropriation headings in this Act, pursuant to section 208 of Public Law 104–8, approved April 17, 1995 (109 Stat. 134).

GENERAL PROVISIONS

SEC. 101. 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. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: Provided, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: Provided, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: Provided, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec. 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445, 42 U.S.C. 3801 et seq.).

SEC. 108. 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. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1997, shall be transmitted to the Congress no later than April 15, 1996 or as provided for under the provisions of Public Law 104–8, approved April 17, 1995.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform and Oversight, District of Columbia Subcommittee, the Subcommittee on Oversight of Government Management, of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: Provided, That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such

sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 114. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: Provided, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 115. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 116. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 117. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.): Provided, That for the fiscal year ending September 30, 1996 the above shall apply except as modified by Public Law 104–8.

SEC. 118. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 119. None of the Federal Funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: Provided, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 120. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1995 shall be deemed to be the rate of pay payable for that position for September 30, 1995.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 121. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 122. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 123. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1996, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1996 revenue estimates as of the end of the first quarter of fiscal year 1996. These estimates shall be used in the budget request for the fiscal year ending September 30, 1997. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 124. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 125. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: Provided, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 126. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037: Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: Provided, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

SEC. 127. For the fiscal year ending September 30, 1996, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 128. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, sec. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1995, of the required reorganization plans.

SEC. 129. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1996 if—

(1) the Mayor approves the acceptance and use of the gift or donation: Provided, That the Council of the District of Columbia may accept and use gifts without prior approval by the Mayor; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 130. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979, effective March 10, 1981 (D.C. Law 3–171; D.C. Code, sec. 1–113(d)).

PROHIBITION AGAINST USE OF FUNDS FOR ABORTIONS

SEC. 131. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

PROHIBITION ON DOMESTIC PARTNERS ACT

SEC. 132. No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married

couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

COMPENSATION FOR THE COMMISSION ON JUDICIAL DISABILITIES AND TENURE AND FOR THE JUDICIAL NOMINATION COMMISSION

SEC. 133. Sections 431(f) and 433(b)(5) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; Public Law 93–198; D.C. Code, secs. 11–1524 and title 11, App. 433), are amended to read as follows:

(a) Section 431(f) (D.C. Code, sec. 11–1524) is amended to read as follows:

"(f) Members of the Tenure Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

(b) Section 433(b)(5) (title 11, App. 433) is amended to read as follows:

"(5) Members of the Commission shall serve without compensation for services rendered in connection with their official duties on the Commission.".

MULTIYEAR CONTRACTS

SEC. 134. Section 451 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 803; Public Law 93–198; D.C. Code, sec. 1–1130), is amended by adding a new subsection (c) to read as follows:

"(c)(1) The District may enter into multiyear contracts to obtain goods and services for which funds would otherwise be available for obligation only within the fiscal year for which appropriated.

"(2) If the funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be cancelled or terminated, and the cost of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of acquisition covered by the contract, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(3) No contract entered into under this section shall be valid unless the Mayor submits the contract to the Council for its approval and the Council approves the contract (in accordance with criteria established by act of the Council). The Council shall be required to take affirmative action to approve the contract within 45 days. If no action is taken to approve the contract within 45 calendar days, the contract shall be deemed disapproved.".

CALCULATED REAL PROPERTY TAX RATE RESCISSION AND REAL PROPERTY TAX FREEZE

SEC. 135. The District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1051; D.C. Code, sec. 47–801 et seq.), is amended as follows:

(1) Section 412 (D.C. Code, sec. 47–812) is amended as follows:

(A) Subsection (a) is amended by striking the third and fourth sentences and inserting the following sentences in their place: "If the Council does extend the time for establishing the rates of taxation on real property, it must establish those rates for the tax year by permanent legislation. If the Council does not establish the rates of taxation of real property by October 15, and does not extend the time for establishing rates, the rates of taxation applied for the prior year shall be the rates of taxation applied during the tax year.".

(B) A new subsection (a–2) is added to read as follows:

"(a–2) Notwithstanding the provisions of subsection (a) of this section, the real property tax rates for taxable real property in the District of Columbia for the tax year beginning October 1, 1995, and ending September 30, 1996, shall be the same rates in effect for the tax year beginning October 1, 1993, and ending September 30, 1994.".

(2) Section 413(c) (D.C. Code, sec. 47–815(c)) is repealed.

PRISONS INDUSTRIES

SEC. 136. Title 18 U.S.C. 1761(b) is amended by striking the period at the end and inserting the phrase "or not-for-profit organizations." in its place.

REPORTS ON REDUCTIONS

SEC. 137. Within 120 days of the effective date of this Act, the Mayor shall submit to the Congress and the Council a report delineating the actions taken by the executive to effect the directives of the Council in this Act, including—

(1) negotiations with representatives of collective bargaining units to reduce employee compensation;

(2) actions to restructure existing long-term city debt;

(3) actions to apportion the spending reductions anticipated by the directives of this Act to the executive for unallocated reductions; and

(4) a list of any position that is backfilled including description, title, and salary of the position.

MONTHLY REPORTING REQUIREMENTS—BOARD OF EDUCATION

SEC. 138. The Board of Education shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, agency reporting code, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and staff for the most current pay period broken out on the basis of control center, responsibility center, and agency reporting code within each responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and agency reporting code, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains; the name of each contractor; the budget to which the contract is charged broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by the D.C. Public Schools; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education; and

(6) changes made in the last month to the organizational structure of the D.C. Public Schools, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

MONTHLY REPORTING REQUIREMENT

UNIVERSITY OF THE DISTRICT OF COLUMBIA

SEC. 139. The University of the District of Columbia shall submit to the Congress, Mayor, and Council of the District of Columbia no later than fifteen (15) calendar days after the end of each month a report that sets forth—

(1) current month expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections vs. budget broken out on the basis of control center, responsibility center, and object class, and for all funds, including capital financing;

(2) a breakdown of FTE positions and all employees for the most current pay period broken out on the basis of control center and responsibility center, for all funds, including capital funds;

(3) a list of each account for which spending is frozen and the amount of funds frozen, broken out by control center, responsibility center, detailed object, and for all funding sources;

(4) a list of all active contracts in excess of $10,000 annually, which contains: the name of each contractor; the budget to which the contract is charged broken out on the basis of control center and responsibility center, and contract identifying codes used by the University of the District of Columbia; payments made in the last month and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(5) all reprogramming requests and reports that have been made by the University of the District of Columbia within the last month in compliance with applicable law; and

(6) changes in the last month to the organizational structure of the University of the District of Columbia, displaying previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

ANNUAL REPORTING REQUIREMENTS

SEC. 140. (a) The Board of Education of the District of Columbia and the University of the District of Columbia shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia Public Schools and the University of the District of Columbia for fiscal year 1995, fiscal year 1996, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia Public Schools and the University of the District of Columbia as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) The annual report required by subsection (a) of this section shall be submitted to the Congress, the Mayor and Council of the District of Columbia, by not later than February 8 of each year.

ANNUAL BUDGETS AND BUDGET REVISIONS

SEC. 141. (a) Not later than October 1, 1995, or within 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs later, and each succeeding year, the Board of Education and the University of the District of Columbia shall submit to the Congress, the Mayor, and Council

of the District of Columbia, a revised appropriated funds operating budget for the public school system and the University of the District of Columbia for such fiscal year that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures.

(b) The revised budget required by subsection (a) of this section shall be submitted in the format of the budget that the Board of Education and the University of the District of Columbia submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301).

BUDGET APPROVAL

SEC. 142. The Board of Education the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the D.C. School of Law shall vote on and approve their respective annual or revised budgets before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

PUBLIC SCHOOL EMPLOYEE EVALUATIONS

SEC. 143. Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public Schools employees shall be a non-negotiable item for collective bargaining purposes.

POSITION VACANCIES

SEC. 144. (a) No agency, including an independent agency, shall fill a position wholly funded by appropriations authorized by this Act, which is vacant on October 1, 1995, or becomes vacant between October 1, 1995, and September 30, 1996, unless the Mayor or independent agency submits a proposed resolution of intent to fill the vacant position to the Council. The Council shall be required to take affirmative action on the Mayor's resolution within 30 legislative days. If the Council does not affirmatively approve the resolution within 30 legislative days, the resolution shall be deemed disapproved.

(b) No reduction in the number of full-time equivalent positions or reduction-in-force due to privatization or contracting out shall occur if the District of Columbia Financial Responsibility and Management Assistance Authority, established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 97; Public Law 104-8), disallows the full-time equivalent position reduction provided in this act in meeting the maximum ceiling of 35,984 for the fiscal year ending September 30, 1996.

(c) This section shall not prohibit the appropriate personnel authority from filling a vacant position with a District government employee currently occupying a position that is funded with appropriated funds.

(d) This section shall not apply to local school-based teachers, school-based officers, or school-based teachers' aides; or court personnel covered by title 11 of the D.C. Code, except chapter 23.

MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES

SEC. 145. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), is amended as follows:

(a) Section 301 (D.C. Code, sec. 1-603.1) is amended as follows:

(1) A new paragraph (13A) is added to read as follows:

"(13A) 'Nonschool-based personnel' means any employee of the District of Columbia Public Schools who is not based at a local school or who does not provide direct services to individual students.".

(2) A new paragraph (15A) is added to read as follows:

"(15A) 'School administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia Public Schools.".

(b) Section 801A(b)(2) (D.C. Code, sec. 1-609.1(b)(2)) is amended by adding a new subparagraph (L-i) to read as follows:

"(L-i) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"

(c) Section 2402 (D.C. Code, sec. 1-625.2) is amended by adding a new subsection (f) to read as follows:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 146. (a) Notwithstanding any other provision of law, rule, or regulation, an employee of the District of Columbia Public Schools shall be—

(1) classified as an Educational Service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

SEC. 147. None of the funds provided in this Act may be used directly or indirectly for the renovation of the property located at 227 7th Street Southeast (commonly known as Eastern Market), except that funds provided in this Act may be used for the regular maintenance and upkeep of the current structure and grounds located at such property.

CAPITAL PROJECT EMPLOYEES

SEC. 148. (a) Not later than 15 days after the end of every fiscal quarter (beginning October 1, 1995), the Mayor shall submit to the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Committees on Appropriations of the House of Representatives and the Senate a report with respect to the employees on the capital project budget for the previous quarter.

(b) Each report submitted pursuant to subsection (a) of this section shall include the following information—

(1) a list of all employees by position, title, grade and step;

(2) a job description, including the capital project for which each employee is working;

(3) the date that each employee began working on the capital project and the ending date that each employee completed or is projected to complete work on the capital project; and

(4) a detailed explanation justifying why each employee is being paid with capital funds.

MODIFICATION OF REDUCTION-IN-FORCE PROCEDURES

SEC. 149. The District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), is amended as follows:

(a) Section 2401 (D.C. Code, sec. 1-625.1) is amended by amending the third sentence to read as follows: "A personnel authority may establish lesser competitive areas within an agency on the basis of all or a clearly identifiable segment of an agency's mission or a division or major subdivision of an agency.".

(b) A new section 2406 is added to read as follows:

"SEC. 2406. Abolishment of positions for Fiscal Year 1996.

"(a) Notwithstanding any other provision of law, regulation, or collective bargaining agreement either in effect or to be negotiated while this legislation is in effect for the fiscal year ending September 30, 1996, each agency head is authorized, within the agency head's discretion, to identify positions for abolishment.

"(b) Prior to February 1, 1996, each personnel authority shall make a final determination that a position within the personnel authority is to be abolished.

"(c) Notwithstanding any rights or procedures established by any other provision of this title, any District government employee, regardless of date of hire, who encumbers a position identified for abolishment shall be separated without competition or assignment rights, except as provided in this section.

"(d) An employee affected by the abolishment of a position pursuant to this section who, but for this section would be entitled to compete for retention, shall be entitled to 1 round of lateral competition pursuant to Chapter 24 of the District of Columbia Personnel Manual, which shall be limited to positions in the employee's competitive level.

"(e) Each employee who is a bona fide resident of the District of Columbia shall have added 5 years to his or her creditable service for reduction-in-force purposes. For purposes of this subsection only, a nonresident District employee who was hired by the District government prior to January 1, 1980, and has not had a break in service since that date, or a former employee of the U.S. Department of Health and Human Services at Saint Elizabeth's Hospital who accepted employment with the District government on October 1, 1987, and has not had a break in service since that date, shall be considered a District resident.

"(f) Each employee selected for separation pursuant to this section shall be given written notice of at least 30 days before the effective date of his or her separation.

"(g) Neither the establishment of a competitive area smaller than an agency, nor the determination that a specific position is to be abolished, nor separation pursuant to his section shall be subject to review except as follows—

"(1) an employee may file a complaint contesting a determination or a separation pursuant to title XV of this Act or section 303 of the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Code, sec. 1-2543); and

"(2) an employee may file with the Office of Employee Appeals an appeal contesting that the separation procedures of subsections (d) and (f) of this section were not properly applied.

"(h) An employee separated pursuant to this section shall be entitled to severance pay in accordance with title XI of this Act, except that the following shall be included in computing creditable service for severance pay for employees separated pursuant to this section—

"(1) four years for an employee who qualified for veteran's preference under this act, and

"(2) three years for an employee who qualified for residency preference under this Act.

"(i) Separation pursuant to this section shall not affect an employee's rights under either the

Agency Reemployment Priority Program or the Displaced Employee Program established pursuant to Chapter 24 of the District Personnel Manual.

"(j) The Mayor shall submit to the Council a listing of all positions to be abolished by agency and responsibility center by March 1, 1996, or upon the delivery of termination notices to individual employees.

"(k) Notwithstanding the provisions of section 1708 or section 2402(d), the provisions of this act shall not be deemed negotiable.

"(l) A personnel authority shall cause a 30-day termination notice to be served, no later than September 1, 1996, on any incumbent employee remaining in any position identified to be abolished pursuant to subsection (b) of this section".

Sec. 150. (a) CEILING ON TOTAL OPERATING EXPENSES.—Notwithstanding any other provision of law, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 1996 under the caption "Division of Expenses" shall not exceed $4,994,000,000 of which $165,339,000 shall be from intra-District funds.

(b) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding subsection (a), the Mayor of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District submits to the District of Columbia Financial Responsibility and Management Assistance Authority established by Public Law 104–8 (109 Stat. 97) a report setting forth detailed information regarding such grant; and

(B) the District of Columbia Financial Responsibility and Management Assistance Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of Public Law 104–8.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) MONTHLY REPORTS.—The Chief Financial Officer of the District shall prepare a monthly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the month covered by the report.

PLANS FOR LORTON CORRECTIONAL COMPLEX

SEC. 151. (a) DEVELOPMENT OF PLANS.—Not later than March 15, 1996, the District of Columbia shall develop a series of alternative plans meeting the requirements of subsection (b) for the use and operation of the Lorton Correctional Complex (hereafter in this section referred to as the "Complex"), including—

(1) a plan under which the Complex will be closed;

(2) a plan under which the Complex will remain in operation under the management of the District of Columbia subject to such modifications as the District considers appropriate;

(3) a plan under which the Complex will be operated under the management of the Federal government;

(4) a plan under which the Complex will be operated under private management; and

(5) such other plans as the District of Columbia considers appropriate.

(b) REQUIREMENTS FOR PLANS.—Each of the plans developed by the District of Columbia under subsection (a) shall meet the following requirements:

(1) The plan shall provide for an appropriate transition period not to exceed 5 years in length.

(2) The plan shall include provisions specifying how and to what extent the District will utilize alternative management, including the private sector, for the operation of correctional facilities for the District, and shall include provisions describing the treatment under such alternative management (including under contracts) of site selection, design, financing, construction, and operation of correctional facilities for the District.

(3) The plan shall include a description of any legislation required to implenent the plan.

(4) The plan shall include an implementation schedule, together with specific performance measures and timelines to determine the extent to which the District is meeting the schedule during the transition period.

(5) Under the plan, the Mayor of the District of Columbia shall submit a semi-annual report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority describing the actions taken by the District under the plan, and in addition shall regularly report to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority on all significant measures taken under the plan as soon as such measures are taken.

(6) For each of the years during which the plan is in effect, the plan shall be consistent with the financial plan and budget for the District of Columbia for the year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(c) SUBMISSION OF PLAN.—Upon completing the development of the plans under subsection (a), the District of Columbia shall submit the plans to the President, Congress, and the District of Columbia Financial Responsibility and Management Assistance Authority.

PROHIBITION AGAINST ADOPTION BY UNMARRIED COUPLES

SEC. 152. (a) IN GENERAL.—Section 16–302, D.C. Code, is amended—

(1) by striking "Any person" and inserting "(a) Subject to subsection (b), any person"; and

(2) by adding at the end the following subsection:

"(b)(1) Except as provided in paragraph (2), no person may join in a petition under this section unless the person is the spouse of the petitioner.

"(2) An unmarried person may file a petition for adoption where no other person joins in the petition or where the co-petitioner is the natural parent of the child.".

TECHNICAL CORRECTIONS TO FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT

SEC. 153. (a) REQUIRING GSA TO PROVIDE SUPPORT SERVICES.—Section 103(f) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 is amended by striking "may provide" and inserting "shall promptly provide".

(b) AVAILABILITY OF CERTAIN FEDERAL BENEFITS FOR INDIVIDUALS WHO BECOME EMPLOYED BY THE AUTHORITY.—

(1) FORMER FEDERAL EMPLOYEES.—Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) PRESERVATION OF RETIREMENT AND CERTAIN OTHER RIGHTS OF FEDERAL EMPLOYEES WHO BECOME EMPLOYED BY THE AUTHORITY.—

"(1) IN GENERAL.—Any Federal employee who becomes employed by the Authority—

"(A) may elect, for the purposes set forth in paragraph (2)(A), to be treated, for so long as that individual remains continuously employed by the Authority, as if such individual had not separated from service with the Federal Government, subject to paragraph (3); and

"(B) shall, if such employee subsequently becomes reemployed by the Federal Government, be entitled to have such individual's service with the Authority treated, for purposes of determining the appropriate leave accrual rate, as if it had been service with the Federal Government.

"(2) EFFECT OF AN ELECTION.—An election made by an individual under the provisions of paragraph (1)(A)—

"(A) shall qualify such individual for the treatment describe in such provisions for purposes of—

"(i) chapter 83 or 84 of title 5, United States Code, as appropriate (relating to retirement), including the Thrift Savings Plan;

"(ii) chapter 87 of such title (relating to life insurance); and

"(iii) chapter 89 of such title (relating to health insurance); and

"(B) shall disqualify such individual, while such election remains in effect, from participating in the programs offered by the government of the District of Columbia (if any) corresponding to the respective programs referred to in subparagraph (A).

"(3) CONDITIONS FOR AN ELECTION TO BE EFFECTIVE.—An election made by an individual under paragraph (1)(A) shall be ineffective unless—

"(A) it is made before such individual separates from service with the Federal Government; and

"(B) such individual's service with the Authority commences within 3 days after so separating (not counting any holiday observed by the government of the District of Columbia).

"(4) CONTRIBUTIONS.—If an individual makes an election under paragraph (1)(A), the Authority shall, in accordance with applicable provisions of law referred to in paragraph (2)(A), be responsible for making the same deductions from pay and the same agency contributions as would be required if it were a Federal agency.

"(5) REGULATIONS.—Any regulations necessary to carry out this subsection shall be prescribed in consultation with the Authority by—

"(A) the Office of Personnel Management, to the extent that any program administered by the office is involved;

"(B) the appropriate office or agency of the government of the District of Columbia, to the extent that any program administered by such office or agency is involved; and

"(C) the Executive Director referred to in section 8474 of title 5, United States Code, to the extent that the Thrift Savings Plan is involved.".

(2) OTHER INDIVIDUALS.—Section 102 of such Act is further amended by adding at the end the following:

"(f) FEDERAL BENEFITS FOR OTHERS.—

"(1) IN GENERAL.—The Office of Personnel Management, in conjunction with each corresponding office or agency of the government of the District of Columbia and in consultation with the Authority, shall prescribe regulations under which any individual who becomes employed by the Authority (under circumstances other than as described in subsection (e)) may elect either—

(A) to be deemed a Federal employee for purposes of the programs referred to in subsection (e)(2)(A) (i)–(iii); or

"(B) to participate in 1 or more of the corresponding programs offered by the government of the District of Columbia.

"(2) EFFECT OF AN ELECTION.—An individual who elects the option under subparagraph (A) or (B) of paragraph (1) shall be disqualified, while such election remains in effect, from participating in any of the programs referred to in the other such subparagraph.

"(3) DEFINITION OF 'CORRESPONDING OFFICE OR AGENCY'.—For purposes of paragraph (1), the term 'corresponding office or agency of the government of the District of Columbia' means, with respect to any program administered by the Office of Personnel Management, the office or agency responsible for administering the corresponding program (if any) offered by the government of the District of Columbia.

"(4) THRIFT SAVINGS PLAN.—To the extent that the Thrift Savings Plan is involved, the preceding provisions of this subsection shall be applied by substituting 'the Executive Director referred to in section 8474 of title 5, United States Code' for 'the Office of Personnel Management'.".

(3) Effective date; additional election for former federal employees serving on date of enactment; election for employees appointed during interim period.—

(A) EFFECTIVE DATE.—Not later than 6 months after the date of enactment of this Act, there shall be prescribed in consultation with the Authority (and take effect)—

(i) regulations to carry out the amendments made by this subsection; and

(ii) any other regulations necessary to carry out this subsection.

(B) Additional election for former federal employees serving on date of enactment.—

(i) IN GENERAL.—Any former Federal employee employed by the Authority on the effective date of the regulations referred to in subparagraph (A)(i) may, within such period as may be provided for under those regulations, make an election similar, to the maximum extent practicable, to the election provided for under section 102(e) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this subsection. Such regulations shall be prescribed jointly by the Office of Personnel Management and each corresponding office or agency of the government of the District of Columbia (in the same manner as provided for in section 102(f) of such Act, as so amended).

(ii) EXCEPTION.—An election under this subparagraph may not be made by any individual who—

(I) is not then participating in a retirement system for Federal employees (disregarding Social Security); or

(II) is then participating in any program of the government of the District of Columbia referred to in section 102(e)(2)(B) of such Act (as so amended).

(C) ELECTION FOR EMPLOYEES APPOINTED DURING INTERIM PERIOD.—

(i) FROM THE FEDERAL GOVERNMENT.—Subsection (e) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as last in effect before the date of enactment of this Act) shall be deemed to have remained in effect for purposes of any Federal employee who becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on such date of enactment and ending on the day before the effective date of the regulations prescribed to carry out subparagraph (B).

(ii) OTHER INDIVIDUALS.—The regulations prescribed to carry out subsection (f) of section 102 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (as amended by this subsection) shall include provisions under which an election under such subsection shall be available to any individual who—

(I) becomes employed by the District of Columbia Financial Responsibility and Management Assistance Authority during the period beginning on the date of enactment of this Act and ending on the day before the effective date of such regulations;

(II) would have been eligible to make an election under such regulations had those regulations been in effect when such individual became so employed; and

(III) is not then participating in any program of the government of the District of Columbia referred to in subsection (f)(1)(B) of such section 102 (as so amended).

(c) EXEMPTION FROM LIABILITY FOR CLAIMS FOR AUTHORITY EMPLOYEES.—Section 104 of such Act is amended—

(1) by striking "the Authority and its members" and inserting "the Authority, its members, and its employees"; and

(2) by striking "the District of Columbia" and inserting "the Authority or its members or employees or the District of Columbia".

(d) PERMITTING REVIEW OF EMERGENCY LEGISLATION.—Section 203(a)(3) of such Act is amended by striking subparagraph (C).

ESTABLISHMENT OF EXCLUSIVE ACCOUNTS FOR BLUE PLAINS ACTIVITIES

SEC. 154. (a) OPERATION AND MAINTENANCE ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund the Operation and Maintenance Account, consisting of all fund paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to waste water treatment user charges;

(B) paid by users jurisdictions for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(C) appropriated or otherwise provided for the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the Operation and Maintenance Account shall be used solely for funding the operation and maintenance of the Blue Plains Wastewater Treatment Facility and related waste water treatment works and may not be obligated or expended for any other purpose, and may be used for related debt service and capital costs if such funds are not attributable to user charges assessed for purposes of section 204(b)(1) of the Federal Water Pollution Control Act.

(b) EPA GRANT ACCOUNT.—

(1) CONTENTS OF ACCOUNT.—There is hereby established within the Water and Sewer Enterprise Fund and EPA Grant Account, consisting of all funds paid to the District of Columbia on or after the date of the enactment of this Act which are—

(A) attributable to grants from the Environmental Protection Agency for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works; or

(B) appropriated or otherwise provided for construction at the Blue Plains Wastewater Treatment Facility and related waste water treatment works.

(2) USE OF FUNDS IN ACCOUNT.—Funds in the EPA Grant Account shall be used solely for the purposes specified under the terms of the grants and appropriations involved, and may not be obligated or expended for any other purpose.

SEC. 155. (a) Up to 50 police officers and up to 50 Fire and Emergency Medical Services members who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1996 shall be excluded from the computation of the rate of disability retirements under subsection 145(a) of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 882; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Offices and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act of 1979.

(b) The Mayor, within 30 days after the enactment of this provision, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, approved November 17, 1979; D.C. Code, secs. 1-722(d) and 1-724(d)).

This title may be cited as the "District of Columbia Appropriations Act, 1996".

TITLE II—DISTRICT OF COLUMBIA SCHOOL REFORM

SEC. 2001. SHORT TITLE.

This title may be cited as the "District of Columbia School Reform Act of 1995".

SEC. 2002. DEFINITIONS.

Except as otherwise provided, for purposes of this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate;

(B) the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate; and

(C) the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(2) AUTHORITY.—The term "Authority" means the District of Columbia Financial Responsibility and Management Assistance Authority established under section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8).

(3) AVERAGE DAILY ATTENDANCE.—The term "average daily attendance" means the aggregate attendance of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(4) AVERAGE DAILY MEMBERSHIP.—The term "average daily membership" means the aggregate enrollment of students of the school during the period divided by the number of days during the period in which—

(A) the school is in session; and

(B) the students of the school are under the guidance and direction of teachers.

(5) BOARD OF EDUCATION.—The term "Board of Education" means the Board of Education of the District of Columbia.

(6) BOARD OF TRUSTEES.—The term "Board of Trustees" means the governing board of a public charter school, the members of which are selected pursuant to the charter granted to the school and in a manner consistent with this title.

(7) CONSENSUS COMMISSION.—The term "Consensus Commission" means the Commission on Consensus Reform in the District of Columbia public schools established under subtitle L.

(8) CORE CURRICULUM.—The term "core curriculum" means the concepts, factual knowledge, and skills that students in the District of Columbia should learn in kindergarten through grade 12 in academic content areas, including, at a minimum, English, mathematics, science, and history.

(9) DISTRICT OF COLUMBIA COUNCIL.—The term "District of Columbia Council" means the Council of the District of Columbia established pursuant to section 401 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 1–221).

(10) DISTRICT OF COLUMBIA GOVERNMENT.—

(A) IN GENERAL.—The term "District of Columbia Government" means the government of the District of Columbia, including—

(i) any department, agency, or instrumentality of the government of the District of Columbia;

(ii) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Self-Government and Governmental Reorganization Act;

(iii) any other agency, board, or commission established by the Mayor or the District of Columbia Council;

(iv) the courts of the District of Columbia;

(v) the District of Columbia Council; and

(vi) any other agency, public authority, or public nonprofit corporation that has the authority to receive moneys directly or indirectly from the District of Columbia (other than moneys received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia).

(B) EXCEPTION.—The term "District of Columbia Government" neither includes the Authority nor a public charter school.

(11) DISTRICT OF COLUMBIA GOVERNMENT RETIREMENT SYSTEM.—The term "District of Columbia Government retirement system" means the retirement programs authorized by the District of Columbia Council or the Congress for employees of the District of Columbia Government.

(12) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—

(A) IN GENERAL.—The term "District of Columbia public school" means a public school in the District of Columbia that offers classes—

(i) at any of the grade levels from prekindergarten through grade 12; or

(ii) leading to a secondary school diploma, or its recognized equivalent.

(B) EXCEPTION.—The term "District of Columbia public school" does not include a public charter school.

(13) DISTRICTWIDE ASSESSMENTS.—The term "districtwide assessments" means a variety of assessment tools and strategies (including individual student assessments under subparagraph (E)(ii)) administered by the Superintendent to students enrolled in District of Columbia public schools and public charter schools that—

(A) are aligned with the District of Columbia's content standards and core curriculum;

(B) provide coherent information about student attainment of such standards;

(C) are used for purposes for which such assessments are valid, reliable, and unbiased, and are consistent with relevant nationally recognized professional and technical standards for such assessments;

(D) involve multiple up-to-date measures of student performance, including measures that assess higher order thinking skills and understanding; and

(E) provide for—

(i) the participation in such assessments of all students;

(ii) individual student assessments for students that fail to reach minimum acceptable levels of performance;

(iii) the reasonable adaptations and accommodations for students with special needs (as defined in paragraph (32)) necessary to measure the achievement of such students relative to the District of Columbia's content standards; and

(iv) the inclusion of limited-English proficient students, who shall be assessed, to the extent practicable, in the language and form most likely to yield accurate and reliable information regarding such students' knowledge and abilities.

(14) ELECTRONIC DATA TRANSFER SYSTEM.—The term "electronic data transfer system" means a computer-based process for the maintenance and transfer of student records designed to permit the transfer of individual student records among District of Columbia public schools and public charter schools.

(15) ELEMENTARY SCHOOL.—The term "elementary school" means an institutional day or residential school that provides elementary education, as determined under District of Columbia law.

(16) ELIGIBLE APPLICANT.—The term "eligible applicant" means a person, including a private, public, or quasi-public entity, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))), that seeks to establish a public charter school in the District of Columbia.

(17) ELIGIBLE CHARTERING AUTHORITY.—The term "eligible chartering authority" means any of the following:

(A) The Board of Education.

(B) The Public Charter School Board.

(C) Any one entity designated as an eligible chartering authority by enactment of a bill by the District of Columbia Council after the date of the enactment of this Act.

(18) FAMILY RESOURCE CENTER.—The term "family resource center" means an information desk—

(A) located in a District of Columbia public school or a public charter school serving a majority of students whose family income is not greater than 185 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act applicable to a family of the size involved (42 U.S.C. 9902(3))); and

(B) which links students and families to local resources and public and private entities involved in child care, adult education, health and social services, tutoring, mentoring, and job training.

(19) INDIVIDUAL CAREER PATH.—The term "individual career path" means a program of study that provides a secondary school student the skills necessary to compete in the 21st century workforce.

(20) LITERACY.—The term "literacy" means—

(A) in the case of a minor student, such student's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function in society, to achieve such student's goals, and develop such student's knowledge and potential; and

(B) in the case of an adult, such adult's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve such adult's goals, and develop such adult's knowledge and potential.

(21) LONG-TERM REFORM PLAN.—The term "long-term reform plan" means the plan submitted by the Superintendent under section 2101.

(22) MAYOR.—The term "Mayor" means the Mayor of the District of Columbia.

(23) METROBUS AND METRORAIL TRANSIT SYSTEM.—The term "Metrobus and Metrorail Transit System" means the bus and rail systems administered by the Washington Metropolitan Area Transit Authority.

(24) MINOR STUDENT.—The term "minor student" means an individual who—

(A) is enrolled in a District of Columbia public school or a public charter school; and

(B) is not beyond the age of compulsory school attendance, as prescribed in section 1 of article I, and section 1 of article II, of the Act of February 4, 1925 (sections 31–401 and 31–402, D.C. Code).

(25) NONRESIDENT STUDENT.—The term "nonresident student" means—

(A) an individual under the age of 18 who is enrolled in a District of Columbia public school or a public charter school, and does not have a parent residing in the District of Columbia; or

(B) an individual who is age 18 or older and is enrolled in a District of Columbia public school or public charter school, and does not reside in the District of Columbia.

(26) PARENT.—The term "parent" means a person who has custody of a child, and who—

(A) is a natural parent of the child;

(B) is a stepparent of the child;

(C) has adopted the child; or

(D) is appointed as a guardian for the child by a court of competent jurisdiction.

(27) PETITION.—The term "petition" means a written application.

(28) PROMOTION GATE.—The term "promotion gate" means the criteria, developed by the Superintendent and approved by the Board of Education, that are used to determine student promotion at different grade levels. Such criteria shall include student achievement on districtwide assessments established under subtitle D.

(29) PUBLIC CHARTER SCHOOL.—The term "public charter school" means a publicly funded school in the District of Columbia that—

(A) is established pursuant to subtitle B; and

(B) except as provided under sections 2212(d)(5) and 2213(c)(5) is not a part of the District of Columbia public schools.

(30) PUBLIC CHARTER SCHOOL BOARD.—The term "Public Charter School Board" means the Public Charter School Board established under section 2214.

(31) SECONDARY SCHOOL.—The term "secondary school" means an institutional day or residential school that provides secondary education, as determined by District of Columbia law, except that such term does not include any education beyond grade 12.

(32) STUDENT WITH SPECIAL NEEDS.—The term "student with special needs" means a student who is a child with a disability as provided in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)) or a student who is an individual with a disability as provided in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)).

(33) SUPERINTENDENT.—The term "Superintendent" means the Superintendent of the District of Columbia public schools.

(34) TEACHER.—The term "teacher" means any person employed as a teacher by the Board of Education or by a public charter school.

SEC. 2003. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this title, this title shall be effective during the period beginning on the date of enactment of this Act and ending 5 years after such date.

Subtitle A—District of Columbia Reform Plan

SEC. 2101. LONG-TERM REFORM PLAN.

(a) IN GENERAL.—

(1) PLAN.—The Superintendent, with the approval of the Board of Education, shall submit to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees, a long-term reform plan, not later than 90 days after the date of enactment of this Act, and each February 15 thereafter. The long-term reform plan shall be consistent with the financial plan and budget for the District of Columbia for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(2) CONSULTATION.—

(A) IN GENERAL.—In developing the long-term reform plan, the Superintendent—

(i) shall consult with the Board of Education, the Mayor, the District of Columbia Council, the Authority, and the Consensus Commission; and

(ii) shall afford the public, interested organizations, and groups an opportunity to present their views and make recommendations regarding the long-term reform plan.

(B) SUMMARY OF RECOMMENDATIONS.—The Superintendent shall include in the long-term plan a summary of the recommendations made under subparagraph (A)(ii) and the response of the Superintendent to the recommendations.

(b) CONTENTS.—

(1) AREAS TO BE ADDRESSED.—The long-term reform plan shall describe how the District of Columbia public schools will become a world-class education system that prepares students for lifetime learning in the 21st century and which is on a par with the best education systems of other cities, States, and nations. The long-term reform plan shall include a description of how the District of Columbia public schools will accomplish the following:

(A) Achievement at nationally and internationally competitive levels by students attending District of Columbia public schools.

(B) The preparation of students for the workforce, including—

(i) providing special emphasis for students planning to obtain a postsecondary education; and

(ii) the development of individual career paths.

(C) The improvement of the health and safety of students in District of Columbia public schools.

(D) Local school governance, decentralization, autonomy, and parental choice among District of Columbia public schools.

(E) The implementation of a comprehensive and effective adult education and literacy program.

(F) The identification, beginning in grade 3, of each student who does not meet minimum standards of academic achievement in reading, writing, and mathematics in order to ensure that such student meets such standards prior to grade promotion.

(G) The achievement of literacy, and the possession of the knowledge and skills necessary to think critically, communicate effectively, and perform competently on districtwide assessments, by students attending District of Columbia public schools prior to such student's completion of grade 8.

(H) The establishment of after-school programs that promote self-confidence, self-discipline, self-respect, good citizenship, and respect for leaders, through such activities as arts classes, physical fitness programs, and community service.

(I) Steps necessary to establish an electronic data transfer system.

(J) Encourage parental involvement in all school activities, particularly parent teacher conferences.

(K) Development and implementation, through the Board of Education and the Superintendent, of a uniform dress code for the District of Columbia public schools, that—

(i) shall include a prohibition of gang membership symbols;

(ii) shall take into account the relative costs of any such code for each student; and

(iii) may include a requirement that students wear uniforms.

(L) The establishment of classes, beginning not later than grade 3, to teach students how to use computers effectively.

(M) The development of community schools that enable District of Columbia public schools to collaborate with other public and nonprofit agencies and organizations, local businesses, recreational, cultural, and other community and human service entities, for the purpose of meeting the needs and expanding the opportunities available to residents of the communities served by such schools.

(N) The establishment of programs which provide counseling, mentoring (especially peer mentoring), academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school.

(O) The establishment of a comprehensive remedial education program to assist students who do not meet basic literacy standards, or the criteria of promotion gates established in section 2421.

(P) The establishment of leadership development projects for middle school principals, which projects shall increase student learning and achievement and strengthen such principals as instructional school leaders.

(Q) The implementation of a policy for performance-based evaluation of principals and teachers, after consultation with the Superintendent and unions (including unions that represent teachers and unions that represent principals).

(R) The implementation of policies that require competitive appointments for all District of Columbia public school positions.

(S) The implementation of policies regarding alternative teacher certification requirements.

(T) The implementation of testing requirements for teacher licensing renewal.

(U) A review of the District of Columbia public school central office budget and staffing reductions for each fiscal year compared to the level of such budget and reductions at the end of fiscal year 1995.

(V) The implementation of the discipline policy for the District of Columbia public schools in order to ensure a safe, disciplined environment conducive to learning.

(2) OTHER INFORMATION.—For each of the items described in subparagraphs (A) through (V) of paragraph (1), the long-term reform plan shall include—

(A) a statement of measurable, objective performance goals;

(B) a description of the measures of performance to be used in determining whether the Superintendent and Board of Education have met the goals;

(C) dates by which the goals shall be met;

(D) plans for monitoring and reporting progress to District of Columbia residents, the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees regarding the carrying out of the long-term reform plan; and

(E) the title of the management employee of the District of Columbia public schools most directly responsible for the achievement of each goal and, with respect to each such employee, the title of the employee's immediate supervisor or superior.

(c) AMENDMENTS.—The Superintendent, with the approval of the Board of Education, shall submit any amendment to the long-term reform plan to the Mayor, the District of Columbia Council, the Authority, the Consensus Commission, and the appropriate congressional committees. Any amendment to the long-term reform plan shall be consistent with the financial plan and budget for fiscal year 1996, and each financial plan and budget for a subsequent fiscal year, as the case may be, for the District of Columbia required under section 201 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

Subtitle B—Public Charter Schools

SEC. 2201. PROCESS FOR FILING CHARTER PETITIONS.

(a) EXISTING PUBLIC SCHOOL.—An eligible applicant seeking to convert a District of Columbia public school into a public charter school—

(1) shall prepare a petition to establish a public charter school that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(b) PRIVATE OR INDEPENDENT SCHOOL.—An eligible applicant seeking to convert an existing private or independent school in the District of Columbia into a public charter school—

(1) shall prepare a petition to establish a public charter school that is approved by the Board of Trustees or authority responsible for the school and that meets the requirements of section 2202;

(2) shall provide a copy of the petition to—

(A) the parents of minor students attending the existing school;

(B) adult students attending the existing school; and

(C) employees of the existing school; and

(3) shall file the petition with an eligible chartering authority for approval after the petition—

(A) is signed by two-thirds of the sum of—

(i) the total number of parents of minor students attending the school; and

(ii) the total number of adult students attending the school; and

(B) is endorsed by at least two-thirds of full-time teachers employed in the school.

(c) NEW SCHOOL.—An eligible applicant seeking to establish in the District of Columbia a public charter school, but not seeking to convert a District of Columbia public school or a private or independent school into a public charter school, shall file with an eligible chartering authority for approval a petition to establish a public charter school that meets the requirements of section 2202.

SEC. 2202. CONTENTS OF PETITION.

A petition under section 2201 to establish a public charter school shall include the following:

(1) A statement defining the mission and goals of the proposed school and the manner in which the school will meet the content standards, and conduct the districtwide assessments, described in section 2411(b).

(2) A statement of the need for the proposed school in the geographic area of the school site.

(3) A description of the proposed instructional goals and methods for the proposed school, which shall include, at a minimum—

(A) the area of focus of the proposed school, such as mathematics, science, or the arts, if the school will have such a focus;

(B) the methods that will be used, including classroom technology, to provide students with the knowledge, proficiency, and skills needed—

(i) to become nationally and internationally competitive students and educated individuals in the 21st century; and

(ii) to perform competitively on any districtwide assessments; and

(C) the methods that will be used to improve student self-motivation, classroom instruction, and learning for all students.

(4) A description of the scope and size of the proposed school's program that will enable students to successfully achieve the goals established by the school, including the grade levels to be served by the school and the projected and maximum enrollment of each grade level.

(5) A description of the plan for evaluating student academic achievement at the proposed school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below the expectations of the school.

(6) An operating budget for the first 2 years of the proposed school that is based on anticipated enrollment and contains—

(A) a description of the method for conducting annual audits of the financial, administrative, and programmatic operations of the school;

(B) either—

(i) an identification of the site where the school will be located, including a description of any buildings on the site and any buildings proposed to be constructed on the site; or

(ii) a timetable by which such an identification will be made;

(C) a description of any major contracts planned, with a value equal to or exceeding $10,000, for equipment and services, leases, improvements, purchases of real property, or insurance; and

(D) a timetable for commencing operations as a public charter school.

(7) A description of the proposed rules and policies for governance and operation of the proposed school.

(8) Copies of the proposed articles of incorporation and bylaws of the proposed school.

(9) The names and addresses of the members of the proposed Board of Trustees and the procedures for selecting trustees.

(10) A description of the student enrollment, admission, suspension, expulsion, and other disciplinary policies and procedures of the proposed school, and the criteria for making decisions in such areas.

(11) A description of the procedures the proposed school plans to follow to ensure the health and safety of students, employees, and guests of the school and to comply with applicable health and safety laws, and all applicable civil rights statutes and regulations of the Federal Government and the District of Columbia.

(12) An explanation of the qualifications that will be required of employees of the proposed school.

(13) An identification, and a description, of the individuals and entities submitting the petition, including their names and addresses, and the names of the organizations or corporations of which such individuals are directors or officers.

(14) A description of how parents, teachers, and other members of the community have been involved in the design and will continue to be involved in the implementation of the proposed school.

(15) A description of how parents and teachers will be provided an orientation and other training to ensure their effective participation in the operation of the public charter school.

(16) An assurance the proposed school will seek, obtain, and maintain accreditation from at least one of the following:

(A) The Middle States Association of Colleges and Schools.

(B) The Association of Independent Maryland Schools.

(C) The Southern Association of Colleges and Schools.

(D) The Virginia Association of Independent Schools.

(E) American Montessori Internationale.

(F) The American Montessori Society.

(G) The National Academy of Early Childhood Programs.

(H) Any other accrediting body deemed appropriate by the eligible chartering authority that granted the charter to the school.

(17) In the case that the proposed school's educational program includes preschool or prekindergarten, an assurance the proposed school will be licensed as a child development center by the District of Columbia Government not later than the first date on which such program commences.

(18) An explanation of the relationship that will exist between the public charter school and the school's employees.

(19) A statement of whether the proposed school elects to be treated as a local educational agency or a District of Columbia public school for purposes of part B of the Individuals With Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (20 U.S.C. 794), and notwithstanding any other provision of law the eligible chartering authority shall not have the authority to approve or disapprove such election.

SEC. 2203. PROCESS FOR APPROVING OR DENYING PUBLIC CHARTER SCHOOL PETITIONS.

(a) SCHEDULE.—An eligible chartering authority shall establish a schedule for receiving petitions to establish a public charter school and shall publish any such schedule in the District of Columbia Register and newspapers of general circulation.

(b) PUBLIC HEARING.—Not later than 45 days after a petition to establish a public charter school is filed with an eligible chartering authority, the eligible chartering authority shall hold a public hearing on the petition to gather the information that is necessary for the eligible chartering authority to make the decision to approve or deny the petition.

(c) NOTICE.—Not later than 10 days prior to the scheduled date of a public hearing on a petition to establish a public charter school, an eligible chartering authority—

(1) shall publish a notice of the hearing in the District of Columbia Register and newspapers of general circulation; and

(2) shall send a written notification of the hearing date to the eligible applicant who filed the petition.

(d) APPROVAL.—Subject to subsection (i), an eligible chartering authority may approve a petition to establish a public charter school, if—

(1) the eligible chartering authority determines that the petition satisfies the requirements of this subtitle;

(2) the eligible applicant who filed the petition agrees to satisfy any condition or requirement, consistent with this subtitle and other applicable law, that is set forth in writing by the eligible chartering authority as an amendment to the petition; and

(3) the eligible chartering authority determines that the public charter school has the ability to meet the educational objectives outlined in the petition.

(e) TIMETABLE.—An eligible chartering authority shall approve or deny a petition to establish a public charter school not later than 45 days after the conclusion of the public hearing on the petition.

(f) EXTENSION.—An eligible chartering authority and an eligible applicant may agree to extend the 45-day time period referred to in subsection (e) by a period that shall not exceed 30 days.

(g) DENIAL EXPLANATION.—If an eligible chartering authority denies a petition or finds the petition to be incomplete, the eligible chartering authority shall specify in writing the reasons for its decision and indicate, when the eligible chartering authority determines appropriate, how the eligible applicant who filed the petition may revise the petition to satisfy the requirements for approval.

(h) APPROVED PETITION.—

(1) NOTICE.—Not later than 10 days after an eligible chartering authority approves a petition to establish a public charter school, the eligible chartering authority shall provide a written notice of the approval, including a copy of the approved petition and any conditions or requirements agreed to under subsection (d)(2), to the eligible applicant and to the Chief Financial Officer of the District of Columbia. The eligible chartering authority shall publish a notice of the approval of the petition in the District of Columbia Register and newspapers of general circulation.

(2) CHARTER.—The provisions described in paragraphs (1), (7), (8), (11), (16), (17), and (18) of section 2202 of a petition to establish a public charter school that are approved by an eligible chartering authority, together with any amendments to the petition containing conditions or requirements agreed to by the eligible applicant under subsection (d)(2), shall be considered a charter granted to the school by the eligible chartering authority.

(i) NUMBER OF PETITIONS.—

(1) FIRST YEAR.—For academic year 1996–1997, not more than 10 petitions to establish public charter schools may be approved under this subtitle.

(2) SUBSEQUENT YEARS.—For academic year 1997–1998 and each academic year thereafter each eligible chartering authority shall not approve more than 5 petitions to establish a public charter school under this subtitle.

(j) EXCLUSIVE AUTHORITY OF THE ELIGIBLE CHARTERING AUTHORITY.—No governmental entity, elected official, or employee of the District of Columbia shall make, participate in making, or intervene in the making of, the decision to approve or deny a petition to establish a public charter school, except for officers or employees of the eligible chartering authority with which the petition is filed.

SEC. 2204. DUTIES, POWERS, AND OTHER REQUIREMENTS, OF PUBLIC CHARTER SCHOOLS.

(a) DUTIES.—A public charter school shall comply with all of the terms and provisions of its charter.

(b) POWERS.—A public charter school shall have the following powers:

(1) To adopt a name and corporate seal, but only if the name selected includes the words "public charter school".

(2) To acquire real property for use as the public charter school's facilities, from public or private sources.

(3) To receive and disburse funds for public charter school purposes.

(4) Subject to subsection (c)(1), to secure appropriate insurance and to make contracts and leases, including agreements to procure or purchase services, equipment, and supplies.

(5) To incur debt in reasonable anticipation of the receipt of funds from the general fund of the District of Columbia or the receipt of Federal or private funds.

(6) To solicit and accept any grants or gifts for public charter school purposes, if the public charter school—

(A) does not accept any grants or gifts subject to any condition contrary to law or contrary to its charter; and

(B) maintains for financial reporting purposes separate accounts for grants or gifts.

(7) To be responsible for the public charter school's operation, including preparation of a budget and personnel matters.

(8) To sue and be sued in the public charter school's own name.

(c) PROHIBITIONS AND OTHER REQUIREMENTS.—

(1) CONTRACTING AUTHORITY.—

(A) NOTICE REQUIREMENT.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any contract proposed to be awarded by the public charter school and having a value equal to or exceeding $10,000, the

school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 30 days prior to the award of the contract.

(B) SUBMISSION TO THE AUTHORITY.—

(i) DEADLINE FOR SUBMISSION.—With respect to any contract described in subparagraph (A) that is awarded by a public charter school, the school shall submit to the Authority, not later than 3 days after the date on which the award is made, all bids for the contract received by the school, the name of the contractor who is awarded the contract, and the rationale for the award of the contract.

(ii) EFFECTIVE DATE OF CONTRACT.—

(I) IN GENERAL.—Subject to subclause (II), a contract described in subparagraph (A) shall become effective on the date that is 15 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later.

(II) EXCEPTION.—A contract described in subparagraph (A) shall be considered null and void if the Authority determines, within 12 days of the date the school makes the submission under clause (i) with respect to the contract, that the contract endangers the economic viability of the public charter school.

(2) TUITION.—A public charter school may not charge tuition, fees, or other mandatory payments, except to nonresident students, or for field trips or similar activities.

(3) CONTROL.—A public charter school—

(A) shall exercise exclusive control over its expenditures, administration, personnel, and instructional methods, within the limitations imposed in this subtitle; and

(B) shall be exempt from District of Columbia statutes, policies, rules, and regulations established for the District of Columbia public schools by the Superintendent, Board of Education, Mayor, District of Columbia Council, or Authority, except as otherwise provided in the school's charter or this subtitle.

(4) HEALTH AND SAFETY.—A public charter school shall maintain the health and safety of all students attending such school.

(5) CIVIL RIGHTS AND IDEA.—The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), shall apply to a public charter school.

(6) GOVERNANCE.—A public charter school shall be governed by a Board of Trustees in a manner consistent with the charter granted to the school and the provisions of this subtitle.

(7) OTHER STAFF.—No employee of the District of Columbia public schools may be required to accept employment with, or be assigned to, a public charter school.

(8) OTHER STUDENTS.—No student enrolled in a District of Columbia public school may be required to attend a public charter school.

(9) TAXES OR BONDS.—A public charter school shall not levy taxes or issue bonds.

(10) CHARTER REVISION.—A public charter school seeking to revise its charter shall prepare a petition for approval of the revision and file the petition with the eligible chartering authority that granted the charter. The provisions of section 2203 shall apply to such a petition in the same manner as such provisions apply to a petition to establish a public charter school.

(11) ANNUAL REPORT.—

(A) IN GENERAL.—A public charter school shall submit an annual report to the eligible chartering authority that approved its charter and to the Consensus Commission. The school shall permit a member of the public to review any such report upon request.

(B) CONTENTS.—A report submitted under subparagraph (A) shall include the following data:

(i) A report on the extent to which the school is meeting its mission and goals as stated in the petition for the charter school.

(ii) Student performance on any districtwide assessments.

(iii) Grade advancement for students enrolled in the public charter school.

(iv) Graduation rates, college admission test scores, and college admission rates, if applicable.

(v) Types and amounts of parental involvement.

(vi) Official student enrollment.

(vii) Average daily attendance.

(viii) Average daily membership.

(ix) A financial statement audited by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(x) A report on school staff indicating the qualifications and responsibilities of such staff.

(xi) A list of all donors and grantors that have contributed monetary or in-kind donations having a value equal to or exceeding $500 during the year that is the subject of the report.

(C) NONIDENTIFYING DATA.—Data described in clauses (i) through (ix) of subparagraph (B) that are included in an annual report shall not identify the individuals to whom the data pertain.

(12) CENSUS.—A public charter school shall provide to the Board of Education student enrollment data necessary for the Board of Education to comply with section 3 of article II of the Act of February 4, 1925 (D.C. Code, sec. 31-404) (relating to census of minors).

(13) COMPLAINT RESOLUTION PROCESS.—A public charter school shall establish an informal complaint resolution process.

(14) PROGRAM OF EDUCATION.—A public charter school shall provide a program of education which shall include one or more of the following:

(A) Preschool.

(B) Prekindergarten.

(C) Any grade or grades from kindergarten through grade 12.

(D) Residential education.

(E) Adult, community, continuing, and vocational education programs.

(15) NONSECTARIAN NATURE OF SCHOOLS.—A public charter school shall be nonsectarian and shall not be affiliated with a sectarian school or religious institution.

(16) NONPROFIT STATUS OF SCHOOL.—A public charter school shall be organized under the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(17) IMMUNITY FROM CIVIL LIABILITY.—

(A) IN GENERAL.—A public charter school, and its incorporators, Board of Trustees, officers, employees, and volunteers, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(i) constitutes gross negligence;

(ii) constitutes an intentional tort; or

(iii) is criminal in nature.

(B) COMMON LAW IMMUNITY PRESERVED.—Subparagraph (A) shall not be construed to abrogate any immunity under common law of a person described in such subparagraph.

SEC. 2205. BOARD OF TRUSTEES OF A PUBLIC CHARTER SCHOOL.

(a) BOARD OF TRUSTEES.—The members of a Board of Trustees of a public charter school shall be elected or selected pursuant to the charter granted to the school. Such Board of Trustees shall have an odd number of members that does not exceed 7, of which—

(1) a majority shall be residents of the District of Columbia; and

(2) at least 2 shall be parents of a student attending the school.

(b) ELIGIBILITY.—An individual is eligible for election or selection to the Board of Trustees of a public charter school if the person—

(1) is a teacher or staff member who is employed at the school;

(2) is a parent of a student attending the school; or

(3) meets the election or selection criteria set forth in the charter granted to the school.

(c) ELECTION OR SELECTION OF PARENTS.—In the case of the first Board of Trustees of a public charter school to be elected or selected after the date on which the school is granted a charter, the election or selection of the members under subsection (a)(2) shall occur on the earliest practicable date after classes at the school have commenced. Until such date, any other members who have been elected or selected shall serve as an interim Board of Trustees. Such an interim Board of Trustees may exercise all of the powers, and shall be subject to all of the duties, of a Board of Trustees.

(d) FIDUCIARIES.—The Board of Trustees of a public charter school shall be fiduciaries of the school and shall set overall policy for the school. The Board of Trustees may make final decisions on matters related to the operation of the school, consistent with the charter granted to the school, this subtitle, and other applicable law.

SEC. 2206. STUDENT ADMISSION, ENROLLMENT, AND WITHDRAWAL.

(a) OPEN ENROLLMENT.—Enrollment in a public charter school shall be open to all students who are residents of the District of Columbia and, if space is available, to nonresident students who meet the tuition requirement in subsection (e).

(b) CRITERIA FOR ADMISSION.—A public charter school may not limit enrollment on the basis of a student's race, color, religion, national origin, language spoken, intellectual or athletic ability, measures of achievement or aptitude, or status as a student with special needs. A public charter school may limit enrollment to specific grade levels.

(c) RANDOM SELECTION.—If there are more applications to enroll in a public charter school from students who are residents of the District of Columbia than there are spaces available, students shall be admitted using a random selection process.

(d) ADMISSION TO AN EXISTING SCHOOL.—During the 5-year period beginning on the date that a petition, filed by an eligible applicant seeking to convert a District of Columbia public school or a private or independent school into a public charter school, is approved, the school may give priority in enrollment to—

(1) students enrolled in the school at the time the petition is granted;

(2) the siblings of students described in paragraph (1); and

(3) in the case of the conversion of a District of Columbia public school, students who reside within the attendance boundaries, if any, in which the school is located.

(e) NONRESIDENT STUDENTS.—Nonresident students shall pay tuition to attend a public charter school at the applicable rate established for District of Columbia public schools administered by the Board of Education for the type of program in which the student is enrolled.

(f) STUDENT WITHDRAWAL.—A student may withdraw from a public charter school at any time and, if otherwise eligible, enroll in a District of Columbia public school administered by the Board of Education.

(g) EXPULSION AND SUSPENSION.—The principal of a public charter school may expel or suspend a student from the school based on criteria set forth in the charter granted to the school.

SEC. 2207. EMPLOYEES.

(a) EXTENDED LEAVE OF ABSENCE WITHOUT PAY.—

(1) LEAVE OF ABSENCE FROM DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—The Superintendent shall grant, upon request, an extended leave of absence, without pay, to an employee of the District of Columbia public schools for the purpose of permitting the employee to accept a position at a public charter school for a 2-year term.

(2) REQUEST FOR EXTENSION.—At the end of a 2-year term referred to in paragraph (1), an employee granted an extended leave of absence without pay under such paragraph may submit a request to the Superintendent for an extension of the leave of absence for an unlimited number of 2-year terms. The Superintendent may not unreasonably (as determined by the eligible chartering authority) withhold approval of the request.

(3) RIGHTS UPON TERMINATION OF LEAVE.—An employee granted an extended leave of absence without pay for the purpose described in paragraph (1) or (2) shall have the same rights and benefits under law upon termination of such leave of absence as an employee of the District of Columbia public schools who is granted an extended leave of absence without pay for any other purpose.

(b) RETIREMENT SYSTEM.—

(1) CREDITABLE SERVICE.—An employee of a public charter school who has received a leave of absence under subsection (a) shall receive creditable service, as defined in section 2604 of D.C. Law 2–139, effective March 3, 1979 (D.C. Code, sec. 1–627.4) and the rules established under such section, for the period of the employee's employment at the public charter school.

(2) AUTHORITY TO ESTABLISH SEPARATE SYSTEM.—A public charter school may establish a retirement system for employees under its authority.

(3) ELECTION OF RETIREMENT SYSTEM.—A former employee of the District of Columbia public schools who becomes an employee of a public charter school within 60 days after the date the employee's employment with the District of Columbia public schools is terminated may, at the time the employee commences employment with the public charter school, elect—

(A) to remain in a District of Columbia Government retirement system and continue to receive creditable service for the period of their employment at a public charter school; or

(B) to transfer into a retirement system established by the public charter school pursuant to paragraph (2).

(4) PROHIBITED EMPLOYMENT CONDITIONS.—No public charter school may require a former employee of the District of Columbia public schools to transfer to the public charter school's retirement system as a condition of employment.

(5) CONTRIBUTIONS.—

(A) EMPLOYEES ELECTING NOT TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to remain in a District of Columbia Government retirement system pursuant to paragraph (3)(A), the public charter school that employs the person shall make the same contribution to such system on behalf of the person as the District of Columbia would have been required to make if the person had continued to be an employee of the District of Columbia public schools.

(B) EMPLOYEES ELECTING TO TRANSFER.—In the case of a former employee of the District of Columbia public schools who elects to transfer into a retirement system of a public charter school pursuant to paragraph (3)(B), the applicable District of Columbia Government retirement system from which the former employee is transferring shall compute the employee's contribution to that system and transfer this amount, to the retirement system of the public charter school.

(c) EMPLOYMENT STATUS.—Notwithstanding any other provision of law and except as provided in this section, an employee of a public charter school shall not be considered to be an employee of the District of Columbia Government for any purpose.

SEC. 2208. REDUCED FARES FOR PUBLIC TRANSPORTATION.

A student attending a public charter school shall be eligible for reduced fares on the Metrobus and Metrorail Transit System on the same terms and conditions as are applicable under section 2 of D.C. Law 2–152, effective March 9, 1979 (D.C. Code, sec. 44–216 et seq.), to a student attending a District of Columbia public school.

SEC. 2209. DISTRICT OF COLUMBIA PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.

The Superintendent may provide services, such as facilities maintenance, to public charter schools. All compensation for costs of such services shall be subject to negotiation and mutual agreement between a public charter school and the Superintendent.

SEC. 2210. APPLICATION OF LAW.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) TREATMENT AS LOCAL EDUCATIONAL AGENCY.—

(A) IN GENERAL.—For any fiscal year, a public charter school shall be considered to be a local educational agency for purposes of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), and shall be eligible for assistance under such part, if the fraction the numerator of which is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made and the denominator of which is the total number of students enrolled in such public charter school for such preceding year, is equal to or greater than the lowest fraction determined for any District of Columbia public school receiving assistance under such part A where the numerator is the number of low-income students enrolled in such public school for such preceding year and the denominator is the total number of students enrolled in such public school for such preceding year.

(B) DEFINITION.—For the purposes of this subsection, the term "low-income student" means a student from a low-income family determined according to the measure adopted by the District of Columbia to carry out the provisions of part A of title I of the Elementary and Secondary Education Act of 1965 that is consistent with the measures described in section 1113(a)(5) of such Act (20 U.S.C. 6313(a)(5)) for the fiscal year for which the determination is made.

(2) ALLOCATION FOR FISCAL YEARS 1996 THROUGH 1998.—

(A) PUBLIC CHARTER SCHOOLS.—For fiscal years 1996 through 1998, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the District of Columbia's total allocation under such part which bears the same ratio to such total allocation as the number described in subparagraph (C) bears to the number described in subparagraph (D).

(B) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—For fiscal years 1996 through 1998, the District of Columbia public schools shall receive a portion of the District of Columbia's total allocation under part A of title I of the Elementary and Secondary Education Act of 1965 which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of subparagraph (D) bears to the aggregate total described in subparagraph (D).

(C) NUMBER OF ELIGIBLE STUDENTS ENROLLED IN THE PUBLIC CHARTER SCHOOL.—The number described in this subparagraph is the number of low-income students enrolled in the public charter school during the fiscal year preceding the fiscal year for which the determination is made.

(D) AGGREGATE NUMBER OF ELIGIBLE STUDENTS.—The number described in this subparagraph is the aggregate total of the following numbers:

(i) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a public charter school.

(ii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made, were enrolled in a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(iii) The number of low-income students who, during the fiscal year preceding the fiscal year for which the determination is made—

(I) were enrolled in a private or independent school; and

(II) resided in an attendance area of a District of Columbia public school selected to provide services under part A of title I of the Elementary and Secondary Education Act of 1965.

(3) ALLOCATION FOR FISCAL YEAR 1999 AND THEREAFTER.—

(A) CALCULATION BY SECRETARY.—Notwithstanding sections 1124(a)(2), 1124A(a)(4), and 1125(d) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(a)(2), 6334(a)(4), and 6335(d)), for fiscal year 1999 and each fiscal year thereafter, the total allocation under part A of title I of such Act for all local educational agencies in the District of Columbia, including public charter schools that are eligible to receive assistance under such part, shall be calculated by the Secretary of Education. In making such calculation, such Secretary shall treat all such local educational agencies as if such agencies were a single local educational agency for the District of Columbia.

(B) ALLOCATION.—

(i) PUBLIC CHARTER SCHOOLS.—For fiscal year 1999 and each fiscal year thereafter, each public charter school that is eligible to receive assistance under part A of title I of the Elementary and Secondary Education Act of 1965 shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the number described in paragraph (2)(C) bears to the aggregate total described in paragraph (2)(D).

(ii) DISTRICT OF COLUMBIA PUBLIC SCHOOL.—For fiscal year 1999 and each fiscal year thereafter, the District of Columbia public schools shall receive a portion of the total allocation calculated under subparagraph (A) which bears the same ratio to such total allocation as the total of the numbers described in clauses (ii) and (iii) of paragraph (2)(D) bears to the aggregate total described in paragraph (2)(D).

(4) USE OF ESEA FUNDS.—The Board of Education may not direct a public charter school in the school's use of funds under part A of title I of the Elementary and Secondary Education Act of 1965.

(5) ESEA REQUIREMENTS.—Except as provided in paragraph (6), a public charter school receiving funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) shall comply with all requirements applicable to schools receiving such funds.

(6) INAPPLICABILITY OF CERTAIN ESEA PROVISIONS.—The following provisions of the Elementary and Secondary Education Act of 1965 shall not apply to a public charter school:

(A) Paragraphs (5) and (8) of section 1112(b) (20 U.S.C. 6312(b)).

(B) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), (1)(F), (1)(H), and (3) of section 1112(c) (20 U.S.C. 6312(c)).

(C) Section 1113 (20 U.S.C. 6313).

(D) Section 1115A (20 U.S.C. 6316).

(E) Subsections (a), (b), and (c) of section 1116 (20 U.S.C. 6317).

(F) Subsections (d) and (e) of section 1118 (20 U.S.C. 6319).

(G) Section 1120 (20 U.S.C. 6321).

(H) Subsections (a) and (c) of section 1120A (20 U.S.C. 6322).

(I) Section 1126 (20 U.S.C. 6337).

(b) PROPERTY AND SALES TAXES.—A public charter school shall be exempt from District of Columbia property and sales taxes.

(c) EDUCATION OF CHILDREN WITH DISABILITIES.—Notwithstanding any other provision of this title, each public charter school shall elect to be treated as a local educational agency or a District of Columbia public school for the purpose of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

SEC. 2211. POWERS AND DUTIES OF ELIGIBLE CHARTERING AUTHORITIES.

(a) OVERSIGHT.—

(1) IN GENERAL.—An eligible chartering authority—

(A) shall monitor the operations of each public charter school to which the eligible chartering authority has granted a charter;

(B) shall ensure that each such school complies with applicable laws and the provisions of the charter granted to such school; and

(C) shall monitor the progress of each such school in meeting student academic achievement expectations specified in the charter granted to such school.

(2) PRODUCTION OF BOOKS AND RECORDS.—An eligible chartering authority may require a public charter school to which the eligible chartering authority has granted a charter to produce any book, record, paper, or document, if the eligible chartering authority determines that such production is necessary for the eligible chartering authority to carry out its functions under this subtitle.

(b) FEES.—

(1) APPLICATION FEE.—An eligible chartering authority may charge an eligible applicant a fee, not to exceed $150, for processing a petition to establish a public charter school.

(2) ADMINISTRATION FEE.—In the case of an eligible chartering authority that has granted a charter to a public charter school, the eligible chartering authority may charge the school a fee, not to exceed one-half of one percent of the annual budget of the school, to cover the cost of undertaking the ongoing administrative responsibilities of the eligible chartering authority with respect to the school that are described in this subtitle. The school shall pay the fee to the eligible chartering authority not later than November 15 of each year.

(c) IMMUNITY FROM CIVIL LIABILITY.—

(1) IN GENERAL.—An eligible chartering authority, the Board of Trustees of such an eligible chartering authority, and a director, officer, employee, or volunteer of such an eligible chartering authority, shall be immune from civil liability, both personally and professionally, for any act or omission within the scope of their official duties unless the act or omission—

(A) constitutes gross negligence;

(B) constitutes an intentional tort; or

(C) is criminal in nature.

(2) COMMON LAW IMMUNITY PRESERVED.—Paragraph (1) shall not be construed to abrogate any immunity under common law of a person described in such paragraph.

(d) ANNUAL REPORT.—On or before July 30 of each year, each eligible chartering authority that issues a charter under this subtitle shall submit a report to the Mayor, the District of Columbia Council, the Board of Education, the Secretary of Education, the appropriate congressional committees, and the Consensus Commission that includes the following information:

(1) A list of the members of the eligible chartering authority and the addresses of such members.

(2) A list of the dates and places of each meeting of the eligible chartering authority during the year preceding the report.

(3) The number of petitions received by the eligible chartering authority for the conversion of a District of Columbia public school or a private or independent school to a public charter school, and for the creation of a new school as a public charter school.

(4) The number of petitions described in paragraph (3) that were approved and the number that were denied, as well as a summary of the reasons for which such petitions were denied.

(5) A description of any new charters issued by the eligible chartering authority during the year preceding the report.

(6) A description of any charters renewed by the eligible chartering authority during the year preceding the report.

(7) A description of any charters revoked by the eligible chartering authority during the year preceding the report.

(8) A description of any charters refused renewal by the eligible chartering authority during the year preceding the report.

(9) Any recommendations the eligible chartering authority has concerning ways to improve the administration of public charter schools.

SEC. 2212. CHARTER RENEWAL.

(a) TERM.—A charter granted to a public charter school shall remain in force for a 5-year period, but may be renewed for an unlimited number of times, each time for a 5-year period.

(b) APPLICATION FOR CHARTER RENEWAL.—In the case of a public charter school that desires to renew its charter, the Board of Trustees of the school shall file an application to renew the charter with the eligible chartering authority that granted the charter not later than 120 days nor earlier than 365 days before the expiration of the charter. The application shall contain the following:

(1) A report on the progress of the public charter school in achieving the goals, student academic achievement expectations, and other terms of the approved charter.

(2) All audited financial statements for the public charter school for the preceding 4 years.

(c) APPROVAL OF CHARTER RENEWAL APPLICATION.—The eligible chartering authority that granted a charter shall approve an application to renew the charter that is filed in accordance with subsection (b), except that the eligible chartering authority shall not approve such application if the eligible chartering authority determines that—

(1) the school committed a material violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in its charter, including violations relating to the education of children with disabilities; or

(2) the school failed to meet the goals and student academic achievement expectations set forth in its charter.

(d) PROCEDURES FOR CONSIDERATION OF CHARTER RENEWAL.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that has received an application to renew a charter that is filed by a Board of Trustees in accordance with subsection (b) shall provide to the Board of Trustees written notice of the right to an informal hearing on the application. The eligible chartering authority shall provide the notice not later than 15 days after the date on which the eligible chartering authority received the application.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the application before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on an application to renew a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of an application with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of an application with respect to which a hearing is held.

(B) REASONS FOR NONRENEWAL.—An eligible chartering authority that denies an application to renew a charter shall state in its decision the reasons for denial.

(5) ALTERNATIVES UPON NONRENEWAL.—If an eligible chartering authority denies an application to renew a charter granted to a public charter school, the Board of Education may—

(A) manage the school directly until alternative arrangements can be made for students at the school; or

(B) place the school in a probationary status that requires the school to take remedial actions, to be determined by the Board of Education, that directly relate to the grounds for the denial.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to deny an application to renew a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2213. CHARTER REVOCATION.

(a) CHARTER OR LAW VIOLATIONS.—An eligible chartering authority that has granted a charter to a public charter school may revoke the charter if the eligible chartering authority determines that the school has committed a violation of applicable laws or a material violation of the conditions, terms, standards, or procedures set forth in the charter, including violations relating to the education of children with disabilities.

(b) FISCAL MISMANAGEMENT.—An eligible chartering authority that has granted a charter to a public charter school shall revoke the charter if the eligible chartering authority determines that the school—

(1) has engaged in a pattern of nonadherence to generally accepted accounting principles;

(2) has engaged in a pattern of fiscal mismanagement; or

(3) is no longer economically viable.

(c) PROCEDURES FOR CONSIDERATION OF REVOCATION.—

(1) NOTICE OF RIGHT TO HEARING.—An eligible chartering authority that is proposing to revoke a charter granted to a public charter school shall provide to the Board of Trustees of the school a written notice stating the reasons for the proposed revocation. The notice shall inform the Board of Trustees of the right of the Board of Trustees to an informal hearing on the proposed revocation.

(2) REQUEST FOR HEARING.—Not later than 15 days after the date on which a Board of Trustees receives a notice under paragraph (1), the Board of Trustees may request, in writing, an informal hearing on the proposed revocation before the eligible chartering authority.

(3) DATE AND TIME OF HEARING.—

(A) NOTICE.—Upon receiving a timely written request for a hearing under paragraph (2), an eligible chartering authority shall set a date and time for the hearing and shall provide reasonable notice of the date and time, as well as the procedures to be followed at the hearing, to the Board of Trustees.

(B) DEADLINE.—An informal hearing under this subsection shall take place not later than 30 days after an eligible chartering authority receives a timely written request for the hearing under paragraph (2).

(4) FINAL DECISION.—

(A) DEADLINE.—An eligible chartering authority shall render a final decision, in writing, on the revocation of a charter—

(i) not later than 30 days after the date on which the eligible chartering authority provided the written notice of the right to a hearing, in the case of a proposed revocation with respect to which such a hearing is not held; and

(ii) not later than 30 days after the date on which the hearing is concluded, in the case of a proposed revocation with respect to which a hearing is held.

(B) REASONS FOR REVOCATION.—An eligible chartering authority that revokes a charter shall state in its decision the reasons for the revocation.

(5) ALTERNATIVES UPON REVOCATION.—If an eligible chartering authority revokes a charter granted to a public charter school, the Board of Education may manage the school directly until alternative arrangements can be made for students at the school.

(6) JUDICIAL REVIEW.—

(A) AVAILABILITY OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be subject to judicial review by an appropriate court of the District of Columbia.

(B) STANDARD OF REVIEW.—A decision by an eligible chartering authority to revoke a charter shall be upheld unless the decision is arbitrary and capricious or clearly erroneous.

SEC. 2214. PUBLIC CHARTER SCHOOL BOARD.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Public Charter School Board (in this section referred to as the "Board").

(2) MEMBERSHIP.—The Secretary of Education shall present the Mayor a list of 15 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia City Council, shall appoint 7 individuals from the list to serve on the Board. The Secretary of Education shall recommend, and the Mayor shall appoint, members to serve on the Board so that a knowledge of each of the following areas is represented on the Board:

(A) Research about and experience in student learning, quality teaching, and evaluation of and accountability in successful schools.

(B) The operation of a financially sound enterprise, including leadership and management techniques, as well as the budgeting and accounting skills critical to the startup of a successful enterprise.

(C) The educational, social, and economic development needs of the District of Columbia.

(D) The needs and interests of students and parents in the District of Columbia, as well as methods of involving parents and other members of the community in individual schools.

(3) VACANCIES.—Any time there is a vacancy in the membership of the Board, the Secretary of Education shall present the Mayor a list of 3 individuals the Secretary determines are qualified to serve on the Board. The Mayor, in consultation with the District of Columbia Council, shall appoint 1 individual from the list to serve on the Board. The Secretary shall recommend and the Mayor shall appoint, such member of the Board taking into consideration the criteria described in paragraph (2). Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of the term.

(4) TIME LIMIT FOR APPOINTMENTS.—If, at any time, the Mayor does not appoint members to the Board sufficient to bring the Board's membership to 7 within 30 days of receiving a recommendation from the Secretary of Education under paragraph (2) or (3), the Secretary shall make such appointments as are necessary to bring the membership of the Board to 7.

(5) TERMS OF MEMBERS.—

(A) IN GENERAL.—Members of the Board shall serve for terms of 4 years, except that, of the initial appointments made under paragraph (2), the Mayor shall designate—

(i) 2 members to serve terms of 3 years;

(ii) 2 members to serve terms of 2 years; and

(iii) 1 member to serve a term of 1 year.

(B) REAPPOINTMENT.—Members of the Board shall be eligible to be reappointed for one 4-year term beyond their initial term of appointment.

(6) INDEPENDENCE.—No person employed by the District of Columbia public schools or a public charter school shall be eligible to be a member of the Board or to be employed by the Board.

(b) OPERATIONS OF THE BOARD.—

(1) CHAIR.—The members of the Board shall elect from among their membership 1 individual to serve as Chair. Such election shall be held each year after members of the Board have been appointed to fill any vacancies caused by the regular expiration of previous members' terms, or when requested by a majority vote of the members of the Board.

(2) QUORUM.—A majority of the members of the Board, not including any positions that may be vacant, shall constitute a quorum sufficient for conducting the business of the Board.

(3) MEETINGS.—The Board shall meet at the call of the Chair, subject to the hearing requirements of sections 2203, 2212(d)(3), and 2213(c)(3).

(c) NO COMPENSATION FOR SERVICE.—Members of the Board shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Board.

(d) PERSONNEL AND RESOURCES.—

(1) IN GENERAL.—Subject to such rules as may be made by the Board, the Chair shall have the power to appoint, terminate, and fix the pay of an Executive Director and such other personnel of the Board as the Chair considers necessary, but no individual so appointed shall be paid in excess of the rate payable for level EG-16 of the Educational Service of the District of Columbia.

(2) SPECIAL RULE.—The Board is authorized to use the services, personnel, and facilities of the District of Columbia.

(e) EXPENSES OF BOARD.—Any expenses of the Board shall be paid from such funds as may be available to the Mayor.

(f) AUDIT.—The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the provisions of this section and conducting the Board's functions required by this subtitle, there are authorized to be appropriated $300,000 for fiscal year 1996 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 2215. FEDERAL ENTITIES.

(a) IN GENERAL.—The following Federal agencies and federally established entities are encouraged to explore whether it is feasible for the agency or entity to establish one or more public charter schools:

(1) The Library of Congress.

(2) The National Aeronautics and Space Administration.

(3) The Drug Enforcement Administration.

(4) The National Science Foundation.

(5) The Department of Justice.

(6) The Department of Defense.

(7) The Department of Education.

(8) The Smithsonian Institution, including the National Zoological Park, the National Museum of American History, the John F. Kennedy Center for the Performing Arts, and the National Gallery of Art.

(b) REPORT.—Not later than 120 days after date of enactment of this Act, any agency or institution described in subsection (a) that has explored the feasibility of establishing a public charter school shall report its determination on the feasibility to the appropriate committees of the Congress.

Subtitle C—Even Start

SEC. 2301. AMENDMENTS FOR EVEN START PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302) is amended by striking subsection (b) and inserting the following:

"(b) EVEN START.—

"(1) IN GENERAL.—For the purpose of carrying out part B, there are authorized to be appropriated $118,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.

"(2) DISTRICT OF COLUMBIA.—For the purpose of carrying out Even Start programs in the District of Columbia described in section 1211, there are authorized to be appropriated—

"(A) $2,000,000 for fiscal year 1996;

"(B) $3,500,000 for fiscal year 1997;

"(C) $5,000,000 for fiscal year 1998;

"(D) $5,000,000 for fiscal year 1999; and

"(E) $5,000,000 for fiscal year 2000.".

(b) EVEN START FAMILY LITERACY PROGRAMS.—Part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6361 et seq.) is amended—

(1) in section 1202(a)(1) (20 U.S.C. 6362(a)(1)), by inserting "(1)" after "1002(b)";

(2) in section 1202(b) (20 U.S.C. 6362(b)), by inserting "(1)" after "1002(b)";

(3) in section 1202(d)(3) (20 U.S.C. 6362(d)(3)), by inserting "(1)" after "1002(b)";

(4) in section 1204(a) (20 U.S.C. 6364(a)), by inserting "intensive" after "cost of providing";

(5) in section 1205(4) (20 U.S.C. 6365(4)), by inserting ", intensive" after "high-quality"; and

(6) by adding at the end the following new section:

"SEC. 1211. DISTRICT OF COLUMBIA EVEN START INITIATIVES.

"(a) DISTRICT OF COLUMBIA PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—In addition to any grant for the District of Columbia authorized under

section 1202, the Secretary shall provide grants, on a competitive basis, to eligible entities to enable such entities to carry out Even Start programs in the District of Columbia that build on the findings of the National Evaluation of the Even Start Family Literacy Program, such as providing intensive services in early childhood education, parent training, and adult literacy or adult education.

"(2) NUMBER OF GRANTS.—The Secretary shall award—

"(A) not more than 8 grants under this section for fiscal year 1996;

"(B) not more than 14 grants under this section for fiscal year 1997;

"(C) not more than 20 grants under this section for each of the fiscal years 1998 and 1999; and

"(D) not more than 20 grants under this section, or such number as the Secretary determines appropriate taking into account the results of evaluations described in subsection (i), for fiscal year 2000.

"(b) DEFINITION.—For the purpose of this section, the term 'eligible entity' means a partnership composed of at least—

"(1) a District of Columbia public school;

"(2) the local educational agency in existence on September 1, 1995 for the District of Columbia, any other public organization, or an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))); and

"(3) a private nonprofit community-based organization.

"(c) USES OF FUNDS; FEDERAL SHARE.—

"(1) COMPLIANCE.—Each eligible entity that receives funds under this section shall comply with section 1204(a) and 1204(b)(3), relating to the use of such funds.

"(2) FEDERAL SHARE.—Each program funded under this section is subject to the Federal share requirement of section 1204(b)(1), except that the Secretary may waive that requirement, in whole or in part, for any eligible entity that demonstrates to the Secretary's satisfaction that such entity otherwise would not be able to participate in the program under this section.

"(3) MINIMUM.—Except as provided in paragraph (4), each eligible entity selected to receive a grant under this section shall receive not more than $250,000 in any fiscal year, except that the Secretary may increase such amount if the Secretary determines that—

"(A) such entity needs additional funds to be effective; and

"(B) the increase will not reduce the amount of funds available to other eligible entities that receive funds under this section.

"(4) REMAINING FUNDS.—If funds remain after payments are made under paragraph (3) for any fiscal year, the Secretary shall make such remaining funds available to each eligible entity receiving a grant under this section for such year in an amount that bears the same relation to such funds as the amount each such entity received under this section bears to the amount all such entities received under this section.

"(d) PROGRAM ELEMENTS.—Each program assisted under this section shall comply with the program elements described in section 1205, including intensive high quality instruction programs of early childhood education, parent training, and adult literacy or adult education.

"(e) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Individuals eligible to participate in a program under this section are—

"(A) the parent or parents of a child described in subparagraph (B), or any other adult who is substantially involved in the day-to-day care of the child, if such parent or adult—

"(i) is eligible to participate in an adult education program under the Adult Education Act; or

"(ii) is attending, or is eligible by age to attend, a District of Columbia public school; and

"(B) any child, from birth through age 7, of an individual described in subparagraph (A).

"(2) ELIGIBILITY REQUIREMENTS.—The eligibility factors described in section 1206(b) shall apply to programs under this section, except that for purposes of this section—

"(A) the reference in paragraph (1) to subsection (a) shall be read to refer to paragraph (1); and

"(B) references in such section to this part shall be read to refer to this section.

"(f) APPLICATIONS.—Each eligible entity that wishes to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(g) SELECTION OF GRANTEES.—In awarding grants under this section, the Secretary shall—

"(1) use the selection criteria described in subparagraphs (A) through (F), and (H), of section 1208(a)(1); and

"(2) give priority to applications for programs that—

"(A) target services to schools in which a schoolwide program is being conducted under section 1114; or

"(B) are located in areas designated as empowerment zones or enterprise communities.

"(h) DURATION OF PROGRAMS.—The priority for subgrants described in section 1208(a)(2), and the progress requirement described in section 1208(b)(4), shall apply to grants made under this section, except that—

"(1) references in those sections to the State educational agency and to subgrants shall be read to refer to the Secretary and to grants under this section, respectively; and

"(2) notwithstanding section 1208(b), the Secretary shall not provide continuation funding to a grant recipient under this section if the Secretary determines, after affording the recipient notice and an opportunity for a hearing, that the recipient has not made substantial progress in accomplishing the objectives of this section.

"(i) TECHNICAL ASSISTANCE AND EVALUATION.—

"(1) TECHNICAL ASSISTANCE.—(A) The Secretary shall use not more than 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year—

"(i) to provide technical assistance to eligible entities, including providing funds to one or more District of Columbia nonprofit organizations to enable such organizations to provide technical assistance to eligible entities in the areas of community development and coalition building; and

"(ii) for the evaluation conducted pursuant to paragraph (2).

"(B) The Secretary shall allocate 5 percent of the amounts authorized under section 1002(b)(2) for any fiscal year to enter into a contract with the National Center for Family Literacy for the provision of technical assistance to eligible entities.

"(2) EVALUATION.—(A) The Secretary shall use funds available under paragraph (1)(A)—

"(i) to provide for independent evaluations of programs under this section in order to determine the effectiveness of such programs in providing high quality family literacy services, including—

"(I) intensive and high quality early childhood education;

"(II) intensive and high quality services in adult literacy or adult education;

"(III) intensive and high quality services in parent training;

"(IV) coordination with related programs; and

"(V) training of related personnel in appropriate skill areas; and

"(ii) to determine if the grant amount provided to eligible recipients to carry out such projects is appropriate to accomplish the objectives of this section.

"(B)(i) Such evaluation shall be conducted by individuals not directly involved in the administration of a program operated with funds provided under this section. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors listed in subparagraph (A).

"(ii) In order to determine a program's effectiveness, each evaluation shall contain objective measures of such effectiveness, and whenever feasible, shall contain the specific views of program participants about such programs.

"(C) The Secretary shall prepare and submit to the appropriate congressional committees a report regarding the results of such evaluations not later than March 1, 1999. The Secretary shall provide an interim report regarding the results of such evaluations by March 1, 1998.".

Subtitle D—World Class Schools Task Force, Core Curriculum, Content Standards, Assessments, and Promotion Gates

PART 1—WORLD CLASS SCHOOLS TASK FORCE, CORE CURRICULUM, CONTENT STANDARDS, AND ASSESSMENTS

SEC. 2411. GRANT AUTHORIZED AND RECOMMENDATION REQUIRED.

(a) GRANT AUTHORIZED.—

(1) IN GENERAL.—The Superintendent is authorized to award a grant to a World Class Schools Task Force to enable such task force to make the recommendation described in subsection (b).

(2) DEFINITION.—For the purpose of this subtitle, the term "World Class Schools Task Force" means 1 nonprofit organization located in the District of Columbia that—

(A) has a national reputation for advocating content standards;

(B) has a national reputation for advocating a strong liberal arts curriculum;

(C) has experience with at least 4 urban school districts for the purpose of establishing content standards;

(D) has developed and managed professional development programs in science, mathematics, the humanities and the arts; and

(E) is governed by an independent board of directors composed of citizens with a variety of experiences in education and public policy.

(b) RECOMMENDATION REQUIRED.—

(1) IN GENERAL.—The World Class Schools Task Force shall recommend to the Superintendent, the Board of Education, and the District of Columbia Goals Panel the following:

(A) Content standards in the core academic subjects that are developed by working with the District of Columbia community, which standards shall be developed not later than 12 months after the date of enactment of this Act.

(B) A core curriculum developed by working with the District of Columbia community, which curriculum shall include the teaching of computer skills.

(C) Districtwide assessments for measuring student achievement in accordance with content standards developed under subparagraph (A). Such assessments shall be developed at several grade levels, including at a minimum, the grade levels with respect to which the Superintendent establishes promotion gates under section 2421. To the extent feasible, such assessments shall, at a minimum, be designed to provide information that permits comparisons between—

(i) individual District of Columbia public schools and public charter schools; and

(ii) individual students attending such schools.

(D) Model professional development programs for teachers using the standards and curriculum developed under subparagraphs (A) and (B).

(2) SPECIAL RULE.—The World Class Schools Task Force is encouraged, to the extent practicable, to develop districtwide assessments described in paragraph (1)(C) that permit comparisons among—

(A) individual District of Columbia public schools and public charter schools, and individual students attending such schools; and

(B) students of other nations.

(c) CONTENT.—The content standards and assessments recommended under subsection (b) shall be judged by the World Class Schools Task Force to be world class, including having a level of quality and rigor, or being analogous to content standards and assessments of other States or nations (including nations whose students historically score high on international studies of student achievement).

(d) SUBMISSION TO BOARD OF EDUCATION FOR ADOPTION.—If the content standards, curriculum, assessments, and programs recommended under subsection (b) are approved by the Superintendent, the Superintendent may submit such content standards, curriculum, assessments, and programs to the Board of Education for adoption.

SEC. 2412. CONSULTATION.

The World Class Schools Task Force shall conduct its duties under this part in consultation with—

(1) the District of Columbia Goals Panel;

(2) officials of the District of Columbia public schools who have been identified by the Superintendent as having responsibilities relevant to this part, including the Deputy Superintendent for Curriculum;

(3) the District of Columbia community, with particular attention given to educators, and parent and business organizations; and

(4) any other persons or groups that the task force deems appropriate.

SEC. 2413. ADMINISTRATIVE PROVISIONS.

The World Class Schools Task Force shall ensure public access to its proceedings (other than proceedings, or portions of proceedings, relating to internal personnel and management matters) that are relevant to its duties under this part and shall make available to the public, at reasonable cost, transcripts of such proceedings.

SEC. 2414. CONSULTANTS.

Upon the request of the World Class Schools Task Force, the head of any department or agency of the Federal Government may detail any of the personnel of such agency to such task force to assist such task force in carrying out such task force's duties under this part.

SEC. 2415. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1996 to carry out this part. Such funds shall remain available until expended.

PART 2—PROMOTION GATES

SEC. 2421. PROMOTION GATES.

(a) KINDERGARTEN THROUGH 4TH GRADE.—Not later than one year after the date of adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates for mathematics, reading, and writing, for not less than 1 grade level from kindergarten through grade 4, including at least grade 4, and shall establish dates for establishing such other promotion gates for other subject areas.

(b) 5TH THROUGH 8TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 5 through grade 8, including at least grade 8.

(c) 9TH THROUGH 12TH GRADES.—Not later than one year after the adoption in accordance with section 2411(d) of the assessments described in section 2411(b)(1)(C), the Superintendent shall establish and implement promotion gates with respect to not less than one grade level from grade 9 through grade 12, including at least grade 12.

Subtitle E—Per Capita District of Columbia Public School and Public Charter School Funding

SEC. 2501. ANNUAL BUDGETS FOR SCHOOLS.

(a) IN GENERAL.—For fiscal year 1997 and for each subsequent fiscal year, the Mayor shall make annual payments from the general fund of the District of Columbia in accordance with the formula established under subsection (b).

(b) FORMULA.—

(1) IN GENERAL.—The Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, shall establish on or before April 15, 1996, a formula to determine the amount of—

(A) the annual payment to the Board of Education for the operating expenses of the District of Columbia public schools, which for purposes of this paragraph includes the operating expenses of the Board of Education and the Office of the Superintendent; and

(B) the annual payment to each public charter school for the operating expenses of each public charter school.

(2) FORMULA CALCULATION.—Except as provided in paragraph (3), the amount of the annual payment under paragraph (1) shall be calculated by multiplying a uniform dollar amount used in the formula established under such paragraph by—

(A) the number of students calculated under section 2502 that are enrolled at District of Columbia public schools, in the case of the payment under paragraph (1)(A); or

(B) the number of students calculated under section 2502 that are enrolled at each public charter school, in the case of a payment under paragraph (1)(B).

(3) EXCEPTIONS.—

(A) FORMULA.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the formula to increase or decrease the amount of the annual payment to the District of Columbia public schools or each public charter school based on a calculation of—

(i) the number of students served by such schools in certain grade levels; and

(ii) the cost of educating students at such certain grade levels.

(B) PAYMENT.—Notwithstanding paragraph (2), the Mayor and the District of Columbia Council, in consultation with the Board of Education and the Superintendent, may adjust the amount of the annual payment under paragraph (1) to increase the amount of such payment if a District of Columbia public school or a public charter school serves a high number of students—

(i) with special needs; or

(ii) who do not meet minimum literacy standards.

SEC. 2502. CALCULATION OF NUMBER OF STUDENTS.

(a) SCHOOL REPORTING REQUIREMENT.—

(1) IN GENERAL.—Not later than September 15, 1996, and not later than September 15 of each year thereafter, each District of Columbia public school and public charter school shall submit a report to the Mayor and the Board of Education containing the information described in subsection (b) that is applicable to such school.

(2) SPECIAL RULE.—Not later than April 1, 1997, and not later than April 1 of each year thereafter, each public charter school shall submit a report in the same form and manner as described in paragraph (1) to ensure accurate payment under section 2503(a)(2)(B)(ii).

(b) CALCULATION OF NUMBER OF STUDENTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall calculate the following:

(1) The number of students, including nonresident students and students with special needs, enrolled in each grade from kindergarten through grade 12 of the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other schools is paid for with funds available to the District of Columbia public schools.

(2) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (1).

(3) The number of students, including nonresident students, enrolled in preschool and prekindergarten in the District of Columbia public schools and in public charter schools.

(4) The amount of fees and tuition assessed and collected from the nonresident students described in paragraph (3).

(5) The number of full time equivalent adult students enrolled in adult, community, continuing, and vocational education programs in the District of Columbia public schools and in public charter schools.

(6) The amount of fees and tuition assessed and collected from resident and nonresident adult students described in paragraph (5).

(7) The number of students, including nonresident students, enrolled in nongrade level programs in District of Columbia public schools and in public charter schools.

(8) The amount of fees and tuition assessed and collected from nonresident students described in paragraph (7).

(c) ANNUAL REPORTS.—Not later than 30 days after the date of the enactment of this Act, and not later than October 15 of each year thereafter, the Board of Education shall prepare and submit to the Authority, the Mayor, the District of Columbia Council, the Consensus Commission, the Comptroller General of the United States, and the appropriate congressional committees a report containing a summary of the most recent calculations made under subsection (b).

(d) AUDIT OF INITIAL CALCULATIONS.—

(1) IN GENERAL.—The Board of Education shall arrange with the Authority to provide for the conduct of an independent audit of the initial calculations described in subsection (b).

(2) CONDUCT OF AUDIT.—In conducting the audit, the independent auditor—

(A) shall provide an opinion as to the accuracy of the information contained in the report described in subsection (c); and

(B) shall identify any material weaknesses in the systems, procedures, or methodology used by the Board of Education—

(i) in determining the number of students, including nonresident students, enrolled in the District of Columbia public schools and in public charter schools, and the number of students whose tuition for enrollment in other school systems is paid for by funds available to the District of Columbia public schools; and

(ii) in assessing and collecting fees and tuition from nonresident students.

(3) SUBMISSION OF AUDIT.—Not later than 45 days, or as soon thereafter as is practicable, after the date on which the Authority receives the initial annual report from the Board of Education under subsection (c), the Authority shall submit to the Board of Education, the Mayor, the District of Columbia Council, and the appropriate congressional committees, the audit conducted under this subsection.

(4) COST OF THE AUDIT.—The Board of Education shall reimburse the Authority for the cost of the independent audit, solely from amounts

appropriated to the Board of Education for staff, stipends, and other-than-personal-services of the Board of Education by an Act making appropriations for the District of Columbia.

SEC. 2503. PAYMENTS.

(a) IN GENERAL.—

(1) ESCROW FOR PUBLIC CHARTER SCHOOLS.—Except as provided in subsection (b), for any fiscal year, not later than 10 days after the date of enactment of an Act making appropriations for the District of Columbia for such fiscal year, the Mayor shall place in escrow an amount equal to the aggregate of the amounts determined under section 2501(b)(1)(B) for use only by District of Columbia public charter schools.

(2) TRANSFER OF ESCROW FUNDS.—

(A) INITIAL PAYMENT.—Not later than October 15, 1996, and not later than October 15 of each year thereafter, the Mayor shall transfer, by electronic funds transfer, an amount equal to 75 percent of the amount of the annual payment for each public charter school determined by using the formula established pursuant to section 2501(b) to a bank designated by such school.

(B) FINAL PAYMENT.—

(i) Except as provided in clause (ii), not later than May 1, 1997, and not later than May 1 of each year thereafter, the Mayor shall transfer the remainder of the annual payment for a public charter school in the same manner as the initial payment was made under subparagraph (A).

(ii) Not later than March 15, 1997, and not later than March 15 of each year thereafter, if the enrollment number of a public charter school has changed from the number reported to the Mayor and the Board of Education, as required under section 2502(a), the Mayor shall increase the payment in an amount equal to 50 percent of the amount provided for each student who has enrolled in such school in excess of such enrollment number, or shall reduce the payment in an amount equal to 50 percent of the amount provided for each student who has withdrawn or dropped out of such school below such enrollment number.

(C) PRO RATA REDUCTION OR INCREASE IN PAYMENTS.—

(i) PRO RATA REDUCTION.—If the funds made available to the District of Columbia Government for the District of Columbia public school system and each public charter school for any fiscal year are insufficient to pay the full amount that such system and each public charter school is eligible to receive under this subtitle for such year, the Mayor shall ratably reduce such amounts for such year on the basis of the formula described in section 2501(b).

(ii) INCREASE.—If additional funds become available for making payments under this subtitle for such fiscal year, amounts that were reduced under subparagraph (A) shall be increased on the same basis as such amounts were reduced.

(D) UNEXPENDED FUNDS.—Any funds that remain in the escrow account for public charter schools on September 30 of a fiscal year shall revert to the general fund of the District of Columbia.

(b) EXCEPTION FOR NEW SCHOOLS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $200,000 for each fiscal year to carry out this subsection.

(2) DISBURSEMENT TO MAYOR.—The Secretary of the Treasury shall make available and disburse to the Mayor, not later than August 1 of each of the fiscal years 1996 through 2000, such funds as have been appropriated under paragraph (1).

(3) ESCROW.—The Mayor shall place in escrow, for use by public charter schools, any sum disbursed under paragraph (2) and not paid under paragraph (4).

(4) PAYMENTS TO SCHOOLS.—The Mayor shall pay to public charter schools described in paragraph (5), in accordance with this subsection, any sum disbursed under paragraph (2).

(5) SCHOOLS DESCRIBED.—The schools referred to in paragraph (4) are public charter schools that—

(A) did not operate as public charter schools during any portion of the fiscal year preceding the fiscal year for which funds are authorized to be appropriated under paragraph (1); and

(B) operated as public charter schools during the fiscal year for which funds are authorized to be appropriated under paragraph (1).

(6) FORMULA.—

(A) 1996.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in fiscal year 1996 shall be calculated by multiplying $6,300 by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school; and

(B) 1997 THROUGH 2000.—The amount of the payment to a public charter school described in paragraph (5) that begins operation in any of fiscal years 1997 through 2000 shall be calculated by multiplying the uniform dollar amount used in the formula established under section 2501(b) by 1/12 of the total anticipated enrollment as set forth in the petition to establish the public charter school.

(7) PAYMENT TO SCHOOLS.—

(A) TRANSFER.—On September 1 of each of the years 1996 through 2000, the Mayor shall transfer, by electronic funds transfer, the amount determined under paragraph (6) for each public charter school from the escrow account established under subsection (a) to a bank designated by each such school.

(B) PRO RATA AND REMAINING FUNDS.—Subparagraphs (C) and (D) of subsection (a)(2) shall apply to payments made under this subsection, except that for purposes of this subparagraph references to District of Columbia public schools in such subparagraphs (C) and (D) shall be read to refer to public charter schools.

Subtitle F—School Facilities Repair and Improvement

SEC. 2550. DEFINITIONS.

For purposes of this subtitle—

(1) the term "facilities" means buildings, structures, and real property of the District of Columbia public schools, except that such term does not include any administrative office building that is not located in a building containing classrooms; and

(2) the term "repair and improvement" includes administration, construction, and renovation.

PART 1—SCHOOL FACILITIES

SEC. 2551. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act the Administrator of the General Services Administration shall enter into a Memorandum of Agreement or Understanding (referred to in this subtitle as the "Agreement") with the Superintendent regarding the terms under which the Administrator will provide technical assistance and related services with respect to District of Columbia public schools facilities management in accordance with this section.

(b) TECHNICAL ASSISTANCE AND RELATED SERVICES.—The technical assistance and related services described in subsection (a) shall include—

(1) the Administrator consulting with and advising District of Columbia public school personnel responsible for public schools facilities management, including repair and improvement with respect to facilities management of such schools;

(2) the Administrator assisting the Superintendent in developing a systemic and comprehensive facilities revitalization program, for the repair and improvement of District of Columbia public school facilities, which program shall—

(A) include a list of facilities to be repaired and improved in a recommended order of priority;

(B) provide the repair and improvement required to support modern technology; and

(C) take into account the Preliminary Facilities Master Plan 2005 (prepared by the Superintendent's Task Force on Education Infrastructure for the 21st Century);

(3) the method by which the Superintendent will accept donations of private goods and services for use by the District of Columbia public schools without regard to any law or regulation of the District of Columbia;

(4) the Administrator recommending specific repair and improvement projects in District of Columbia public school facilities to the Superintendent that are appropriate for completion by members and units of the National Guard and the Reserves in accordance with the program developed under paragraph (2);

(5) upon the request of the Superintendent, the Administrator assisting the appropriate District of Columbia public school officials in the preparation of an action plan for the performance of any repair and improvement recommended in the program developed under paragraph (2), which action plan shall detail the technical assistance and related services the Administrator proposes to provide in the accomplishment of the repair and improvement;

(6) upon the request of the Superintendent, and if consistent with the efficient use of resources as determined by the Administrator, the coordination of the accomplishment of any repair and improvement in accordance with the action plan prepared under paragraph (5), except that in carrying out this paragraph, the Administrator shall not be subject to the requirements of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), nor shall such action plan be subject to review under the bid protest procedures described in sections 3551 through 3556 of title 31, United States Code, or the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.);

(7) providing access for the Administrator to all District of Columbia public school facilities as well as permitting the Administrator to request and obtain any record or document regarding such facilities as the Administrator determines necessary, except that any such record or document shall not become a record (as defined in section 552a of title 5, United States Code) of the General Services Administration; and

(8) the Administrator making recommendations regarding how District of Columbia public school facilities may be used by the District of Columbia community for multiple purposes.

(c) AGREEMENT PROVISIONS.—The Agreement shall include—

(1) the procedures by which the Superintendent and Administrator will consult with respect to carrying out this section, including reasonable time frames for such consultation;

(2) the scope of the technical assistance and related services to be provided by the General Services Administration in accordance with this section;

(3) assurances by the Administrator and the Superintendent to cooperate with each other in any way necessary to ensure implementation of the Agreement, including assurances that funds available to the District of Columbia shall be used to pay the obligations of the District of Columbia public school system that are incurred as

a result of actions taken under, or in furtherance of, the Agreement, in addition to funds available to the Administrator for purposes of this section; and

(4) the duration of the Agreement, except that in no event shall the Agreement remain in effect later than the day that is 24 months after the date that the Agreement is signed, or the day that the agency designated pursuant to section 2552(a)(2) assumes responsibility for the District of Columbia public school facilities, whichever day is earlier.

(d) LIMITATION ON ADMINISTRATOR'S LIABILITY.—No claim, suit, or action may be brought against the Administrator in connection with the discharge of the Administrator's responsibilities under this subtitle.

(e) SPECIAL RULE.—Notwithstanding any other provision of law, the Administrator is authorized to accept and use a conditioned gift made for the express purpose of repairing or improving a District of Columbia public school, except that the Administrator shall not be required to carry out any repair or improvement under this section unless the Administrator accepts a donation of private goods or services sufficient to cover the costs of such repair or improvement.

(f) EFFECTIVE DATE.—This subtitle shall cease to be effective on the earlier day specified in subsection (c)(4).

SEC. 2552. FACILITIES REVITALIZATION PROGRAM.

(a) PROGRAM.—Not later than 24 months after the date that the Agreement is signed, the Mayor and the District of Columbia Council in consultation with the Administrator, the Authority, the Board of Education, and the Superintendent, shall—

(1) design and implement a comprehensive long-term program for the repair and improvement, and maintenance and management, of the District of Columbia public school facilities, which program shall incorporate the work completed in accordance with the program described in section 2551(b)(2); and

(2) designate a new or existing agency or authority within the District of Columbia Government to administer such program.

(b) PROCEEDS.—Such program shall include—

(1) identifying short-term funding for capital and maintenance of facilities, which may include retaining proceeds from the sale or lease of a District of Columbia public school facility; and

(2) identifying and designating long-term funding for capital and maintenance of facilities.

(c) IMPLEMENTATION.—Upon implementation of such program, the agency or authority created or designated pursuant to subsection (a)(2) shall assume authority and responsibility for the repair and improvement, and maintenance and management, of District of Columbia public schools.

SEC. 2553. AUTHORIZATION OF APPROPRIATIONS FOR ENGINEERING PLANS.

There are authorized to be appropriated to the Administrator, $500,000 for fiscal year 1996, which funds only shall be available for the costs of engineering plans developed to carry out this subtitle.

PART 2—WAIVERS

SEC. 2561. WAIVERS.

(a) IN GENERAL.—

(1) REQUIREMENTS WAIVED.—Subject to subsection (b), all District of Columbia fees and all requirements contained in the document entitled "District of Columbia Public Schools Standard Contract Provisions" (as such document was in effect on November 2, 1995 and including any revisions or modifications to such document) published by the District of Columbia public schools for use with construction or maintenance projects, are waived, for purposes of repair and improvement of District of Columbia public schools facilities for a period beginning on the date of enactment of this Act and ending 24 months after such date.

(2) DONATIONS.—An employer may accept, and persons may voluntarily donate, materials and services for the repair and improvement of a District of Columbia public school facility: Provided, That the provision of voluntary labor meets the requirements of 29 U.S.C. 203(e)(4).

(b) LIMITATION.—A waiver under subsection (a) shall not apply to requirements under 40 U.S.C. 276a–276a–7.

PART 3—GIFTS, DONATIONS, BEQUESTS, AND DEVISES

SEC. 2571. GIFTS, DONATIONS, BEQUESTS, AND DEVISES.

(a) IN GENERAL.—A District of Columbia public school or a public charter school may accept directly from any person a gift, donation, bequest, or devise of any property, real or personal, without regard to any law or regulation of the District of Columbia.

(b) TAX LAWS.—For the purposes of the income tax, gift tax, and estate tax laws of the Federal Government, any money or other property given, donated, bequeathed, or devised to a District of Columbia public school or a public charter school, shall be deemed to have been given, donated, bequeathed, or devised to or for the use of the District of Columbia.

Subtitle G—Residential School

SEC. 2601. RESIDENTIAL SCHOOL AUTHORIZED.

(a) IN GENERAL.—The Superintendent is authorized to develop a plan to establish for the District of Columbia a residential school for academic year 1997–1998 and to assist in the startup of such school.

(b) PLAN REQUIREMENTS.—If developed, the plan for the residential school shall include, at a minimum—

(1) options for the location of the school, including the renovation or construction of a facility;

(2) financial plans for the facility, including annual costs to operate the school, capital expenditures required to open the facility, maintenance of facilities, and staffing costs; and

(3) staff development and training plans.

SEC. 2602. USE OF FUNDS.

Funds under this subtitle may be used—

(1) to develop the plan described in section 2601; and

(2) for capital costs associated with the startup of a residential school, including the purchase of real and personal property and the renovation or construction of facilities.

SEC. 2603. FUTURE FUNDING.

The Superintendent shall identify, not later than December 31, 1996, in a report to the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees, non-Federal funding sources for the operation of the residential school.

SEC. 2604. GIFTS.

The Superintendent may accept donations of money, property, and personal services for purposes of the establishment and operation of the residential school.

SEC. 2605. AUTHORIZATION OF APPROPRIATIONS.

(a) PLAN.—There are authorized to be appropriated to the District of Columbia $100,000 for fiscal year 1996 to develop the plan described in section 2601.

(b) CAPITAL COSTS.—There are authorized to be appropriated $1,900,000 for fiscal year 1997 to carry out section 2602(2).

Subtitle H—Progress Reports and Accountability

SEC. 2651. SUPERINTENDENT'S REPORT ON REFORMS.

Not later than December 1, 1996, the Superintendent shall submit to the appropriate congressional committees, the Board of Education, the Mayor, the Consensus Commission, and the District of Columbia Council a report regarding the progress of the District of Columbia public schools toward achieving the goals of the long-term reform plan.

SEC. 2652. DISTRICT OF COLUMBIA COUNCIL REPORT.

Not later than April 1, 1997, the Chairperson of the District of Columbia Council shall submit to the appropriate congressional committees a report describing legislative and other actions the District of Columbia Council has taken or will take to facilitate the implementation of the goals of the long-term reform plan.

Subtitle I—Partnerships With Business

SEC. 2701. PURPOSE.

The purpose of this subtitle is—

(1) to leverage private sector funds utilizing initial Federal investments in order to provide students and teachers within the District of Columbia public schools and public charter schools with access to state-of-the-art educational technology;

(2) to establish a regional job training and employment center;

(3) to strengthen workforce preparation initiatives for students within the District of Columbia public schools and public charter schools;

(4) to coordinate private sector investments in carrying out this title; and

(5) to assist the Superintendent with the development of individual career paths in accordance with the long-term reform plan.

SEC. 2702. DUTIES OF THE SUPERINTENDENT OF THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

Not later than 45 days after the date of the enactment of this Act, the Superintendent shall provide a grant to a private, nonprofit corporation that meets the eligibility criteria under section 2703 for the purposes of carrying out the duties under sections 2704 and 2707.

SEC. 2703. ELIGIBILITY CRITERIA FOR PRIVATE, NONPROFIT CORPORATION.

A private, nonprofit corporation shall be eligible to receive a grant under section 2702 if the corporation is a national business organization incorporated in the District of Columbia, that—

(1) has a board of directors which includes members who are also chief executive officers of technology-related corporations involved in education and workforce development issues;

(2) has extensive practical experience with initiatives that link business resources and expertise with education and training systems;

(3) has experience in working with State and local educational agencies throughout the United States with respect to the integration of academic studies with workforce preparation programs; and

(4) has a nationwide structure through which additional resources can be leveraged and innovative practices disseminated.

SEC. 2704. DUTIES OF THE PRIVATE, NONPROFIT CORPORATION.

(a) DISTRICT EDUCATION AND LEARNING TECHNOLOGIES ADVANCEMENT COUNCIL.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a council to be known as the "District Education and Learning Technologies Advancement Council" (in this subtitle referred to as the "council").

(2) MEMBERSHIP.—

(A) IN GENERAL.—The private, nonprofit corporation shall appoint members to the council. An individual shall be appointed as a member to the council on the basis of the commitment of the individual, or the entity which the individual is representing, to providing time, energy, and resources to the council.

(B) COMPENSATION.—Members of the council shall serve without compensation.

(3) DUTIES.—The council—

(A) shall advise the private, nonprofit corporation with respect to the duties of the corporation under subsections (b) through (e) of this section; and

(B) shall assist the corporation in leveraging private sector resources for the purpose of carrying out such duties.

(b) ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY.—

(1) IN GENERAL.—The private, nonprofit corporation, in conjunction with the Superintendent, students, parents, and teachers, shall establish and implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(2) ELECTRONIC DATA TRANSFER SYSTEM.—The private, nonprofit corporation shall assist the Superintendent in acquiring the necessary equipment, including computer hardware and software, to establish an electronic data transfer system. The private, nonprofit corporation shall also assist in arranging for training of District of Columbia public school employees in using such equipment.

(3) TECHNOLOGY ASSESSMENT.—

(A) IN GENERAL.—In establishing and implementing the strategies under paragraph (1), the private, nonprofit corporation, not later than September 1, 1996, shall provide for an assessment of the availability, on the date of enactment of this Act, of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) CONDUCT OF ASSESSMENT.—In providing for the assessment under subparagraph (A), the private, nonprofit corporation—

(i) shall provide for onsite inspections of the state-of-the-art educational technology within a minimum sampling of District of Columbia public schools and public charter schools; and

(ii) shall ensure proper input from students, parents, teachers, and other school officials through the use of focus groups and other appropriate mechanisms.

(C) RESULTS OF ASSESSMENT.—The private, nonprofit corporation shall ensure that the assessment carried out under this paragraph provides, at a minimum, necessary information on state-of-the-art educational technology within the District of Columbia public schools and public charter schools, including—

(i) the extent to which typical District of Columbia public schools have access to such state-of-the-art educational technology and training for such technology;

(ii) how such schools are using such technology;

(iii) the need for additional technology and the need for infrastructure for the implementation of such additional technology;

(iv) the need for computer hardware, software, training, and funding for such additional technology or infrastructure; and

(v) the potential for computer linkages among District of Columbia public schools and public charter schools.

(4) SHORT-TERM TECHNOLOGY PLAN.—

(A) IN GENERAL.—Based upon the results of the technology assessment under paragraph (3), the private, nonprofit corporation shall develop a 3-year plan that includes goals, priorities, and strategies for obtaining the resources necessary to implement strategies to ensure access to state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(B) IMPLEMENTATION.—The private, nonprofit corporation, in conjunction with schools, students, parents, and teachers, shall implement the plan developed under subparagraph (A).

(5) LONG-TERM TECHNOLOGY PLAN.—Prior to the completion of the implementation of the short-term technology plan under paragraph (4), the private, nonprofit corporation shall develop a plan under which the corporation will continue to coordinate the donation of private sector resources for maintaining the continuous improvement and upgrading of state-of-the-art educational technology within the District of Columbia public schools and public charter schools.

(c) DISTRICT EMPLOYMENT AND LEARNING CENTER.—

(1) ESTABLISHMENT.—The private, nonprofit corporation shall establish a center to be known as the "District Employment and Learning Center" (in this subtitle referred to as the "center"), which shall serve as a regional institute providing job training and employment assistance.

(2) DUTIES.—

(A) JOB TRAINING AND EMPLOYMENT ASSISTANCE PROGRAM.—The center shall establish a program to provide job training and employment assistance in the District of Columbia and shall coordinate with career preparation programs in existence on the date of enactment of this Act, such as vocational education, school-to-work, and career academies in the District of Columbia public schools.

(B) CONDUCT OF PROGRAM.—In carrying out the program established under subparagraph (A), the center—

(i) shall provide job training and employment assistance to youths who have attained the age of 18 but have not attained the age of 26, who are residents of the District of Columbia, and who are in need of such job training and employment assistance for an appropriate period not to exceed 2 years;

(ii) shall work to establish partnerships and enter into agreements with appropriate agencies of the District of Columbia Government to serve individuals participating in appropriate Federal programs, including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.);

(iii) shall conduct such job training, as appropriate, through a consortium of colleges, universities, community colleges, businesses, and other appropriate providers, in the District of Columbia metropolitan area;

(iv) shall design modular training programs that allow students to enter and leave the training curricula depending on their opportunities for job assignments with employers; and

(v) shall utilize resources from businesses to enhance work-based learning opportunities and facilitate access by students to work-based learning and work experience through temporary work assignments with employers in the District of Columbia metropolitan area.

(C) COMPENSATION.—The center may provide compensation to youths participating in the program under this paragraph for part-time work assigned in conjunction with training. Such compensation may include need-based payments and reimbursement of expenses.

(d) WORKFORCE PREPARATION INITIATIVES.—

(1) IN GENERAL.—The private, nonprofit corporation shall establish initiatives with the District of Columbia public schools, and public charter schools, appropriate governmental agencies, and businesses and other private entities, to facilitate the integration of rigorous academic studies with workforce preparation programs in District of Columbia public schools and public charter schools.

(2) CONDUCT OF INITIATIVES.—In carrying out the initiatives under paragraph (1), the private, nonprofit corporation shall, at a minimum, actively develop, expand, and promote the following programs:

(A) Career academy programs in secondary schools, as such programs are established in certain District of Columbia public schools, which provide a school-within-a-school concept, focusing on career preparation and the integration of the academy programs with vocational and technical curriculum.

(B) Programs carried out in the District of Columbia that are funded under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.).

(e) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—

(1) ESTABLISHMENT OF PROGRAM.—The private, nonprofit corporation shall establish a consortium consisting of the corporation, teachers, school administrators, and the consortium of universities located in the District of Columbia (in existence on the date of the enactment of this Act), for the purpose of establishing a program for the professional development of teachers and school administrators employed by the District of Columbia public schools and public charter schools.

(2) CONDUCT OF PROGRAM.—In carrying out the program established under paragraph (1), the consortium established under such paragraph, in consultation with the task force established under subtitle D and the Superintendent, at a minimum, shall provide for the following:

(A) Professional development for teachers consistent with the model professional development programs for teachers under section 2411(b)(4), or consistent with the core curriculum developed by the Superintendent under section 2411(b)(2), as the case may be, except that for fiscal year 1996, such professional development shall focus on curriculum for elementary school grades in reading and mathematics that have been demonstrated to be effective for students from low-income backgrounds.

(B) Professional development for principals, with a special emphasis on middle school principals, focusing on effective practices that reduce the number of students who drop out of school.

(C) Private sector training of teachers in the use, application, and operation of state-of-the-art technology in education.

(D) Training for school principals and other school administrators in effective private sector management practices for the purpose of site-based management in the District of Columbia public schools, and training in the management of public charter schools established in accordance with this title.

SEC. 2705. MATCHING FUNDS.

The private, nonprofit corporation, to the extent practicable, shall provide matching funds, or in-kind contributions, or a combination thereof, for the purpose of carrying out the duties of the corporation under section 2704, as follows:

(1) For fiscal year 1996, the nonprofit corporation shall provide matching funds or in-kind contributions of $1 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(2) For fiscal year 1997, the nonprofit corporation shall provide matching funds or in-kind contributions of $3 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

(3) For fiscal year 1998, the nonprofit corporation shall provide matching funds or in-kind contributions of $5 for every $1 of Federal funds provided under this subtitle for such year for activities under section 2704.

SEC. 2706. REPORT.

The private, nonprofit corporation shall prepare and submit to the appropriate congressional committees on a quarterly basis, or, with

respect to fiscal year 1996, on a biannual basis, a report which shall contain—

(1) the activities the corporation has carried out, including the duties of the corporation described in section 2704, for the 3-month period ending on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period ending on the date of the submission of the report;

(2) an assessment of the use of funds or other resources donated to the corporation;

(3) the results of the assessment carried out under section 2704(b)(3); and

(4) a description of the goals and priorities of the corporation for the 3-month period beginning on the date of the submission of the report, or, with respect to fiscal year 1996, the 6-month period beginning on the date of the submission of the report.

SEC. 2707. JOBS FOR D.C. GRADUATES PROGRAM.

(a) IN GENERAL.—The nonprofit corporation shall establish a program, to be known as the "Jobs for D.C. Graduates Program", to assist District of Columbia public schools and public charter schools in organizing and implementing a school-to-work transition system, which system shall give priority to providing assistance to at-risk youths and disadvantaged youths.

(b) CONDUCT OF PROGRAM.—In carrying out the program established under subsection (a), the nonprofit corporation, consistent with the policies of the nationally recognized Jobs for America's Graduates, Inc., shall—

(1) establish performance standards for such program;

(2) provide ongoing enhancement and improvements in such program;

(3) provide research and reports on the results of such program; and

(4) provide preservice and inservice training.

SEC. 2708. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) DELTA COUNCIL; ACCESS TO STATE-OF-THE-ART EDUCATIONAL TECHNOLOGY; AND WORKFORCE PREPARATION INITIATIVES.—There are authorized to be appropriated to carry out subsections (a), (b), and (d) of section 2704, $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(2) DEAL CENTER.—There are authorized to be appropriated to carry out section 2704(c), $2,000,000 for each of the fiscal years 1996, 1997, and 1998.

(3) PROFESSIONAL DEVELOPMENT PROGRAM FOR TEACHERS AND ADMINISTRATORS.—There are authorized to be appropriated to carry out section 2704(e), $1,000,000 for each of the fiscal years 1996, 1997, and 1998.

(4) JOBS FOR D.C. GRADUATES PROGRAM.—There are authorized to be appropriated to carry out section 2707—

(A) $2,000,000 for fiscal year 1996; and

(B) $3,000,000 for each of the fiscal years 1997 through 2000.

(b) AVAILABILITY.—Amounts authorized to be appropriated under subsection (a) are authorized to remain available until expended.

SEC. 2709. TERMINATION OF FEDERAL SUPPORT; SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.

(a) TERMINATION OF FEDERAL SUPPORT.—The authority under this subtitle to provide assistance to the private, nonprofit corporation or any other entity established pursuant to this subtitle shall terminate on October 1, 1998.

(b) SENSE OF THE CONGRESS RELATING TO CONTINUATION OF ACTIVITIES.—It is the sense of the Congress that—

(1) the activities of the private, nonprofit corporation under section 2704 should continue to be carried out after October 1, 1998, with resources made available from the private sector; and

(2) the corporation should provide oversight and coordination for such activities after such date.

Subtitle J—Management and Fiscal Accountability

SEC. 2751. MANAGEMENT SUPPORT SYSTEMS.

(a) FOOD SERVICES AND SECURITY SERVICES.—Notwithstanding any other law, rule, or regulation, the Board of Education shall enter into a contract for academic year 1995–1996 and each succeeding academic year, for the provision of all food services operations and security services for the District of Columbia public schools, unless the Superintendent determines that it is not feasible and provides the Superintendent's reasons in writing to the Board of Education and the Authority.

(b) DEVELOPMENT OF NEW MANAGEMENT AND DATA SYSTEMS.—Notwithstanding any other law, rule, or regulation, the Board of Education shall, in academic year 1995–1996, consult with the Authority on the development of new management and data systems, as well as training of personnel to use and manage the systems in areas of budget, finance, personnel and human resources, management information services, procurement, supply management, and other systems recommended by the Authority. Such plans shall be consistent with, and contemporaneous to, the District of Columbia Government's development and implementation of a replacement for the financial management system for the District of Columbia Government in use on the date of enactment of this Act.

SEC. 2752. ANNUAL REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Board of Education shall annually compile an accurate and verifiable report on the positions and employees in the District of Columbia public school system. The annual report shall set forth—

(1) the number of validated schedule A positions in the District of Columbia public schools for fiscal year 1995, fiscal year 1996, and thereafter on a full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary; and

(2) a compilation of all employees in the District of Columbia public schools as of December 31, of the year preceding the year for which the report is made, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number.

(b) SUBMISSION.—The annual report required by subsection (a) shall be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 8, 1996, and each February 8 thereafter.

SEC. 2753. ANNUAL BUDGETS AND BUDGET REVISIONS.

(a) IN GENERAL.—Not later than October 1, 1996, or prior to 15 calendar days after the date of the enactment of the District of Columbia Appropriations Act, 1996, whichever occurs first, and each succeeding year thereafter, the Board of Education shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, a revised appropriated funds operating budget for the District of Columbia public school system for such fiscal year that is consistent with the total amount appropriated in an Act making appropriations for the District of Columbia for such fiscal year and that realigns budgeted data for personal services and other than personal services, with anticipated actual expenditures.

(b) SUBMISSION.—The revised budget required by subsection (a) shall be submitted in the format of the budget that the Board of Education submits to the Mayor for inclusion in the Mayor's budget submission to the District of Columbia Council pursuant to section 442 of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198 (D.C. Code, sec. 47–301).

SEC. 2754. ACCESS TO FISCAL AND STAFFING DATA.

(a) IN GENERAL.—The budget, financial-accounting, personnel, payroll, procurement, and management information systems of the District of Columbia public schools shall be coordinated and interface with related systems of the District of Columbia Government.

(b) ACCESS.—The Board of Education shall provide read-only access to its internal financial management systems and all other data bases to designated staff of the Mayor, the Council, the Authority, and appropriate congressional committees.

SEC. 2755. DEVELOPMENT OF FISCAL YEAR 1997 BUDGET REQUEST.

(a) IN GENERAL.—The Board of Education shall develop its fiscal year 1997 gross operating budget and its fiscal year 1997 appropriated funds budget request in accordance with this section.

(b) FISCAL YEAR 1996 BUDGET REVISION.—Not later than February 15, 1996, the Board of Education shall develop, approve, and submit to the Mayor, the District of Columbia Council, the Authority, and appropriate congressional committees, a revised fiscal year 1996 gross operating budget that reflects the amount appropriated in the District of Columbia Appropriations Act, 1996, and which—

(1) is broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object; and

(2) indicates by position title, grade, and agency reporting code, all staff allocated to each District of Columbia public school as of October 15, 1995, and indicates on an object class basis all other-than-personal-services financial resources allocated to each school.

(c) ZERO-BASE BUDGET.—For fiscal year 1997, the Board of Education shall build its gross operating budget and appropriated funds request from a zero-base, starting from the local school level through the central office level.

(d) SCHOOL-BY-SCHOOL BUDGETS.—The Board of Education's initial fiscal year 1997 gross operating budget and appropriated funds budget request submitted to the Mayor, the District of Columbia Council, and the Authority shall contain school-by-school budgets and shall also—

(1) be broken out on the basis of appropriated funds and nonappropriated funds, control center, responsibility center, agency reporting code, object class, and object;

(2) indicate by position title, grade, and agency reporting code all staff budgeted for each District of Columbia public school, and indicate on an object class basis all other-than-personal-services financial resources allocated to each school; and

(3) indicate the amount and reason for all changes made to the initial fiscal year 1997 gross operating budget and appropriated funds request from the revised fiscal year 1996 gross operating budget required by subsection (b).

SEC. 2756. TECHNICAL AMENDMENTS.

Section 1120A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6322) is amended—

(1) in subsection (b)(1), by—

(A) striking "(A) Except as provided in subparagraph (B), a State" and inserting "A State"; and

(B) striking subparagraph (B); and

(2) by adding at the end thereof the following new subsection:

"(d) EXCLUSION OF FUNDS.—For the purpose of complying with subsections (b) and (c), a

State or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.".

Subtitle K—Personal Accountability and Preservation of School-Based Resources

SEC. 2801. PRESERVATION OF SCHOOL-BASED STAFF POSITIONS.

(a) RESTRICTIONS ON REDUCTIONS OF SCHOOL-BASED EMPLOYEES.—To the extent that a reduction in the number of full-time equivalent positions for the District of Columbia public schools is required to remain within the number of full-time equivalent positions established for the public schools in appropriations Acts, no reductions shall be made from the full-time equivalent positions for school-based teachers, principals, counselors, librarians, or other school-based educational positions that were established as of the end of fiscal year 1995, unless the Authority makes a determination based on student enrollment that—

(1) fewer school-based positions are needed to maintain established pupil-to-staff ratios; or

(2) reductions in positions for other than school-based employees are not practicable.

(b) DEFINITION.—The term "school-based educational position" means a position located at a District of Columbia public school or other position providing direct support to students at such a school, including a position for a clerical, stenographic, or secretarial employee, but not including any part-time educational aide position.

SEC. 2802. MODIFICATIONS OF BOARD OF EDUCATION REDUCTION-IN-FORCE PROCEDURES.

The District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Code, sec. 1–601.1 et seq.) is amended—

(1) in section 301 (D.C. Code, sec. 1.603.1)—

(A) by inserting after paragraph (13), the following new paragraph:

"(13A) The term 'nonschool-based personnel' means any employee of the District of Columbia public schools who is not based at a local school or who does not provide direct services to individual students."; and

(B) by inserting after paragraph (15), the following new paragraph:

"(15A) The term 'school administrators' means principals, assistant principals, school program directors, coordinators, instructional supervisors, and support personnel of the District of Columbia public schools.";

(2) in section 801A(b)(2) (D.C. Code, sec. 1–609.1(b)(2)(L))—

(A) by striking "(L) reduction-in-force" and inserting "(L)(i) reduction-in-force"; and

(B) by inserting after subparagraph (L)(i), the following new clause:

"(ii) Notwithstanding any other provision of law, the Board of Education shall not issue rules that require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers;"; and

(3) in section 2402 (D.C. Code, sec. 1–625.2), by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, the Board of Education shall not require or permit nonschool-based personnel or school administrators to be assigned or reassigned to the same competitive level as classroom teachers.".

SEC. 2803. PUBLIC SCHOOL EMPLOYEE EVALUATIONS.

Notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia public school employees shall be a nonnegotiable item for collective bargaining purposes.

SEC. 2804. PERSONAL AUTHORITY FOR PUBLIC SCHOOL EMPLOYEES.

(a) IN GENERAL.—Notwithstanding any other provision of law, rule, or regulation, an employee of a District of Columbia public school shall be—

(1) classified as an educational service employee;

(2) placed under the personnel authority of the Board of Education; and

(3) subject to all Board of Education rules.

(b) SCHOOL-BASED PERSONNEL.—School-based personnel shall constitute a separate competitive area from nonschool-based personnel who shall not compete with school-based personnel for retention purposes.

Subtitle L—Establishment and Organization of the Commission on Consensus Reform in the District of Columbia Public Schools

SEC. 2851. COMMISSION ON CONSENSUS REFORM IN THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the District of Columbia Government a Commission on Consensus Reform in the District of Columbia Public Schools, consisting of 7 members to be appointed in accordance with paragraph (2).

(2) MEMBERSHIP.—The Consensus Commission shall consist of the following members:

(A) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Majority Leader of the Senate.

(B) 1 member to be appointed by the President chosen from a list of 3 proposed members submitted by the Speaker of the House of Representatives.

(C) 2 members to be appointed by the President, of which 1 shall represent the local business community and 1 of which shall be a teacher in a District of Columbia public school.

(D) The President of the District of Columbia Congress of Parents and Teachers.

(E) The President of the Board of Education.

(F) The Superintendent.

(G) The Mayor and District of Columbia Council Chairman shall each name 1 nonvoting ex officio member.

(H) The Chief of the National Guard Bureau who shall be an ex officio member.

(3) TERMS OF SERVICE.—The members of the Consensus Commission shall serve for a term of 3 years.

(4) VACANCIES.—Any vacancy in the membership of the Consensus Commission shall be filled by the appointment of a new member in the same manner as provided for the vacated membership. A member appointed under this paragraph shall serve the remaining term of the vacated membership.

(5) QUALIFICATIONS.—Members of the Consensus Commission appointed under subparagraphs (A), (B), and (C) of paragraph (2) shall be residents of the District of Columbia and shall have a knowledge of public education in the District of Columbia.

(6) CHAIR.—The Chair of the Consensus Commission shall be chosen by the Consensus Commission from among its members, except that the President of the Board of Education and the Superintendent shall not be eligible to serve as Chair.

(7) NO COMPENSATION FOR SERVICE.—Members of the Consensus Commission shall serve without pay, but may receive reimbursement for any reasonable and necessary expenses incurred by reason of service on the Consensus Commission.

(b) EXECUTIVE DIRECTOR.—The Consensus Commission shall have an Executive Director who shall be appointed by the Chair with the consent of the Consensus Commission. The Executive Director shall be paid at a rate determined by the Consensus Commission, except that such rate may not exceed the highest rate of pay payable for level EG–16 of the Educational Service of the District of Columbia.

(c) STAFF.—With the approval of the Chair and the Authority, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director.

(d) SPECIAL RULE.—The Board of Education, or the Authority, shall reprogram such funds, as the Chair of the Consensus Commission shall in writing request, from amounts available to the Board of Education.

SEC. 2852. PRIMARY PURPOSE AND FINDINGS.

(a) PURPOSE.—The primary purpose of the Consensus Commission is to assist in developing a long-term reform plan that has the support of the District of Columbia community through the participation of representatives of various critical segments of such community in helping to develop and approve the plan.

(b) FINDINGS.—The Congress finds that—

(1) experience has shown that the failure of the District of Columbia educational system has been due more to the failure to implement a plan than the failure to develop a plan;

(2) national studies indicate that 50 percent of secondary school graduates lack basic literacy skills, and over 30 percent of the 7th grade students in the District of Columbia public schools drop out of school before graduating;

(3) standard student assessments indicate only average performance for grade level and fail to identify individual students who lack basic skills, allowing too many students to graduate lacking these basic skills and diminishing the worth of a diploma;

(4) experience has shown that successful schools have good community, parent, and business involvement;

(5) experience has shown that reducing dropout rates in the critical middle and secondary school years requires individual student involvement and attention through such activities as arts or athletics; and

(6) experience has shown that close coordination between educators and business persons is required to provide noncollege-bound students the skills necessary for employment, and that personal attention is vitally important to assist each student in developing an appropriate career path.

SEC. 2853. DUTIES AND POWERS OF THE CONSENSUS COMMISSION.

(a) PRIMARY RESPONSIBILITY.—The Board of Education and the Superintendent shall have primary responsibility for developing and implementing the long-term reform plan for education in the District of Columbia.

(b) DUTIES.—The Consensus Commission shall—

(1) identify any obstacles to implementation of the long-term reform plan and suggest ways to remove such obstacles;

(2) assist in developing programs that—

(A) ensure every student in a District of Columbia public school achieves basic literacy skills;

(B) ensure every such student possesses the knowledge and skills necessary to think critically and communicate effectively by the completion of grade 8; and

(C) lower the dropout rate in the District of Columbia public schools;

(3) assist in developing districtwide assessments, including individual assessments, that identify District of Columbia public school students who lack basic literacy skills, with particular attention being given to grade 4 and the middle school years, and establish procedures to ensure that a teacher is made accountable for the performance of every such student in such teacher's class;

(4) make recommendations to improve community, parent, and business involvement in District of Columbia public schools and public charter schools;

(5) assess opportunities in the District of Columbia to increase individual student involvement and attention through such activities as arts or athletics, and make recommendations on how to increase such involvement; and

(6) assist in the establishment of procedures that ensure every District of Columbia public school student is provided the skills necessary for employment, including the development of individual career paths.

(c) POWERS.—The Consensus Commission shall have the following powers:

(1) To monitor and comment on the development and implementation of the long-term reform plan.

(2) To exercise its authority, as provided in this subtitle, as necessary to facilitate implementation of the long-term reform plan.

(3) To review and comment on the budgets of the Board of Education, the District of Columbia public schools and public charter schools.

(4) To recommend rules concerning the management and direction of the Board of Education that address obstacles to the development or implementation of the long-term reform plan.

(5) To review and comment on the core curriculum for kindergarten through grade 12 developed under subtitle D.

(6) To review and comment on a core curriculum for prekindergarten, vocational and technical training, and adult education.

(7) To review and comment on all other educational programs carried out by the Board of Education and public charter schools.

(8) To review and comment on the districtwide assessments for measuring student achievement in the core curriculum developed under subtitle D.

(9) To review and comment on the model professional development programs for teachers using the core curriculum developed under subtitle D.

(d) LIMITATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subtitle, the Consensus Commission shall have no powers to involve itself in the management or operation of the Board of Education with respect to the implementation of the long-term reform plan.

(2) SPECIAL RULE.—If the Consensus Commission determines that the Board of Education has failed to take an action necessary to develop or implement the long-term reform plan or that the Board of Education is unable to do so, the Consensus Commission shall request the Authority to take appropriate action, and the Authority shall take such action as the Authority deems appropriate, to develop or implement, as the case may be, the long-term reform plan.

SEC. 2854. IMPROVING ORDER AND DISCIPLINE.

(a) COMMUNITY SERVICE REQUIREMENT FOR SUSPENDED STUDENTS.—

(1) IN GENERAL.—Any student suspended from classes at a District of Columbia public school who is required to serve the suspension outside the school shall perform community service for the period of suspension. The community service required by this subsection shall be subject to rules and regulations promulgated by the Mayor.

(2) EFFECTIVE DATE.—This subsection shall take effect on the first day of the 1996–1997 academic year.

(b) EXPIRATION DATE.—This section, and sections 2101(b)(1)(K) and 2851(a)(2)(H), shall cease to be effective on the last day of the 1997–1998 academic year.

(c) REPORT.—The Consensus Commission shall study the effectiveness of the policies implemented pursuant to this section in improving order and discipline in District of Columbia public schools and report its findings to the appropriate congressional committees not later than 60 days prior to the last day of the 1997–1998 academic year.

SEC. 2855. EDUCATIONAL PERFORMANCE AUDITS.

(a) IN GENERAL.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of the Board of Education to ensure, monitor, and evaluate the performance of the Board of Education with respect to compliance with the long-term reform plan and such plan's overall educational achievement. The Consensus Commission shall conduct an annual review of the educational performance of the Board of Education with respect to meeting the goals of such plan for such year. The Board of Education shall cooperate and assist in the review or audit as requested by the Consensus Commission.

(b) AUDIT.—The Consensus Commission may examine and request the Inspector General of the District of Columbia or the Authority to audit the records of any public charter school to assure, monitor, and evaluate the performance of the public charter school with respect to the content standards and districtwide assessments described in section 2411(b). The Consensus Commission shall receive a copy of each public charter school's annual report.

SEC. 2856. INVESTIGATIVE POWERS.

The Consensus Commission may investigate any action or activity which may hinder the progress of any part of the long-term reform plan. The Board of Education shall cooperate and assist the Consensus Commission in any investigation. Reports of the findings of any such investigation shall be provided to the Board of Education, the Superintendent, the Mayor, the District of Columbia Council, the Authority, and the appropriate congressional committees.

SEC. 2857. RECOMMENDATIONS OF THE CONSENSUS COMMISSION.

(a) IN GENERAL.—The Consensus Commission may at any time submit recommendations to the Board of Education, the Mayor, the District of Columbia Council, the Authority, the Board of Trustees of any public charter school and the Congress with respect to actions the District of Columbia Government or the Federal Government should take to ensure implementation of the long-term reform plan.

(b) AUTHORITY ACTIONS.—Pursuant to the District of Columbia Financial Responsibility and Management Assistance Act of 1995 or upon the recommendation of the Consensus Commission, the Authority may take whatever actions the Authority deems necessary to ensure the implementation of the long-term reform plan.

SEC. 2858. EXPIRATION DATE.

Except as otherwise provided in this subtitle, this subtitle shall be effective during the period beginning on the date of enactment of this Act and ending 7 years after such date.

Subtitle M—Parent Attendance at Parent-Teacher Conferences

SEC. 2901. POLICY.

Notwithstanding any other provision of law, the Mayor is authorized to develop and implement a policy encouraging all residents of the District of Columbia with children attending a District of Columbia public school to attend and participate in at least one parent-teacher conference every 90 days during the academic year.

(c) Such amounts as may be necessary for programs, projects or activities provided for in the Department of the Interior and Related Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, acquisition of easements and other interests in lands, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau, and assessment of mineral potential of public lands pursuant to Public Law 96–487 (16 U.S.C. 3150(a)), $567,753,000, to remain available until expended, of which $2,000,000 shall be available for assessment of the mineral potential of public lands in Alaska pursuant to section 1010 of Public Law 96–487 (16 U.S.C. 3150), and of which $4,000,000 shall be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)): Provided, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors; and in addition, $27,650,000 for Mining Law Administration program operations, to remain available until expended, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim fees so as to result in a final appropriation estimated at not more than $567,753,000: Provided further, That in addition to funds otherwise available, and to remain available until expended, not to exceed $5,000,000 from annual mining claim fees shall be credited to this account for the costs of administering the mining claim fee program, and $2,000,000 from communication site rental fees established by the Bureau.

WILDLAND FIRE MANAGEMENT

For necessary expenses for fire use and management, fire preparedness, emergency presuppression, suppression operations, emergency rehabilitation, and renovation or construction of fire facilities in the Department of the Interior, $235,924,000, to remain available until expended, of which not to exceed $5,025,000, shall be available for the renovation or construction of fire facilities: Provided, That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation: Provided further, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: Provided further, That unobligated balances of amounts previously appropriated to the Fire Protection and Emergency Department of the Interior Firefighting Fund may be transferred or merged with this appropriation.

CENTRAL HAZARDOUS MATERIALS FUND

For expenses necessary for use by the Department of the Interior and any of its component offices and bureaus for the remedial action, including associated activities, of hazardous waste substances, pollutants, or contaminants pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9601 et seq.), $10,000,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, sums recovered from or paid by a party in advance of or as reimbursement for remedial action or response activities conducted by the Department pursuant to sections 107 or 113(f) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. 9607 or 9613(f)), shall be credited to this account

and shall be available without further appropriation and shall remain available until expended: Provided further, That such sums recovered from or paid by any party are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated, or otherwise disposed of by the Secretary of the Interior and which shall be credited to this account.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $3,115,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976, as amended (31 U.S.C. 6901–07), $101,500,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein, $12,800,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $97,452,000, to remain available until expended: Provided, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land-grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $9,113,000, to remain available until expended: Provided, That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: Provided, That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: Provided further, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: Provided, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $499,100,000, to remain available for obligation until September 30, 1997, of which $2,000,000 shall be available for activities under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), of which $11,557,000 shall be available until expended for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River: Provided, That unobligated and unexpended balances in the Resource Management account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 Resource Management appropriation, and shall remain available for obligation until September 30, 1997: Provided further, That no monies appropriated under this Act or any other law shall be used by the Secretary of the Interior to issue final determinations under subsections (a), (b), (c), (e), (g) or (i) of section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), until such time as legislation reauthorizing the Act is enacted or until the end of fiscal year 1996, whichever is earlier, except that monies appropriated under this Act may be used to delist or reclassify species pursuant to subsections 4(a)(2)(B), 4(c)(2)(B)(i), and 4(c)(2)(B)(ii) of the Endangered Species Act, and may be used to issue emergency listings under section 4(b)(7) of the Endangered Species Act.

CONSTRUCTION

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of fishery and wildlife resources, and the acquisition of lands and interests therein; $37,655,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessment activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $4,000,000, to remain available until expended: Provided, That sums provided by any party in fiscal year 1996 and thereafter are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $36,900,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $8,085,000 for grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,779,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $600,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, $6,750,000, to remain available until expended.

LAHONTAN VALLEY AND PYRAMID LAKE FISH AND WILDLIFE FUND

For carrying out section 206(f) of Public Law 101–618, such sums as have previously been credited or may be credited hereafter to the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund, to be available until expended without further appropriation.

RHINOCEROS AND TIGER CONSERVATION FUND

For deposit to the Rhinoceros and Tiger Conservation Fund, $200,000, to remain available until expended, to be available to carry out the provisions of the Rhinoceros and Tiger Conservation Act of 1994 (Public Law 103–391).

WILDLIFE CONSERVATION AND APPRECIATION FUND

For deposit to the Wildlife Conservation and Appreciation Fund, $800,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 113 passenger motor vehicles; not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the furisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: Provided, That notwithstanding 44 U.S.C. 501, the Service may, under cooperative cost sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share at least one-half the cost of printing either in cash or services and the Service determines the cooperator is capable of meeting accepted quality standards: Provided further, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: Provided further, That notwithstanding any other provision of law, the Secretary of the Interior may not spend any of the funds appropriated in this Act for the purchase of lands or interests in lands to be used in the establishment of any new unit of the National Wildlife Refuge System unless the purchase is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103–551: Provided further, That none of the funds made available in this Act may be used by the U. S. Fish and Wildlife Service to impede or delay the issuance of a wetlands permit by the U. S. Army Corps of Engineers to the City of Lake Jackson, Texas, for the development of a public golf course west of Buffalo Camp Bayou between the Brazos River and Highway 332: Provided further, That the Director of the Fish and Wildlife Service may charge reasonable fees for expenses to the Federal Government for providing training by the National Education and Training Center: Provided further, That all training fees collected shall be available to the Director, until expended, without further appropriation, to be used for the costs of training and education provided by the National Education and Training Center: Provided further, That with respect to lands leased for farming pursuant to Public Law 88–567, if for any reason the Secretary disapproves for use in 1996 or does not finally approve for use in 1996 any pesticide or chemical which was approved for use in 1995 or had been requested for use in 1996 by the submission of a pesticide use proposal as of September 19, 1995, none of the funds in this Act may be used to develop, implement, or enforce regulations or policies (including pesticide use proposals) related to the use of chemicals and pest management that are more restrictive than the requirements of applicable State and Federal laws related to the use of chemicals and pest management practices on non-Federal lands.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $1,593,000 for the Volunteers-in-Parks program, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $1,084,755,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $72,000,000, to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, international park affairs, statutory or contractual aid for other activities, and grant administration, not otherwise provided for, $37,649,000: Provided, That $236,000 of the funds provided herein are for the William O. Douglas Outdoor Education Center, subject to authorization.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $36,212,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1997.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, $143,225,000, to remain available until expended: Provided, That not to exceed $4,500,000 of the funds provided herein shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: Provided further, That funds provided under this head, derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), may be available until expended to render sites safe for visitors and for building stabilization.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1996 by 16 U.S.C. 4601–10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $49,100,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, and of which $1,500,000 is to administer the State assistance program: Provided, That any funds made available for the purpose of acquisition of the Elwha and Glines dams shall be used solely for acquisition, and shall not be expended until the full purchase amount has been appropriated by the Congress.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 518 passenger motor vehicles, of which 323 shall be for replacement only, including not to exceed 411 for police-type use, 12 buses, and 5 ambulances: Provided, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided further, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

None of the funds in this Act may be spent by the National Park Service for activities taken in direct response to the United Nations Biodiversity Convention.

The National Park Service may enter into cooperative agreements that involve the transfer of National Park Service appropriated funds to State, local and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the public purpose of carrying out National Park Service programs.

The National Park Service shall, within existing funds, conduct a Feasibility Study for a northern access route into Denali National Park and Preserve in Alaska, to be completed within one year of the enactment of this Act and submitted to the House and Senate Committees on Appropriations and to the Senate Committee on Energy and Natural Resources and the House Committee on Resources. The Feasibility Study shall ensure that resource impacts from any plan to create such access route are evaluated with accurate information and according to a process that takes into consideration park values, visitor needs, a full range of alternatives, the viewpoints of all interested parties, including the tourism industry and the State of Alaska, and potential needs for compliance with the National Environmental Policy Act. The Study shall also address the time required for development of alternatives and identify all associated costs.

This Feasibility Study shall be conducted solely by the National Park Service planning personnel permanently assigned to National Park Service offices located in the State of Alaska in consultation with the State of Alaska Department of Transportation.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands

as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; and to conduct inquiries into the economic conditions affecting mining and materials processing industries (30 U.S.C. 3, 21a, and 1603; 50 U.S.C. 98g(1)) and related purposes as authorized by law and to publish and disseminate data; $730,330,000, of which $62,130,000 shall be available for cooperation with States or municipalities for water resources investigations, and of which $137,000,000 for resource research and the operations of Cooperative Research Units shall remain available until September 30, 1997, and of which $16,000,000 shall remain available until expended for conducting inquiries into the economic conditions affecting mining and materials processing industries: Provided, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: Provided further, That funds available herein for resource research may be used for the purchase of not to exceed 61 passenger motor vehicles, of which 55 are for replacement only: Provided further, That none of the funds available under this head for resource research shall be used to conduct new surveys on private property, including new aerial surveys for the designation of habitat under the Endangered Species Act, except when it is made known to the Federal official having authority to obligate or expend such funds that the survey or research has been requested and authorized in writing by the property owner or the owner's authorized representative: Provided further, That none of the funds provided herein for resource research may be used to administer a volunteer program when it is made known to the Federal official having authority to obligate or expend such funds that the volunteers are not properly trained or that information gathered by the volunteers is not carefully verified: Provided further, That no later than April 1, 1996, the Director of the United States Geological Survey shall issue agency guidelines for resource research that ensure that scientific and technical peer review is utilized as fully as possible in selection of projects for funding and ensure the validity and reliability of research and data collection on Federal lands: Provided further, That no funds available for resource research may be used for any activity that was not authorized prior to the establishment of the National Biological Survey: Provided further, That once every five years the National Academy of Sciences shall review and report on the resource research activities of the Survey: Provided further, That if specific authorizing legislation is enacted during or before the start of fiscal year 1996, the resource research component of the Survey should comply with the provisions of that legislation: Provided further, That unobligated and unexpended balances in the National Biological Survey, Research, inventories and surveys account at the end of fiscal year 1995, shall be merged with and made a part of the United States Geological Survey, Surveys, investigations, and research account and shall remain available for obligation until September 30, 1996: Provided further, That the authority granted to the United States Bureau of Mines to conduct mineral surveys and to determine mineral values by section 603 of Public Law 94–579 is hereby transferred to, and vested in, the Director of the United States Geological Survey.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: Provided, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in 31 U.S.C. 6302, et seq.

MINERALS MANAGEMENT SERVICE

ROYALTY AND OFFSHORE MINERALS MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $182,771,000, of which not less than $70,105,000 shall be available for royalty management activities; and an amount not to exceed $15,400,000 for the Technical Information Management System and Related Activities of the Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to receipts resulting from increases to rates in effect on August 5, 1993, from rate increases to fee collections for OCS administrative activities performed by the Minerals Management Service over and above the rates in effect on September 30, 1993, and from additional fees for OCS administrative activities established after September 30, 1993: Provided, That beginning in fiscal year 1996 and thereafter, fees for royalty rate relief applications shall be established (and revised as needed) in Notices to Lessees, and shall be credited to this account in the program areas performing the function, and remain available until expended for the costs of administering the royalty rate relief authorized by 43 U.S.C. 1337(a)(3): Provided further, That $1,500,000 for computer acquisitions shall remain available until September 30, 1997: Provided further, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): Provided further, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: Provided further, That notwithstanding any other provision of law, $15,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due, to pay amounts owed to Indian allottees or Tribes, or to correct prior unrecoverable erroneous payments: Provided further, That beginning in fiscal year 1996 and thereafter, the Secretary shall take appropriate action to collect unpaid and underpaid royalties and late payment interest owed by Federal and Indian mineral lessees and other royalty payors on amounts received in settlement or other resolution of disputes under, and for partial or complete termination of, sales agreements for minerals from Federal and Indian leases.

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of title I, section 1016, title IV, sections 4202 and 4303, title VII, and title VIII, section 8201 of the Oil Pollution Act of 1990, $6,440,000, which shall be derived from the Oil Spill Liability Trust Fund, to remain available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for, and incidental to, the closure of the United States Bureau of Mines, $64,000,000, to remain available until expended, of which not to exceed $5,000,000 may be used for the completion and/or transfer of certain ongoing projects within the United States Bureau of Mines, such projects to be identified by the Secretary of the Interior within 90 days of enactment of this Act: Provided, That there hereby are transferred to, and vested in, the Secretary of Energy: (1) the functions pertaining to the promotion of health and safety in mines and the mineral industry through research vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania, and at its Spokane Research Center in Washington; (2) the functions pertaining to the conduct of inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines under the minerals and materials science programs at its Pittsburgh Research Center in Pennsylvania, and at its Albany Research Center in Oregon; and (3) the functions pertaining to mineral reclamation industries and the development of methods for the disposal, control, prevention, and reclamation of mineral waste products vested by law in the Secretary of the Interior or the United States Bureau of Mines and performed in fiscal year 1995 by the United States Bureau of Mines at its Pittsburgh Research Center in Pennsylvania: Provided further, That, if any of the same functions were performed in fiscal year 1995 at locations other than those listed above, such functions shall not be transferred to the Secretary of Energy from those other locations: Provided further, That the Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Secretary of the Interior, is authorized to make such determinations as may be necessary with regard to the transfer of functions which relate to or are used by the Department of the Interior, or component thereof affected by this transfer of functions, and to make such dispositions of personnel, facilities, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with, the functions transferred herein as are deemed necessary to accomplish the purposes of this transfer: Provided further, That all reductions in personnel complements resulting from the provisions of this Act shall, as to the functions transferred to the Secretary of Energy, be done by the Secretary of the Interior as though these transfers had not taken place but had been required of the Department of the Interior by all other provisions of this Act before the transfers of function became effective: Provided further, That the transfers of function to the Secretary of Energy shall become effective on the date specified by the Director of the Office of Management and Budget, but in no event later than 90 days after enactment into law of this Act: Provided further, That the reference to "function" includes, but

is not limited to, any duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: Provided, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral products that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts: Provided further, That notwithstanding any other provision of law, the Secretary is authorized to convey, without reimbursement, title and all interest of the United States in property and facilities of the United States Bureau of Mines in Juneau, Alaska, to the City and Borough of Juneau, Alaska; in Tuscaloosa, Alabama, to the University of Alabama; in Rolla, Missouri, to the University of Missouri-Rolla; and in other localities to such university or government entities as the Secretary deems appropriate.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles for replacement only; $95,470,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1996: Provided, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1996 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: Provided further, That notwithstanding any other provision of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles for replacement only, $173,887,000, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: Provided, That grants to minimum program States will be $1,500,000 per State in fiscal year 1996: Provided further, That of the funds herein provided up to $18,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for Federally-administered emergency reclamation projects under this proviso shall not exceed $11,000,000: Provided further, That prior year unobligated funds appropriated for the emergency reclamation program shall not be subject to the 25 per centum limitation per State and may be used without fiscal year limitation for emergency projects: Provided further, That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: Provided further, That funds made available to States under title IV of Public Law 95–87 may be used, at their discretion, for any required non-Federal share of the cost of projects funded by the Federal Government for the purpose of environmental restoration related to treatment or abatement of acid mine drainage from abandoned mines: Provided further, That such projects must be consistent with the purposes and priorities of the Surface Mining Control and Reclamation Act.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $1,384,434,000, of which not to exceed $100,255,000 shall be for welfare assistance grants and not to exceed $104,626,000 shall be for payments to tribes and tribal organizations for contract support costs associated with ongoing contracts or grants or compacts entered into with the Bureau of Indian Affairs prior to fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975, as amended, and up to $5,000,000 shall be for the Indian Self-Determination Fund, which shall be available for the transitional cost of initial or expanded tribal contracts, grants, compacts, or cooperative agreements with the Bureau of Indian Affairs under the provisions of the Indian Self-Determination Act; and of which not to exceed $330,711,000 for school operations costs of Bureau-funded schools and other education programs shall become available for obligation on July 1, 1996, and shall remain available for obligation until September 30, 1997; and of which not to exceed $68,209,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1997; and of which not to exceed $71,854,000 shall remain available until expended for housing improvement, road maintenance, attorney fees, litigation support, self-governance grants, the Indian Self-Determination Fund, and the Navajo-Hopi Settlement Program: Provided, That tribes and tribal contractors may use their tribal priority allocations for unmet indirect costs of ongoing contracts, grants or compact agreements: Provided further, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee: Provided further, That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: Provided further, That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: Provided further, That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: Provided further, That any net increase in costs to the Federal Government which result solely from tribally increased payment levels for general assistance shall be met exclusively from funds available to the tribe from within its tribal priority allocation: Provided further, That any forestry funds allocated to a tribe which remain unobligated as of September 30, 1996, may be transferred during fiscal year 1997 to an Indian forest land assistance account established for the benefit of such tribe within the tribe's trust fund account: Provided further, That any such unobligated balances not so transferred shall expire on September 30, 1997: Provided further, That notwithstanding any other provision of law, no funds available to the Bureau of Indian Affairs, other than the amounts provided herein for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be available to support the operation of any elementary or secondary school in the State of Alaska in fiscal year 1996: Provided further, That funds made available in this or any other Act for expenditure through September 30, 1997 for schools funded by the Bureau of Indian Affairs shall be available only to the schools which are in the Bureau of Indian Affairs school system as of September 1, 1995: Provided further, That no funds available to the Bureau of Indian Affairs shall be used to support expanded grades for any school beyond the grade structure in place at each school in the Bureau of Indian Affairs school system as of October 1, 1995: Provided further, That notwithstanding the provisions of 25 U.S.C. 2011(h)(1)(B) and (c), upon the recommendation of a local school board for a Bureau of Indian Affairs operated school, the Secretary shall establish rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and homeliving counselors) at the school at a level not less than that for comparable positions in public school districts in the same geographic area, to become effective on July 1, 1997: Provided further, That of the funds available only through September 30, 1995, not to exceed $8,000,000 in unobligated and unexpended balances in the Operation of Indian Programs account shall be merged with and made a part of the fiscal year 1996 Operation of Indian Programs appropriation, and shall remain available for obligation for employee severance, relocation, and related expenses, until September 30, 1996.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $100,833,000, to remain available until expended: Provided, That

such amounts as may be available for the construction of the Navajo Indian Irrigation Project and for other water resource development activities related to the Southern Arizona Water Rights Settlement Act may be transferred to the Bureau of Reclamation: Provided further, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: Provided further, That any funds provided for the Safety of Dams program pursuant to 25 U.S.C. 13 shall be made available on a non-reimbursable basis: Provided further, That for the fiscal year ending September 30, 1996, in implementing new construction or facilities improvement and repair project grants in excess of $100,000 that are provided to tribally controlled grant schools under Public Law 100–297, as amended, the Secretary of the Interior shall use the Administrative and Audit Requirements and Cost Principles for Assistance Programs contained in 43 CFR part 12 as the regulatory requirements: Provided further, That such grants shall not be subject to section 12.61 of 43 CFR; the Secretary and the grantee shall negotiate and determine a schedule of payments for the work to be performed: Provided further, That in considering applications, the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in assuring that the construction projects conform to applicable building standards and codes and Federal, tribal, or State health and safety standards as required by 25 U.S.C. 2005(a), with respect to organizational and financial management capabilities: Provided further, That if the Secretary declines an application, the Secretary shall follow the requirements contained in 25 U.S.C. 2505(f): Provided further, That any disputes between the Secretary and any grantee concerning a grant shall be subject to the disputes provision in 25 U.S.C. 2508(e).

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals and for necessary administrative expenses, $80,645,000, to remain available until expended; of which $78,600,000 shall be available for implementation of enacted Indian land and water claim settlements pursuant to Public Laws 87–483, 97–293, 101–618, 102–374, 102–441, 102–575, and 103–116, and for implementation of other enacted water rights settlements, including not to exceed $8,000,000, which shall be for the Federal share of the Catawba Indian Tribe of South Carolina Claims Settlement, as authorized by section 5(a) of Public Law 103–116; and of which $1,045,000 shall be available pursuant to Public Laws 98–500, 99–264, and 100–580; and of which $1,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), (2) to restore to Individual Indian Monies trust funds, Indian Irrigation Systems, and Indian Power Systems accounts amounts invested in credit unions or defaulted savings and loan associations and which were not Federally insured, and (3) to reimburse Indian trust fund account holders for losses to their respective accounts where the claim for said loss(es) has been reduced to a judgment or settlement agreement approved by the Department of Justice.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $500,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans $4,500,000, as authorized by the Indian Financing Act of 1974, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $35,914,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $500,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs shall be available for expenses of exhibits, and purchase of not to exceed 275 passenger carrying motor vehicles, of which not to exceed 215 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For expenses necessary for assistance to territories under the jurisdiction of the Department of the Interior, $65,188,000, of which (1) $61,661,000 shall be available until expended for technical assistance, including maintenance assistance, disaster assistance, insular management controls, and brown tree snake control and research; grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $3,527,000 shall be available for salaries and expenses of the Office of Insular Affairs: Provided, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, may be audited by the General Accounting Office, at its discretion, in accordance with chapter 35 of title 31, United States Code: Provided further, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, or any subsequent legislation related to Commonwealth of the Northern Mariana Islands Covenant grant funding: Provided further, That of the amounts provided for technical assistance, sufficient funding shall be made available for a grant to the Close Up Foundation: Provided further, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): Provided further, That any appropriation for disaster assistance under this head in this Act or previous appropriations Acts may be used as non-Federal matching funds for the purpose of hazard mitigation grants provided pursuant to section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, and for economic assistance and necessary expenses for the Republic of Palau as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $24,938,000, to remain available until expended, as authorized by Public Law 99–239 and Public Law 99–658: Provided, That notwithstanding section 112 of Public Law 101–219 (103 Stat. 1873), the Secretary of the Interior may agree to technical changes in the specifications for the project described in the subsidiary agreement negotiated under section 212(a) of the Compact of Free Association, Public Law 99–658, or its annex, if the changes do not result in increased costs to the United States.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for management of the Department of the Interior, $57,340,000, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $34,516,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,939,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $500,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $1,000,000: Provided, That on March 1, 1996, the Chairman shall submit to the Secretary a report detailing those Indian tribes or tribal organizations with gaming operations that are in full compliance, partial compliance, or noncompliance with the provisions of the Indian Gaming Regulatory Act (25 U.S.C. 2701, et seq.): Provided further, That the information contained in the report shall be updated on a continuing basis.

OFFICE OF SPECIAL TRUSTEE FOR AMERICAN INDIANS

FEDERAL TRUST PROGRAMS

For operation of trust programs for Indians by direct expenditure, contracts, cooperative agreements, compacts, and grants, $16,338,000, of which $15,891,000 shall remain available until expended for trust funds management: Provided, That funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1996, as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), shall remain available until expended by the contractor or grantee: Provided further, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim, including any claim in litigation pending on the date of this Act, concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: Provided further, That obligated and unobligated balances provided for trust funds management within "Operation of Indian programs", Bureau of Indian Affairs are

hereby transferred to and merged with this appropriation.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 15 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: Provided, That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: Provided further, That no programs funded with appropriated funds in "Departmental Management", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: Provided, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: Provided, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: Provided further, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: Provided further, That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: Provided further, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, United States Code: Provided, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. Appropriations made in this title from the Land and Water Conservation Fund for acquisition of lands and waters, or interests therein, shall be available for transfer, with the approval of the Secretary, between the following accounts: Bureau of Land Management, Land acquisition, United States Fish and Wildlife Service, Land acquisition, and National Park Service, Land acquisition and State assistance. Use of such funds are subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

SEC. 108. Prior to the transfer of Presidio properties to the Presidio Trust, when authorized, the Secretary may not obligate in any calendar month more than 1/12 of the fiscal year 1996 appropriation for operation of the Presidio: Provided, That this section shall expire on December 31, 1995.

SEC. 109. Section 6003 of Public Law 101–380 is hereby repealed.

SEC. 110. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of the Interior for developing, promulgating, and thereafter implementing a rule concerning rights-of-way under section 2477 of the Revised Statutes.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 151 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 114. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 115. (a) Of the funds appropriated by this Act or any subsequent Act providing for appropriations in fiscal years 1996 and 1997, not more than 50 percent of any self-governance funds that would otherwise be allocated to each Indian tribe in the State of Washington shall actually be paid to or on account of such Indian tribe from and after the time at which such tribe shall—

(1) take unilateral action that adversely impacts the existing rights to and/or customary uses of, nontribal member owners of fee simple land within the exterior boundary of the tribe's reservation to water, electricity, or any other similar utility or necessity for the nontribal members' residential use of such land; or

(2) restrict or threaten to restrict said owners use of or access to publicly maintained rights-of-way necessary or desirable in carrying the utilities or necessities described above.

(b) Such penalty shall not attach to the initiation of any legal actions with respect to such rights or the enforcement of any final judgments, appeals from which have been exhausted, with respect thereto.

SEC. 116. Within 30 days after the enactment of this Act, the Department of the Interior shall issue a specific schedule for the completion of the Lake Cushman Land Exchange Act (Public Law 102–436) and shall complete the exchange not later than September 30, 1996.

SEC. 117. Notwithstanding Public Law 90–544, as amended, the National Park Service is authorized to expend appropriated funds for maintenance and repair of the Company Creek Road in the Lake Chelan National Recreation Area: Provided, That appropriated funds shall not be expended for the purpose of improving the property of private individuals unless specifically authorized by law.

SEC. 118. Section 4(b) of Public Law 94–241 (90 Stat. 263) as added by section 10 of Public Law 99–396 is amended by deleting "until Congress otherwise provides by law." and inserting in lieu thereof: "except that, for fiscal years 1996 through 2002, payments to the Commonwealth of the Northern Mariana Islands pursuant to the multi-year funding agreements contemplated under the Covenant shall be $11,000,000 annually, subject to an equal local match and all other requirements set forth in the Agreement of the Special Representatives on Future Federal Financial Assistance of the Northern Mariana Islands, executed on December 17, 1992 between the special representative of the President of the United States and special representatives of the Governor of the Northern Mariana Islands with any additional amounts otherwise made available under this section in any fiscal year and not required to meet the schedule of payments in this subsection to be provided as set forth in

subsection (c) until Congress otherwise provides by law.

"(c) The additional amounts referred to in subsection (b) shall be made available to the Secretary for obligation as follows:

"(1) for fiscal years 1996 through 2001, $4,580,000 annually for capital infrastructure projects as Impact Aid for Guam under section 104(c)(6) of Public Law 99-239;

"(2) for fiscal year 1996, $7,700,000 shall be provided for capital infrastructure projects in American Samoa; $4,420,000 for resettlement of Rongelap Atoll; and

"(3) for fiscal years 1997 and thereafter, all such amounts shall be available solely for capital infrastructure projects in Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands: Provided, That, in fiscal year 1997, $3,000,000 of such amounts shall be made available to the College of the Northern Marianas and beginning in fiscal year 1997, and in each year thereafter, not to exceed $3,000,000 may be allocated, as provided in appropriations Acts, to the Secretary of the Interior for use by Federal agencies or the Commonwealth of the Northern Mariana Islands to address immigration, labor, and law enforcement issues in the Northern Mariana Islands. The specific projects to be funded in American Samoa shall be set forth in a five-year plan for infrastructure assistance developed by the Secretary of the Interior in consultation with the American Samoa Government and updated annually and submitted to the Congress concurrent with the budget justifications for the Department of the Interior. In developing budget recommendations for capital infrastructure funding, the Secretary shall indicate the highest priority projects, consider the extent to which particular projects are part of an overall master plan, whether such project has been reviewed by the Corps of Engineers and any recommendations made as a result of such review, the extent to which a set-aside for maintenance would enhance the life of the project, the degree to which a local cost-share requirement would be consistent with local economic and fiscal capabilities, and may propose an incremental set-aside, not to exceed $2,000,000 per year, to remain available without fiscal year limitation, as an emergency fund in the event of natural or other disasters to supplement other assistance in the repair, replacement, or hardening of essential facilities: Provided further, That the cumulative amount set aside for such emergency fund may not exceed $10,000,000 at any time.

"(d) Within the amounts allocated for infrastructure pursuant to this section, and subject to the specific allocations made in subsection (c), additional contributions may be made, as set forth in appropriations Acts, to assist in the resettlement of Rongelap Atoll: Provided, That the total of all contributions from any Federal source after enactment of this Act may not exceed $32,000,000 and shall be contingent upon an agreement, satisfactory to the President, that such contributions are a full and final settlement of all obligations of the United States to assist in the resettlement of Rongelop Atoll and that such funds will be expended solely on resettlement activities and will be properly audited and accounted for. In order to provide such contributions in a timely manner, each Federal agency providing assistance or services, or conducting activities, in the Republic of the Marshall Islands, is authorized to make funds available through the Secretary of the Interior, to assist in the resettlement of Rongelap. Nothing in this subsection shall be construed to limit the provision of ex gratia assistance pursuant to section 105(c)(2) of the Compact of Free Association Act of 1985 (Public Law 99-239, 99 Stat. 1770, 1792) including for individuals choosing not to resettle at Rongelap, except that no such assistance for such individuals may be provided until the Secretary notifies the Congress that the full amount of all funds necessary for resettlement at Rongelap has been provided.".

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $177,757,000, to remain available until September 30, 1997.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others and for forest pest management activities, cooperative forestry and education and land conservation activities, $136,695,000, to remain available until expended, as authorized by law: Provided, That of funds available under this heading for Pacific Northwest Assistance in this or prior appropriations Acts, $200,000 shall be provided to the World Forestry Center for purposes of continuing scientific research and other authorized efforts regarding the land exchange efforts in the Umpqua River Basin Region.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, for ecosystem planning, inventory, and monitoring, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Fire Protection and Emergency Suppression", and "Land Acquisition", $1,255,004,999, to remain available for obligation until September 30, 1997, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)), of which not more than $81,249,999 shall be available for travel expenses: Provided, That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1995, shall be merged with and made a part of the fiscal year 1996 National Forest System appropriation, and shall remain available for obligation until September 30, 1997: Provided further, That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

WILDLAND FIRE MANAGEMENT

For necessary expenses for forest fire presuppression activities on National Forest System lands, for emergency fire suppression on or adjacent to National Forest System lands or other lands under fire protection agreement, and for emergency rehabilitation of burned over National Forest System lands, $385,485,000, to remain available until expended: Provided, That unexpended balances of amounts previously appropriated under any other headings for Forest Service fire activities may be transferred to and merged with this appropriation: Provided further, That such funds are available for repayment of advances from other appropriations accounts previously transferred for such purposes.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, $163,384,000, to remain available until expended, for construction and acquisition of buildings and other facilities, and for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: Provided, That funds becoming available in fiscal year 1996 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: Provided further, That not to exceed $50,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: Provided further, That $2,500,000 of the funds appropriated herein shall be available for a grant to the "Non-Profit Citizens for the Columbia Gorge Discovery Center" for the construction of the Columbia Gorge Discovery Center: Provided further, That the Forest Service is authorized to grant the unobligated balance of funds appropriated in fiscal year 1995 for the construction of the Columbia Gorge Discovery Center and related trail construction funds to the "Non-Profit Citizens for the Columbia Gorge Discovery Center" to be used for the same purpose: Provided further, That the Forest Service is authorized to convey the land needed for the construction of the Columbia Gorge Discovery Center without cost to the "Non-Profit Citizens for the Columbia Gorge Discovery Center": Provided further, That notwithstanding any other provision of law, funds originally appropriated under this head in Public Law 101-512 for the Forest Service share of a new research facility at the University of Missouri, Columbia, shall be available for a grant to the University of Missouri, as the Federal share in the construction of the new facility: Provided further, That agreed upon lease of space in the new facility shall be provided to the Forest Service without charge for the life of the building.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $41,200,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,069,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $92,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 183 passenger motor vehicles of which 32 will be used primarily for law enforcement purposes and of which 151 shall be for replacement; acquisition of 22 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 20 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, or to implement any reorganization, "reinvention" or other type of organizational restructuring of the Forest Service, other than the relocation of the Regional Office for Region 5 of the Forest Service from San Francisco to excess military property at Mare Island, Vallejo, California, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources in the United States Senate and the Committee on Agriculture and the Committee on Resources in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Fire and Emergency Suppression appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: Provided, That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

Any funds available to the Forest Service may be used for retrofitting Mare Island facilities to accommodate the relocation: Provided, That funds for the move must come from funds otherwise available to Region 5: Provided further, That any funds to be provided for such purposes shall only be available upon approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Foreign Agricultural Service in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 103-551.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93-153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: Provided, That this limitation shall not apply to hardwood stands damaged by natural disaster: Provided further, That landscape architects shall be used to maintain a visually pleasing forest.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development purposes.

Notwithstanding any other provision of law, eighty percent of the funds appropriated to the Forest Service in the National Forest System and Construction accounts and planned to be allocated to activities under the "Jobs in the Woods" program for projects on National Forest land in the State of Washington may be granted directly to the Washington State Department of Fish and Wildlife for accomplishment of planned projects. Twenty percent of said funds shall be retained by the Forest Service for planning and administering projects. Project selection and prioritization shall be accomplished by the Forest Service with such consultation with the State of Washington as the Forest Service deems appropriate.

For one year after enactment of this Act, the Secretary shall continue the current Tongass Land Management Plan (TLMP) and may accommodate commercial tourism (if an agreement is signed between the Forest Service and the Alaska Visitors' Association) except that during this period, the Secretary shall maintain at least the number of acres of suitable available and suitable scheduled timber lands, and Allowable Sale Quantity as identified in the Preferred Alternative (Alternative P) in the Tongass Land and Resources Management Plan and Final Environmental Impact Statement (dated October 1992) as selected in the Record of Decision Review Draft #3-2/93. Nothing in this paragraph shall be interpreted to mandate clear-cutting or require the sale of timber and nothing in this paragraph, including the ASQ identified in Alternative P, shall be construed to limit the Secretary's consideration of new information or to prejudice future revision, amendment or modification of TLMP based upon sound, verifiable scientific data.

If the Forest Service determines in a Supplemental Evaluation to an Environmental Impact Statement that no additional analysis under the National Environmental Policy Act or section 810 of the Alaska National Interest Lands Conservation Act is necessary for any timber sale or offering which has been prepared for acceptance by, or award to, a purchaser after December 31, 1988, that has been subsequently determined by the Forest Service to be available for sale or offering to one or more other purchaser, the change of purchasers for whatever reason shall not be considered a significant new circumstance, and the Forest Service may offer or award such timber sale or offering to a different purchaser or offeree, notwithstanding any other provision of law. A determination by the Forest Service pursuant to this paragraph shall not be subject to judicial review.

None of the funds appropriated under this Act for the Forest Service shall be made available for the purpose of applying paint to rocks, or rock colorization: Provided, That notwithstanding any other provision of law, the Forest Service shall not require of any individual or entity, as part of any permitting process under its authority, or as a requirement of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the painting or colorization of rocks.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for promoting health and safety in mines and the mineral industry through research (30 U.S.C. 3, 861(b), and 951(a)), for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), and for the development of methods for the disposal, control, prevention, and reclamation of waste products in the mining, minerals, metal, and mineral reclamation industries (30

U.S.C. 3 and 21a), $417,092,000, to remain available until expended: Provided, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1995, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $148,786,000, to remain available until expended: Provided, That the requirements of 10 U.S.C. 7430(b)(2)(B) shall not apply to fiscal year 1996: Provided further, That section 501 of Public Law 101–45 is hereby repealed.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $553,240,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1996 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502), and of which $16,000,000 shall be derived from available unobligated balances in the Biomass Energy Development account: Provided, That $140,696,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): Provided further, That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated to the eligible programs as follows: $114,196,000 for the weatherization assistance program and $26,500,000 for the State energy conservation program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $6,297,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $287,000,000, to remain available until expended, of which $187,000,000 shall be derived by transfer of unobligated balances from the "SPR petroleum account" and $100,000,000 shall be derived by transfer from the "SPR Decommissioning Fund": Provided, That notwithstanding section 161 of the Energy Policy and Conservation Act, the Secretary shall draw down and sell up to seven million barrels of oil from the Strategic Petroleum Reserve: Provided further, That the proceeds from the sale shall be deposited into a special account in the Treasury, to be established and known as the "SPR Decommissioning Fund", and shall be available for the purpose of removal of oil from and decommissioning of the Weeks Island site and for other purposes related to the operations of the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: Provided, That outlays in fiscal year 1996 resulting from the use of funds in this account shall not exceed $5,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $72,266,000, to remain available until expended: Provided, That notwithstanding section 4(d) of the Service Contract Act of 1965 (41 U.S.C. 353(d)) or any other provision of law, funds appropriated under this heading hereafter may be used to enter into a contract for end use consumption surveys for a term not to exceed eight years: Provided further, That notwithstanding any other provision of law, hereafter the Manufacturing Energy Consumption Survey shall be conducted on a triennial basis.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: Provided, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: Provided further, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: Provided further, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to the Indian Health Service, $1,747,842,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: Provided, That of the funds provided, $800,000 shall be used for inhalant abuse treatment programs to treat inhalant abuse and to provide for referrals to specialized treatment facilities in the United States: Provided further, That funds made available to tribes and tribal organizations through contracts, grant agreements, or any other agreements or compacts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: Provided further, That $350,564,000 for contract medical care shall remain available for obligation until September 30, 1997: Provided further, That of the funds provided, not less than $11,306,000 shall be used to carry out the loan repayment program under section 108 of the Indian Health Care Improvement Act, as amended: Provided further, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: Provided further, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): Provided further, That of the funds provided, $7,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: Provided further, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1997: Provided further, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act, as amended, shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, repair, maintenance, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles II and III of the Public Health Service Act with respect to environmental health and facilities support activities of the Indian Health Service, $238,958,000, to remain available until expended: Provided, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may

be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376; hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation and erection of modular buildings and renovation of existing facilities; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902); and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: Provided, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: Provided further, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act) and Public Law 93–638, as amended: Provided further, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: Provided further, That the Indian Health Service shall neither bill nor charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: Provided further, That, notwithstanding any other provision of law, funds previously or herein made available to a tribe or tribal organization through a contract, grant or agreement authorized by title I of the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), may be deobligated and reobligated to a self-governance funding agreement under title III of the Indian Self-Determination and Education Assistance Act of 1975 and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: Provided further, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: Provided further, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: Provided further, That the appropriation structure for the Indian Health Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, title IX, part A, subpart 1 of the Elementary and Secondary Education Act of 1965, as amended, and section 215 of the Department of Education Organization Act, $52,500,000.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $20,345,000, to remain available until expended: Provided, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: Provided further, That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: Provided further, That no relocatee will be provided with more than one new or replacement home: Provided further, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by title XV of Public Law 99–498 (20 U.S.C. 4401 et seq.), $5,500,000.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $308,188,000, of which not to exceed $30,472,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, the repatriation of skeletal remains program, research equipment, information management, and Latino programming shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: Provided, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,250,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $33,954,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $27,700,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $51,844,000, of which not to exceed $3,026,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $6,442,000, to remain available until expended: Provided, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

OPERATIONS AND MAINTENANCE

For necessary expenses for the operation, maintenance and security of the John F. Kennedy Center for the Performing Arts, $10,323,000: Provided, That 40 U.S.C. 193n is hereby amended by striking the word "and" after the word "Institution" and inserting in lieu thereof a comma, and by inserting "and the Trustees of the John F. Kennedy Center for the Performing Arts," after the word "Art,".

CONSTRUCTION

For necessary expenses of capital repair and rehabilitation of the existing features of the building and site of the John F. Kennedy Center for the Performing Arts, $8,983,000, to remain available until expended.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,840,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $82,259,000, shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $17,235,000, to remain available until September 30, 1997, to the National Endowment for the Arts, of which $7,500,000 shall be available for purposes of section 5(p)(1): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $94,000,000, shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, to remain available until September 30, 1997.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $16,000,000, to remain available until September 30, 1997, of which $10,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): Provided, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $21,000,000, to remain available until September 30, 1997.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: Provided, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $834,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $6,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses necessary for the Advisory Council on Historic Preservation, $2,500,000.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $5,090,000: Provided, That all appointed members will be compensated at a rate not to exceed the rate for Executive Schedule Level IV.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $147,000, to remain available until September 30, 1997.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PUBLIC DEVELOPMENT

Funds made available under this heading in prior years shall be available for operating and administrative expenses and for the orderly closure of the Corporation, as well as operating and administrative expenses for the functions transferred to the General Services Administration.

(RESCISSION)

Of the available balances under this heading, $2,172,000 are rescinded.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $28,707,000; of which $1,575,000 for the Museum's repair and rehabilitation program and $1,264,000 for the Museum's exhibition program shall remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. 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. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: Provided, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. 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. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 307. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds 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").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—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, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 308. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands in a manner different than such sales were conducted in fiscal year 1995.

SEC. 309. None of the funds made available by this Act may be obligated or expended by the National Park Service to enter into or implement a concession contract which permits or requires the removal of the underground lunchroom at the Carlsbad Caverns National Park.

SEC. 310. Where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93-638, 103-413, or 100-297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

SEC. 311. Notwithstanding Public Law 103-413, quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section 108 of Public Law 93-638, as amended, may be made on the first business day following the first day of a fiscal quarter.

SEC. 312. None of funds appropriated or otherwise made available by this Act may be used for the AmeriCorps program, unless the relevant agencies of the Department of the Interior and/or Agriculture follow appropriate reprogramming guidelines: Provided, That if no funds are provided for the AmeriCorps program by the VA-HUD and Independent Agencies fiscal year 1996 appropriations bill, then none of the funds appropriated or otherwise made available by this Act may be used for the AmeriCorps programs.

SEC. 313. (a) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall—

(1) transfer and assign in accordance with this section all of its rights, title, and interest in and to all of the leases, covenants, agreements, and easements it has executed or will execute by March 31, 1996, in carrying out its powers and duties under the Pennsylvania Avenue Development Corporation Act (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) to the General Services Administration, National Capital Planning Commission, or the National Park Service; and

(2) except as provided by subsection (d), transfer all rights, title, and interest in and to all property, both real and personal, held in the name of the Pennsylvania Avenue Development Corporation to the General Services Administration.

(b) The responsibilities of the Pennsylvania Avenue Development Corporation transferred to the General Services Administration under subsection (a) include, but are not limited to, the following:

(1) Collection of revenue owed the Federal Government as a result of real estate sales or lease agreements entered into by the Pennsylvania Avenue Development Corporation and private parties, including, at a minimum, with respect to the following projects:

(A) The Willard Hotel property on Square 225.

(B) The Gallery Row project on Square 457.

(C) The Lansburgh's project on Square 431.

(D) The Market Square North project on Square 407.

(2) Collection of sale or lease revenue owed the Federal Government (if any) in the event two undeveloped sites owned by the Pennsylvania Avenue Development Corporation on Squares 457 and 406 are sold or leased prior to April 1, 1996.

(3) Application of collected revenue to repay United States Treasury debt incurred by the Pennsylvania Avenue Development Corporation in the course of acquiring real estate.

(4) Performing financial audits for projects in which the Pennsylvania Avenue Development Corporation has actual or potential revenue expectation, as identified in paragraphs (1) and (2), in accordance with procedures described in applicable sale or lease agreements.

(5) Disposition of real estate properties which are or become available for sale and lease or other uses.

(6) Payment of benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 to which persons in the project area squares are entitled as a result of the Pennsylvania Avenue Development Corporation's acquisition of real estate.

(7) Carrying out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109), including responsibilities for managing assets and liabilities of the Corporation under such Act.

(c) In carrying out the responsibilities of the Pennsylvania Avenue Development Corporation transferred under this section, the Administrator of the General Services Administration shall have the following powers:

(1) To acquire lands, improvements, and properties by purchase, lease or exchange, and to sell, lease, or otherwise dispose of real or personal property as necessary to complete the development plan developed under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 874) if a notice of intention to carry out such acquisition or disposal is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(2) To modify from time to time the plan referred to in paragraph (1) if such modification is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of such transmission.

(3) To maintain any existing Pennsylvania Avenue Development Corporation insurance programs.

(4) 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 carry out the responsibilities of the Pennsylvania Avenue Development Corporation under the Federal Triangle Development Act (40 U.S.C. 1101–1109).

(5) To request the Council of the District of Columbia to close any alleys necessary for the completion of development in Square 457.

(6) To use all of the funds transferred from the Pennsylvania Avenue Development Corporation or income earned on Pennsylvania Avenue Development Corporation property to complete any pending development projects.

(d)(1)(A) On or before April 1, 1996, the Pennsylvania Avenue Development Corporation shall transfer all its right, title, and interest in and to the property described in subparagraph (B) to the National Park Service, Department of the Interior.

(B) The property referred to in subparagraph (A) is the property located within the Pennsylvania Avenue National Historic Site depicted on a map entitled "Pennsylvania Avenue National Historic Park", dated June 1, 1995, and numbered 840–82441, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Pennsylvania Avenue National Historic Site includes the parks, plazas, sidewalks, special lighting, trees, sculpture, and memorials.

(2) Jurisdiction of Pennsylvania Avenue and all other roadways from curb to curb shall remain with the District of Columbia but vendors shall not be permitted to occupy street space except during temporary special events.

(3) The National Park Service shall be responsible for management, administration, maintenance, law enforcement, visitor services, resource protection, interpretation, and historic preservation at the Pennsylvania Avenue National Historic Site.

(4) The National Park Service may enter into contracts, cooperative agreements, 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 deemed necessary or appropriate for the conduct of special events, festivals, concerts, or other art and cultural programs at the Pennsylvania Avenue National Historic Site or may establish a nonprofit foundation to solicit funds for such activities.

(e) Notwithstanding any other provision of law, the responsibility for ensuring that development or redevelopment in the Pennsylvania Avenue area is carried out in accordance with the Pennsylvania Avenue Development Corporation Plan—1974, as amended, is transferred to the National Capital Planning Commission or its successor commencing April 1, 1996.

(f) SAVINGS PROVISIONS.—

(1) REGULATIONS.—Any regulations prescribed by the Corporation in connection with the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) shall continue in effect until suspended by regulations prescribed by the Administrator of the General Services Administration.

(2) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not be construed as affecting the validity of any right, duty, or obligation of the United States or any other person arising under or pursuant to any contract, loan, or other instrument or agreement which was in effect on the day before the date of the transfers under subsection (a).

(3) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Corporation in connection with administration of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 871–885) and the Federal Triangle Development Act (40 U.S.C. 1101–1109) shall abate by reason of enactment and implementation of this Act, except that the General Services Administration shall be substituted for the Corporation as a party to any such action or proceeding.

(g) Section 3(b) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 872(b)) is amended as follows:

"(b) The Corporation shall be dissolved on or before April 1, 1996. Upon dissolution, assets, obligations, indebtedness, and all unobligated and unexpended balances of the Corporation shall be transferred in accordance with the Department of the Interior and Related Agencies Appropriations Act, 1996.".

SEC. 314. (a) Except as provided in subsection (b), no part of any appropriation contained in this Act or any other Act shall be obligated or expended for the operation or implementation of the Interior Columbia Basin Ecosystem Management Project (hereinafter "Project").

(b) From the funds appropriated to the Forest Service and Bureau of Land Management: a sum of $4,000,000 is made available for the Executive Steering Committee of the Project to publish, and submit to the Congress, by May 31, 1996, an assessment of the National Forest System lands and lands administered by the Bureau of Land Management within the area encompassed by the Project. The assessment shall be accompanied by two draft Environmental Impact Statements that: are not decisional and not subject to judicial review; contain a range of alternatives, without the identification of a preferred alternative or management recommendation; and provide a methodology for conducting any cumulative effects analysis required by section 102(2) of the National Environmental Policy Act (42 U.S.C. 433(2)) in the preparation of amendments to resource management plans pursuant to subsection (c). The assessment shall incorporate all existing relevant scientific information including, but not limited to, information on landscape dynamics, forest and rangeland health conditions, fisheries, and watersheds and the implications of each as they relate to federal forest and rangeland health. The assessment and draft Environmental Impact Statements shall not be: the subject of consultation or conferencing pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536); accompanied by any record of decision or other National Environmental Policy Act documentation; or applied or used to regulate non-federal

lands. The Executive Steering Committee shall release the draft Environmental Impact Statements for a ninety day public comment period and include a summary of the public comments received in the submission to Congress.

(c)(1) From the funds appropriated to the Forest Service and the Bureau of Land Management, based on the documents prepared pursuant to subsection (b) and any other guidance or policy issued prior to the date of enactment of this section, and in consultation with the affected Governor, and county commissioners, each Forest Supervisor and District Manager with responsibility for a national forest or a unit of land administered by the Bureau of Land Management (hereinafter "forest") within the area encompassed by the Project shall review the resource management plan (hereinafter "plan") for such forest and develop, by an amendment to such plan, a modification of or alternative to any policy which is applicable to such plan upon the date of enactment of this section (whether or not such policy has been added to such plan by amendment), including any policy which is, or is intended to be, of limited duration, and which the Project addresses, to meet the specific conditions of such forest. Each amendment shall: contain the modified or alternative policy developed pursuant to this paragraph, be directed solely to and affect only such plan; address the specific conditions of the forest to which the plan applies and the relationship of the modified or alternative policy to such conditions; and, to the maximum extent practicable, establish site-specific standards in lieu of imposing general standards applicable to multiple sites.

(2)(A) Each amendment prepared pursuant to paragraph (1) shall comply with any applicable requirements of section 102(2) of the National Environmental Policy Act, except that any cumulative effects analysis conducted in accordance with the methodology provided pursuant to subsection (b) shall be deemed to meet any requirement of such Act for such analysis.

(B) Any policy adopted in an amendment prepared pursuant to paragraph (1) which is a modification of or alternative to a policy referred to in paragraph (1) upon which consultation or conferencing has occurred pursuant to section 7 of the Endangered Species Act of 1973 shall not again be subject to the consultation or conferencing provisions of such section 7. Any other consultation or conferencing required by such section 7 shall be conducted separately on each amendment prepared pursuant to paragraph (1): Provided, That, except as provided in this subparagraph, no other consultation shall be undertaken on such amendments, on any project or activity which is consistent with an applicable amendment, on any policy referred to in paragraph (1), or on any portion of any plan related to such policy or the species to which such policy applies.

(3) Each amendment prepared pursuant to paragraph (1) shall be adopted on or before March 31, 1997, and no policy referred to in paragraph (1), or any provision of a plan or other planning document incorporating such policy, shall be effective in any forest subject to the Project on or after such date, or after an amendment to the plan which applies to such forest is adopted pursuant to this subsection, whichever occurs first.

(4) On the signing of a record of decision or equivalent document making an amendment for the Clearwater National Forest pursuant to paragraph (1), the requirement for revision referred to in this Stipulation of Dismissal dated September 13, 1993, applicable to such Forest is deemed to be satisfied, and the interim management direction provisions contained in the Stipulation of Dismissal shall be of no further effect with respect to such Forest.

SEC. 315. RECREATIONAL FEE DEMONSTRATION PROGRAM.—(a) The Secretary of the Interior (acting through the Bureau of Land Management, the National Park Service and the United States Fish and Wildlife Service) and the Secretary of Agriculture (acting through the Forest Service) shall each implement a fee program to demonstrate the feasibility of user-generated cost recovery for the operation and maintenance of recreation areas or sites and habitat enhancement projects on Federal lands.

(b) In carrying out the pilot program established pursuant to this section, the appropriate Secretary shall select from areas under the jurisdiction of each of the four agencies referred to in subsection (a) no fewer than 10, but as many as 50, areas, sites or projects for fee demonstration. For each such demonstration, the Secretary, notwithstanding any other provision of law—

(1) shall charge and collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services by individuals and groups, or any combination thereof;

(2) shall establish fees under this section based upon a variety of cost recovery and fair market valuation methods to provide a broad basis for feasibility testing;

(3) may contract, including provisions for reasonable commissions, with any public or private entity to provide visitor services, including reservations and information, and may accept services of volunteers to collect fees charged pursuant to paragraph (1);

(4) may encourage private investment and partnerships to enhance the delivery of quality customer services and resource enhancement, and provide appropriate recognition to such partners or investors; and

(5) may assess a fine of not more than $100 for any violation of the authority to collect fees for admission to the area or for the use of outdoor recreation sites, facilities, visitor centers, equipment, and services.

(c)(1) Amounts collected at each fee demonstration area, site or project shall be distributed as follows:

(A) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, eighty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditures in accordance with paragraph (2)(A).

(B) Of the amount in excess of 104% of the amount collected in fiscal year 1995, and thereafter annually adjusted upward by 4%, twenty percent to a special account in the Treasury for use without further appropriation, by the agency which administers the site, to remain available for expenditure in accordance with paragraph (2)(B).

(C) For agencies other than the Fish and Wildlife Service, up to 15% of current year collections of each agency, but not greater than fee collection costs for that fiscal year, to remain available for expenditure without further appropriation in accordance with paragraph (2)(C).

(D) For agencies other than the Fish and Wildlife Service, the balance to the special account established pursuant to subparagraph (A) of section 4(i)(1) of the Land and Water Conservation Fund Act, as amended.

(E) For the Fish and Wildlife Service, the balance shall be distributed in accordance with section 201(c) of the Emergency Wetlands Resources Act.

(2)(A) Expenditures from site specific special funds shall be for further activities of the area, site or project from which funds are collected, and shall be accounted for separately.

(B) Expenditures from agency specific special funds shall be for use on an agency-wide basis and shall be accounted for separately.

(C) Expenditures from the fee collection support fund shall be used to cover fee collection costs in accordance with section 4(i)(1)(B) of the Land and Water Conservation Fund Act, as amended: Provided, That funds unexpended and unobligated at the end of the fiscal year shall not be deposited into the special account established pursuant to section 4(i)(1)(A) of said Act and shall remain available for expenditure without further appropriation.

(3) In order to increase the quality of the visitor experience at public recreational areas and enhance the protection of resources, amounts available for expenditure under this section may only be used for the area, site or project concerned, for backlogged repair and maintenance projects (including projects relating to health and safety) and for interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement relating to public use. The agencywide accounts may be used for the same purposes set forth in the preceding sentence, but for areas, sites or projects selected at the discretion of the respective agency head.

(d)(1) Amounts collected under this section shall not be taken into account for the purposes of the Act of May 23, 1908 and the Act of March 1, 1911 (16 U.S.C. 500), the Act of March 4, 1913 (16 U.S.C. 501), the Act of July 22, 1937 (7 U.S.C. 1012), the Act of August 8, 1937 and the Act of May 24, 1939 (43 U.S.C. 1181f et seq.), the Act of June 14, 1926 (43 U.S.C. 869–4), chapter 69 of title 31, United States Code, section 401 of the Act of June 15, 1935 (16 U.S.C. 715s), the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l), and any other provision of law relating to revenue allocation.

(2) Fees charged pursuant to this section shall be in lieu of fees charged under any other provision of law.

(e) The Secretary of the Interior and the Secretary of Agriculture shall carry out this section without promulgating regulations.

(f) The authority to collect fees under this section shall commence on October 1, 1995, and end on September 30, 1998. Funds in accounts established shall remain available through September 30, 2001.

SEC. 316. Section 2001(a)(2) of Public Law 104–19 is amended as follows: Strike "September 30, 1997" and insert in lieu thereof "December 31, 1996".

SEC. 317. None of the funds made available in this Act may be used for any program, project, or activity when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any applicable Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 318. None of the funds provided in this Act may be made available for the Mississippi River Corridor Heritage Commission.

SEC. 319. GREAT BASIN NATIONAL PARK.—Section 3 of the Great Basin National Park Act of 1986 (16 U.S.C. 410mm–1) is amended—

(1) in the first sentence of subsection (e) by striking "shall" and inserting "may"; and

(2) in subsection (f)—

(A) by striking "At the request" and inserting the following:

"(1) EXCHANGES.—At the request";

(B) by striking "grazing permits" and inserting "grazing permits and grazing leases"; and

(C) by adding after "Federal lands." the following:

"(2) ACQUISITION BY DONATION.—

(A) IN GENERAL.—The Secretary may acquire by donation valid existing permits and grazing leases authorizing grazing on land in the park.

(B) TERMINATION.—The Secretary shall terminate a grazing permit or grazing lease acquired

under subparagraph (A) so as to end grazing previously authorized by the permit or lease.".

SEC. 320. None of the funds made available in this Act shall be used by the Department of Energy in implementing the Codes and Standards Program to propose, issue, or prescribe any new or amended standard: Provided, That this section shall expire on September 30, 1996: Provided further, That nothing in this section shall preclude the Federal Government from promulgating rules concerning energy efficiency standards for the construction of new federally-owned commercial and residential buildings.

SEC. 321. None of the funds made available in this Act may be used (1) to demolish the bridge between Jersey City, New Jersey, and Ellis Island; or (2) to prevent pedestrian use of such bridge, when it is made known to the Federal official having authority to obligate or expend such funds that such pedestrian use is consistent with generally accepted safety standards.

SEC. 322. (a) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws.

(b) The provisions of subsection (a) shall not apply if the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before September 30, 1994, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by the applicant by that date.

(c) PROCESSING SCHEDULE.—For those applications for patents pursuant to subsection (b) which were filed with the Secretary of the Interior, prior to September 30, 1994, the Secretary of the Interior shall—

(1) Within three months of the enactment of this Act, file with the House and Senate Committees on Appropriations and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a plan which details how the Department of the Interior will make a final determination as to whether or not an applicant is entitled to a patent under the general mining laws on at least 90 percent of such applications within five years of the enactment of this Act and file reports annually thereafter with the same committees detailing actions taken by the Department of the Interior to carry out such plan; and

(2) Take such actions as may be necessary to carry out such plan.

(d) MINERAL EXAMINATIONS.—In order to process patent applications in a timely and responsible manner, upon the request of a patent applicant, the Secretary of the Interior shall allow the applicant to fund a qualified third-party contractor to be selected by the Bureau of Land Management to conduct a mineral examination of the mining claims or mill sites contained in a patent application as set forth in subsection (b). The Bureau of Land Management shall have the sole responsibility to choose and pay the third-party contractor in accordance with the standard procedures employed by the Bureau of Land Management in the retention of third-party contractors.

SEC. 323. None of the funds appropriated or otherwise made available by this Act may be used for the purposes of acquiring lands in the counties of Lawrence, Monroe, or Washington, Ohio, for the Wayne National Forest.

SEC. 324. No part of any appropriation contained in this Act or any other Act shall be expended or obligated to fund the activities of the Office of Forestry and Economic Development after December 31, 1995.

SEC. 325. Amend section 2001(k) of Public Law 104-19 by striking "in fiscal years 1995 and 1996" in paragraph (1) and adding paragraph (4) to read:

"(4) TIMING AND CONDITIONS OF ALTERNATIVE VOLUME.—For any sale subject to paragraph (2) of this subsection, the Secretary concerned shall, and for any other sale subject to this subsection, the Secretary concerned may, within 45 days of the date of enactment of this paragraph, reach agreement with the purchaser to identify and provide, by a date agreed to by the purchaser, a volume, value and kind of timber satisfactory to the purchaser to substitute for all or a portion of the timber subject to the sale, which shall be subject to the original terms of the contract except as otherwise agreed, and shall be subject to paragraph (1). After the agreed date for providing alternative timber the purchaser may operate the original sale under the terms of paragraph (1) until the Secretary concerned designates and the purchaser accepts alternative timber under this paragraph. Any sale subject to this subsection shall be awarded, released, and completed pursuant to paragraph (1) for a period equal to the length of the original contract, and shall not count against current allowable sale quantities or timber sales to be offered under subsections (b) and (d).

"(5) BUY-OUT AUTHORIZATION.—The Secretary concerned is authorized to permit a requesting purchaser of any sale subject to this subsection to return to the Government all or a specific volume of timber under the sale contract, and shall pay to such purchaser upon tender of such volume a buy-out payment for such volume from any funds available to the Secretary concerned except from accounts governing or related to forest land management, fire fighting, timber sale preparation, harvest administration, road construction and maintenance, timber sale program support; any accounts associated with preparing or administering the sale of timber from any public lands under the jurisdiction of the Secretary concerned, range or minerals management; or any permanent appropriation or trust funds. Such volume and such payment shall be mutually agreed to by the Secretary and the purchaser. The authority provided by this paragraph to reach such agreement shall expire 45 days after the enactment of this paragraph."

SEC. 326. (a) LAND EXCHANGE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the "Corporation"), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC-19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC-19858 and Tract No. GC-19859, respectively.

(b) APPRAISAL.—The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: Provided, That the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: Provided further, That any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

(c) ADMINISTRATIVE COSTS.—Costs of conducting the necessary land surveys, preparing the legal descriptions of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

(d) LIABILITY FOR HAZARDOUS SUBSTANCES.—(1) The Secretary shall not acquire any lands under this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(2) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Act after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SEC. 327. TIMBER SALES PIPELINE RESTORATION FUNDS.—(a) The Secretary of Agriculture and the Secretary of the Interior shall each establish a Timber Sales Pipeline Restoration Fund (hereinafter "Agriculture Fund" and "Interior Fund" or "Funds"). Any revenues received from sales released under section 2001(k) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act, minus the funds necessary to make payments to States or local governments under other law concerning the distribution of revenues derived from the affected lands, which are in excess of $37,500,000 (hereinafter "excess revenues") shall be deposited into the Funds. The distribution of excess revenues between the Agriculture Fund and Interior Fund shall be calculated by multiplying the total of excess revenues times a fraction with a denominator of the total revenues received from all sales released under such section 2001(k) and numerators of the total revenues received from such sales on lands within the National Forest System and the total revenues received from such sales on lands administered by the Bureau of Land Management, respectively: Provided, That revenues or portions thereof from sales released under such section 2001(k), minus the amounts necessary for State and local government payments and other necessary deposits, may be deposited into the Funds immediately upon receipt thereof and subsequently redistributed between the Funds or paid into the United States Treasury as miscellaneous receipts as may be required when the calculation of excess revenues is made.

(b)(1) From the funds deposited into the Agriculture Fund and into the Interior Fund pursuant to subsection (a)—

(A) seventy-five percent shall be available, without fiscal year limitation or further appropriation, for preparation of timber sales, other

than salvage sales as defined in section 2001(a)(3) of the fiscal year 1995 Supplemental Appropriations for Disaster Assistance and Rescissions Act, which—

(i) are situated on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively; and

(ii) are in addition to timber sales for which funds are otherwise available in this Act or other appropriations Acts; and

(B) twenty-five percent shall be available, without fiscal year limitation or further appropriation, to expend on the backlog of recreation projects on lands within the National Forest System and lands administered by the Bureau of Land Management, respectively.

(2) Expenditures under this subsection for preparation of timber sales may include expenditures for Forest Service activities within the forest land management budget line item and associated timber roads, and Bureau of Land Management activities within the Oregon and California grant lands account and the forestry management area account, as determined by the Secretary concerned.

(c) Revenues received from any timber sale prepared under subsection (b) or under this subsection, minus the amounts necessary for State and local government payments and other necessary deposits, shall be deposited into the Fund from which funds were expended on such sale. Such deposited revenues shall be available for preparation of additional timber sales and completion of additional recreation projects in accordance with the requirements set forth in subsection (b).

(d) The Secretary concerned shall terminate all payments into the Agriculture Fund or the Interior Fund, and pay any unobligated funds in the affected Fund into the United States Treasury as miscellaneous receipts, whenever the Secretary concerned makes a finding, published in the Federal Register, that sales sufficient to achieve the total allowable sales quantity of the National Forest System for the Forest Service or the allowable sales level for the Oregon and California grant lands for the Bureau of Land Management, respectively, have been prepared.

(e) Any timber sales prepared and recreation projects completed under this section shall comply with all applicable environmental and natural resource laws and regulations.

(f) The Secretary concerned shall report annually to the Committees on Appropriations of the United States Senate and the House of Representatives on expenditures made from the Fund for timber sales and recreation projects, revenues received into the Fund from timber sales, and timber sale preparation and recreation project work undertaken during the previous year and projected for the next year under the Fund. Such information shall be provided for each Forest Service region and Bureau of Land Management State office.

(g) The authority of this section shall terminate upon the termination of both Funds in accordance with the provisions of subsection (d).

SEC. 328. Of the funds provided to the National Endowment for the Arts:

(a) The Chairperson shall only award a grant to an individual if such grant is awarded to such individual for a literature fellowship, National Heritage Fellowship, or American Jazz Masters Fellowship.

(b) The Chairperson shall establish procedures to ensure that no funding provided through a grant, except a grant made to a State or regional group, may be used to make a grant to any other organization or individual to conduct activity independent of the direct grant recipient. Nothing in this subsection shall prohibit payments made in exchange for goods and services.

(c) No grant shall be used for seasonal support to a group, unless the application is specific to the contents of the season, including identified programs and/or projects.

SEC. 329. DELAY IN IMPLEMENTATION OF THE ADMINISTRATION'S RANGELAND REFORM PROGRAM.—None of the funds made available under this or any other Act may be used to implement or enforce the final rule published by the Secretary of the Interior on February 22, 1995 (60 Fed. Reg. 9894), making amendments to parts 4, 1780, and 4100 of title 43, Code of Federal Regulations, to take effect August 21, 1995, until November 21, 1995. None of the funds made available under this or any other Act may be used to publish proposed or enforce final regulations governing the management of livestock grazing on lands administered by the Forest Service until November 21, 1995.

SEC. 330. Section 1864 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking "twenty" and inserting "40";

(B) in paragraph (3), by striking "ten" and inserting "20";

(C) in paragraph (4), by striking "if damage exceeding $10,000 to the property of any individual results," and inserting "if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate,"; and

(D) in paragraph (4), by striking "ten" and inserting "20";

(2) in subsection (c) by striking "ten" and inserting "20";

(3) in subsection (d), by—

(A) striking "and" at the end of paragraph (2);

(B) striking the period at the end of paragraph (3) and inserting "; and"; and

(C) adding at the end the following:

"(4) the term 'avoidance costs' means costs incurred by any individual for the purpose of—

"(A) detecting a hazardous or injurious device; or

"(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a)."; and

(4) by adding at the end thereof the following:

"(e) Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.".

SEC. 331. (a) PURPOSES OF NATIONAL ENDOWMENT FOR THE ARTS.—Section 2 of the National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951), sets out findings and purposes for which the National Endowment for the Arts was established, among which are—

(1) "The arts and humanities belong to all the people of the United States";

(2) "The arts and humanities reflect the high place accorded by the American people . . . to the fostering of mutual respect for the diverse beliefs and values of all persons and groups";

(3) "Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money [and] such funding should contribute to public support and confidence in the use of taxpayer funds"; and

(4) "Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines".

(b) ADDITIONAL CONGRESSIONAL FINDINGS.—Congress further finds and declares that the use of scarce funds, which have been taken from all taxpayers of the United States, to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

is contrary to the express purposes of the National Foundation on the Arts and the Humanities Act of 1965, as amended.

(c) PROHIBITION ON FUNDING THAT IS NOT CONSISTENT WITH THE PURPOSES OF THE ACT.—Notwithstanding any other provision of law, none of the scarce funds which have been taken from all taxpayers of the United States and made available under this Act to the National Endowment for the Arts may be used to promote, disseminate, sponsor, or produce any material or performance that—

(1) denigrates the religious objects or religious beliefs of the adherents of a particular religion, or

(2) depicts or describes, in a patently offensive way, sexual or excretory activities or organs,

and this prohibition shall be strictly applied without regard to the content or viewpoint of the material or performance.

(d) SECTION NOT TO AFFECT OTHER WORKS.—Nothing in this section shall be construed to affect in any way the freedom of any artist or performer to create any material or performance using funds which have not been made available under this Act to the National Endowment for the Arts.

SEC. 332. For purposes related to the closure of the Bureau of Mines, funds made available to the United States Geological Survey, the United States Bureau of Mines, and the Bureau of Land Management shall be available for transfer, with the approval of the Secretary of the Interior, among the following accounts: United States Geological Survey, Surveys, investigations, and research; Bureau of Mines, Mines and minerals; and Bureau of Land Management, Management of lands and resources. The Secretary of Energy shall reimburse the Secretary of the Interior, in an amount to be determined by the Director of the Office of Management and Budget, for the expenses of the transferred functions between October 1, 1995 and the effective date of the transfers of function. Such transfers shall be subject to the reprogramming guidelines of the House and Senate Committees on Appropriations.

SEC. 333. No funds appropriated under this or any other Act shall be used to review or modify sourcing areas previously approved under section 490(c)(3) of the Forest Resources Conservation and Shortage Relief Act of 1990 (Public Law 101–382) or to enforce or implement Federal regulations 36 CFR part 223 promulgated on September 8, 1995. The regulations and interim rules in effect prior to September 8, 1995 (36 CFR 223.48, 36 CFR 223.87, 36 CFR 223 Subpart D, 36 CFR 223 Subpart F, and 36 CFR 261.6) shall remain in effect. The Secretary of Agriculture or the Secretary of the Interior shall not adopt any policies concerning Public Law 101–382 or existing regulations that would restrain domestic transportation or processing of timber from private lands or impose additional accountability requirements on any timber. The Secretary of Commerce shall extend until September 30, 1996, the order issued under section 491(b)(2)(A) of Public Law 101–382 and shall issue an order under section 491(b)(2)(B) of such law that will be effective October 1, 1996.

SEC. 334. The National Park Service, in accordance with the Memorandum of Agreement between the United States National Park Service

and the City of Vancouver dated November 4, 1994, shall permit general aviation on its portion of Pearson Field in Vancouver, Washington until the year 2022, during which time a plan and method for transitioning from general aviation aircraft to historic aircraft shall be completed; such transition to be accomplished by that date. This action shall not be construed to limit the authority of the Federal Aviation Administration over air traffic control or aviation activities at Pearson Field or limit operations and airspace of Portland International Airport.

SEC. 335. The United States Forest Service approval of Alternative site 2 (ALT 2), issued on December 6, 1993, is hereby authorized and approved and shall be deemed to be consistent with, and permissible under, the terms of Public Law 100–696 (the Arizona-Idaho Conservation Act of 1988).

SEC. 336. Notwithstanding any other provision of law, no funds made available to the Department of the Interior or the Department of Agriculture by this or any other act, through May 15, 1997, may be used to prepare, issue, or implement regulations, rules, or policies pursuant to Title VIII of the Alaska National Interest Lands Conservation Act to assert jurisdiction, management, or control over navigable waters transferred to the State of Alaska pursuant to the Submerged Lands Act of 1953 or the Alaska Statehood Act of 1959.

SEC. 337. Upon enactment of this Act, the following provisions of Public Law 104–92, Public Law 104–91, and Public Law 104–99 that would continue to have effect after March 15, 1996, are superseded:

Section 101 of Public Law 104–92, as amended: (1) the paragraph dealing with general welfare assistance payments and foster care payments funded under the account heading "Operations of Indian Programs"; and (2) the paragraph dealing with the visitor services in the National Park System, the National Wildlife Refuges, the National Forests, the Smithsonian Institution facilities, the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the United States Holocaust Memorial.

Section 101(a) of Public Law 104–91: (1) the paragraph dealing with visitor services on the public lands managed by the Bureau of Land Management; and (2) the paragraph dealing with Self-Determination and Self-Governance projects and activities under the account heading "Operations of Indian Programs" and the account heading "Indian Health Service".

Section 123 of Public Law 104–99.

Section 124 of Public Law 104–99.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1996".

(d) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1996 and for other purposes.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; title II of the Civil Rights Act of 1991; the Women in Apprenticeship and Nontraditional Occupations Act; National Skill Standards Act of 1994; and the School-to-Work Opportunities Act; $3,108,978,000 plus reimbursements, of which $2,891,759,000 is available for obligation for the period July 1, 1996 through June 30, 1997; of which $121,467,000 is available for the period July 1, 1996 through June 30, 1999 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers; and of which $95,000,000 shall be available from July 1, 1996 through September 30, 1997, for carrying out activities of the School-to-Work Opportunities Act: Provided, That $52,502,000 shall be for carrying out section 401 of the Job Training Partnership Act, $69,285,000 shall be for carrying out section 402 of such Act, $7,300,000 shall be for carrying out section 441 of such Act, $8,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, $745,700,000 shall be for carrying out title II, part A of such Act, and $126,672,000 shall be for carrying out title II, part C of such Act and $5,000,000 shall be available for obligation for the period July 1, 1995 through June 30, 1996 for employment-related activities of the 1996 Paralympic Games: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers: Provided further, That notwithstanding any other provision of law, the Secretary of Labor may waive any of the requirements contained in sections 4, 104, 105, 107, 108, 121, 164, 204, 253, 254, 264, 301, 311, 313, 314, and 315 of the Job Training Partnership Act in order to assist States in improving State workforce development systems, pursuant to a request submitted by a State that has prior to the date of enactment of this Act executed a Memorandum of Understanding with the United States requiring such State to meet agreed upon outcomes: Provided further, That funds used from this Act to carry out title III of the Job Training Partnership Act shall not be subject to the limitation contained in subsection (b) of section 315 of such Act; that the waiver allowing a reduction in the cost limitation relating to retraining services described in subsection (a)(2) of such section 315 may be granted with respect to funds from this Act if a substate grantee demonstrates to the Governor that such waiver is appropriate due to the availability of low-cost retraining services, is necessary to facilitate the provision of needs-related payments to accompany long-term training, or is necessary to facilitate the provision of appropriate basic readjustment services and that funds used from this Act to carry out the Secretary's discretionary grants under part B of such title III may be used to provide needs-related payments to participants who, in lieu of meeting the requirements relating to enrollment in training under section 314(e) of such Act, are enrolled in training by the end of the sixth week after funds have been awarded: Provided further, That service delivery areas may transfer funding provided herein under authority of title II–C of the Job Training Partnership Act to the program authorized by title II–B of that Act, if such transfer is approved by the Governor: Provided further, That service delivery areas and substate areas may transfer funding provided herein under authority of title II–A and title III of the Job Training Partnership Act between the programs authorized by those titles of the Act, if such transfer is approved by the Governor: Provided further, That, notwithstanding any other provision of law, any proceeds from the sale of Job Corps Center facilities shall be retained by the Secretary of Labor to carry out the Job Corps program.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $273,000,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, or to carry out older worker activities as subsequently authorized, $77,000,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, $346,100,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49l–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235, 243–244, and 250(d)(1), 250(d)(3), title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out section 221(a) of the Immigration Act of 1990, $117,328,000, together with not to exceed $3,104,194,000 (including not to exceed $1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed $2,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1996, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1998; and of which $115,452,000, together with not to exceed $738,283,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1996, through June 30, 1997, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $216,333,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1996 is projected by the Department of Labor to exceed

2.785 million, an additional $28,600,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center network may be obligated in contracts, grants or agreements with non-State entities: Provided further, That funds appropriated under this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102–164, and section 5 of Public Law 103–6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1997, $369,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1996, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

ADVANCES TO THE EMPLOYMENT SECURITY ADMINISTRATION ACCOUNT OF THE UNEMPLOYMENT TRUST FUND

(RESCISSION)

Amounts remaining unobligated under this heading as of September 30, 1995, are hereby rescinded.

PAYMENTS TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

(RESCISSION)

Of the amounts remaining unobligated under this heading as of September 30, 1995, $266,000,000 are hereby rescinded.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $83,054,000, together with not to exceed $40,793,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $65,198,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1996, for such Corporation: Provided, That not to exceed $10,603,000 shall be available for administrative expenses of the Corporation: Provided further, That expenses of such Corporation in connection with the collection of premiums, the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as nonadministrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $254,756,000, together with $978,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91–0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): Provided further, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $218,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That such sums as are necessary may be used under section 8104 of title 5, United States Code, by the Secretary to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 1995, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1996: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration, $19,383,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., chapter 81, or under subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $996,763,000, of which $949,494,000 shall be available until September 30, 1997, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $27,350,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $19,621,000 for transfer to Departmental Management, Salaries and Expenses, and $298,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: Provided, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to August 15 of the current year: Provided further, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $288,985,000 including not to exceed $70,615,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less

than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $196,673,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: Provided, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $292,462,000, of which $11,549,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1997, together with not to exceed $49,997,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including up to $4,358,000 for the President's Committee on Employment of People With Disabilities, $140,077,000; together with not to exceed $303,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: Provided, That no funds made available by this Act may be used by the Solicitor of Labor to participate in a review in any United States court of appeals of any decision made by the Benefits Review Board under Section 21 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 921) where such participation is precluded by the decision of the United States Supreme Court in Director, Office of Workers' Compensation Programs v. Newport News Shipbuilding, 115 S. Ct. 1278, (1995): Provided further, That no funds made available by this Act may be used by the Secretary of Labor after September 12, 1996, to review a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) that has been appealed and that has been pending before the Benefits Review Board for more than 12 months: Provided further, That any such decision pending a review by the Benefits Review Board for more than one year shall, if not acted upon by the Board before September 12, 1996, be considered affirmed by the Benefits Review Board on that date, and shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals: Provided further, That beginning on September 13, 1996, the Benefits Review Board shall make a decision on an appeal of a decision under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) not later than 1 year after the date the appeal to the Benefits Review Board was filed; however, if the Benefits Review Board fails to make a decision within the 1-year period, the decision under review shall be considered the final order of the Board for purposes of obtaining a review in the United States courts of appeals.

WORKING CAPITAL FUND

The language under this heading in Public Law 85-67, as amended, is further amended by adding the following before the last period: ": Provided further, That within the Working Capital Fund, there is established an Investment in Reinvention Fund (IRF), which shall be available to invest in projects of the Department designed to produce measurable improvements in agency efficiency and significant taxpayer savings. Notwithstanding any other provision of law, the Secretary of Labor may retain up to $3,900,000 of the unobligated balances in the Department's annual Salaries and Expenses accounts as of September 30, 1995, and transfer those amounts to the IRF to provide the initial capital for the IRF, to remain available until expended, to make loans to agencies of the Department for projects designed to enhance productivity and generate cost savings. Such loans shall be repaid to the IRF no later than September 30 of the fiscal year following the fiscal year in which the project is completed. Such repayments shall be deposited in the IRF, to be available without further appropriation action."

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $170,390,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4110A and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 1996.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $44,426,000, together with not to exceed $3,615,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of $125,000.

SEC. 102. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final standard or guideline regarding ergonomic protection. Nothing in this section shall be construed to limit the Occupational Safety and Health Administration from conducting any peer reviewed risk assessment activity regarding ergonomics, including conducting peer reviews of the scientific basis for establishing any standard or guideline, direct or contracted research, or other activity necessary to fully establish the scientific basis for promulgating any standard or guideline on ergonomic protection.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Labor in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: Provided, That the Appropriations Committees of both Houses of Congress are notified at least fifteen days in advance of any transfers.

This title may be cited as the "Department of Labor Appropriations Act, 1996".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, and the Native Hawaiian Health Care Act of 1988, as amended, $2,954,864,000, of which $411,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: Provided, That the Division of Federal Occupational Health may utilize personal services contracting to employ professional management/administrative, and occupational health professionals: Provided further, That of the funds made available under this heading, $858,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That no more than $5,000,000 is available for carrying out the provisions of Public Law 102–501 as amended: Provided further, That of the funds made available under this heading, $193,349,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity

(including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That notwithstanding any other provision of law, funds made available under this heading may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408: Provided further, That the Secretary shall use amounts available for section 2603(b) of the Public Health Service Act as necessary to ensure that fiscal year 1996 grant awards made under section 2603(a) of such Act to eligible areas that received such grants in fiscal year 1995 are not less than the fiscal year 1995 level: Provided further, That of the amounts available for Area Health Education Centers, $24,125,000 shall be for section 746(i)(1)(A) of the Health Professions Education Extension Amendments of 1992, notwithstanding section 746(i)(1)(C).

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $8,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $210,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,688,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, $110,000,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act with respect to substance abuse and mental health services, the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and section 301 of the Public Health Service Act with respect to program management, $1,800,469,000.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $65,390,000; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $63,080,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $55,094,355,000, to remain available until expended.

For making, after May 31, 1996, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1996 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1997, $26,155,350,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $63,313,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100–203, not to exceed $2,111,406,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended, together with such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended, the $2,111,406,000, to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1996, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $13,614,307,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1997, $4,800,000,000, to remain available until expended.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

(INCLUDING RESCISSION)

Of the funds made available beginning on October 1, 1995 under this heading in Public Law 103–333, $100,000,000 are hereby rescinded.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,000,000,000, to be available for obligation in the period October 1, 1996 through September 30, 1997.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $300,000,000 to remain available until expended: Provided, That all of the funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $397,872,000: Provided, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 103–112 for fiscal year 1994 shall be available for the costs of assistance provided and other activities conducted in such year and in fiscal years 1995 and 1996.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $934,642,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act,

$2,380,000,000: Provided, That notwithstanding section 2003(c) of such Act, the amount specified for allocation under such section for fiscal year 1996 shall be $2,380,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Abandoned Infants Assistance Act of 1988, and part B(1) of title IV of the Social Security Act; for making payments under the Community Services Block Grant Act; and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and section 126 and titles IV and V of Public Law 100-485, $4,585,546,000; of which $435,463,000 shall be for making payments under the Community Services Block Grant Act: Provided, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes.

In addition, $21,358,000, to be derived from the Violent Crime Reduction Trust Fund, for carrying out sections 40155, 40211, 40241, and 40251 of Public Law 103-322.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, $225,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV-E of the Social Security Act, $4,322,238,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $831,027,000: Provided, That notwithstanding section 308(b)(1) of such Act, the amounts available to each State for administration of the State plan under title III of such Act shall be reduced not more than 5 percent below the amount that was available to such State for such purpose for fiscal year 1995.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $130,499,000, together with $6,628,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $58,492,000, together with not to exceed $20,670,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, together with any funds, to remain available until expended, that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and which are transferred to the Office of the Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,153,000, together with not to exceed $3,314,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $9,000,000.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to prepare to respond to the health and medical consequences of nuclear, chemical, or biologic attack in the United States, $7,000,000, to remain available until expended and, in addition, for clinical trials, applying imaging technology used for missile guidance and target recognition to new uses improving the early detection of breast cancer, $2,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act.

SEC. 204. None of the funds made available by this Act may be used to withhold payment to any State under the Child Abuse Prevention and Treatment Act by reason of a determination that the State is not in compliance with section 1340.2(d)(2)(ii) of title 45 of the Code of Federal Regulations. This provision expires upon the date of enactment of the reauthorization of the Child Abuse Prevention and Treatment Act or upon September 30, 1996, whichever occurs first.

SEC. 205. None of the funds appropriated in this or any other Act for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

SEC. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

(TRANSFER OF FUNDS)

SEC. 207. Of the funds appropriated or otherwise made available for the Department of Health and Human Services, General Departmental Management, for fiscal year 1996, the Secretary of Health and Human Services shall transfer to the Office of the Inspector General such sums as may be necessary for any expenses with respect to the provision of security protection for the Secretary of Health and Human Services.

SEC. 208. Notwithstanding section 106 of Public Law 104-91, appropriations for the National Institutes of Health and the Centers for Disease Control and Prevention shall be available for fiscal year 1996 as specified in section 101 of Public Law 104-91.

(RESCISSION)

SEC. 209. Of the amounts made available under the account heading "Disease Control, Research, and Training" under the Centers for Disease Control and Prevention, Department of Health and Human Services in Public Law 103-333, Public Law 103-112, and Public Law 102-394 for immunization activities, $53,000,000 are hereby rescinded.

SEC. 210. Of the funds provided for the account heading "Disease Control, Research, and Training" in Public Law 104-91, $31,642,000, to be derived from the Violent Crime Reduction Trust Fund, is hereby available for carrying out sections 40151, 40261, and 40293 of Public Law 103-322 notwithstanding any provision of Public Law 104-91.

SEC. 211. The Director of the Centers for Disease Control and Prevention may redirect the total amount made available under the authority of Public Law 101-502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided, That the Congress is to be notified promptly of any such transfer.

(TRANSFER OF FUNDS)

SEC. 212. Notwithstanding any other provision of this Act or of Public Law 104-91, the Director of the Office of AIDS Research, National Institutes of Health, in consultation with the Director, National Institutes of Health, may transfer up to 3 percent among Institutes from the total amounts identified in each Institute for AIDS research: Provided, That such transfers shall be within 30 days of enactment of this Act and be based on the scientific priorities established in the plan developed by the Director in accordance with section 2353 of Public Law 103-43: Provided further, That the Congress is promptly notified of the transfer.

SEC. 213. If the Secretary fails to approve the application for waivers related to the Achieving Change for Texans, a comprehensive reform of the Texas Aid To Families With Dependent Children program designed to encourage work instead of welfare, a request under section 1115(a) of the Social Security Act submitted by the Texas Department of Human Services on September 30, 1995, by the date of enactment of this Act, notwithstanding the Secretary's authority to approve the applications under such section, the application shall be deemed approved.

SEC. 214. (a) REIMBURSEMENT OF CERTAIN CLAIMS UNDER THE MEDICAID PROGRAM.—Notwithstanding any other provision of law, and subject to subsection (b), in the case where payment has been made by a State under title XIX of the Social Security Act between December 31, 1993, and December 31, 1995, to a State-operated psychiatric hospital for services provided directly by the hospital or by providers under contract or agreement with the hospital, and the Secretary of Health and Human Services has notified the State that the Secretary intends to defer the determination of claims for reimbursement related to such payment but for which a deferral of such claims has not been taken as of March 1, 1996, (or, if such claims have been deferred as of such date, such claims have not been disallowed by such date), the Secretary shall—

(1) if, as of the date of the enactment of this title, such claims have been formally deferred or disallowed, discontinue any such action, and if a disallowance of such claims has been taken as of such date, rescind any payment reductions effected;

(2) not initiate any deferral or disallowance proceeding related to such claims; and

(3) allow reimbursement of such claims.

(b) LIMITATION ON RESCISSION OR REIMBURSEMENT OF CLAIMS.—The total amount of payment reductions rescinded or reimbursement of claims allowed under subsection (a) shall not exceed $54,000,000.

(c) OFFSET OF FUNDS.—Notwithstanding any other provision of this Act, the amounts on lines 5 and 8 of page 570 (relating to the Social Services Block Grant) shall each be reduced by $70,000,000.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1996".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles III and IV of the Goals 2000: Educate America Act and the School-to-Work Opportunities Act, $385,000,000, of which $290,000,000 for the Goals 2000: Educate America Act and $95,000,000 for the School-to-Work Opportunities Act which shall become available on July 1, 1996, and remain available through September 30, 1997: Provided, That notwithstanding section 311(e) of Public Law 103–227, the Secretary is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years.

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965, and section 418A of the Higher Education Act, $6,513,511,000, of which $6,497,172,000 shall become available on July 1, 1996 and shall remain available through September 30, 1997: Provided, That $5,266,863,000 shall be available for basic grants under section 1124: Provided further, That up to $3,500,000 of these funds shall be available to the Secretary on October 1, 1995, to obtain updated local-educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $692,341,000 shall be available for concentration grants under section 1124(A) and $3,370,000 shall be available for evaluations under section 1501.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $691,159,000, of which $581,170,000 shall be for basic support payments under section 8003(b), $40,000,000 shall be for payments for children with disabilities under section 8003(d), $50,000,000, to remain available until expended, shall be for payments under section 8003(f), $5,000,000 shall be for construction under section 8007, and $14,989,000 shall be for Federal property payments under section 8002.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, IV–A–1, V–A, VI, VII–B, and titles IX, X and XIII of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act; and the Civil Rights Act of 1964; $948,987,000 of which $775,760,000 shall become available on July 1, 1996, and remain available through September 30, 1997: Provided, That of the amount appropriated, $275,000,000 shall be for Eisenhower professional development State grants under title II–B and $275,000,000 shall be for innovative education program strategies State grants under title VI–A: Provided further, That not less than $3,000,000 shall be for innovative programs under section 5111.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual and immigrant education activities authorized by title VII of the Elementary and Secondary Education Act, without regard to section 7103(b), $150,000,000 of which $50,000,000 shall be for immigrant education programs authorized by part C: Provided, That State educational agencies may use all, or any part of, their part C allocation for competitive grants to local educational agencies.

SPECIAL EDUCATION

For carrying out parts B, C, D, E, F, G, and H and section 610(j)(2)(C) of the Individuals with Disabilities Education Act, $3,245,447,000, of which $3,000,000,000 shall become available for obligation on July 1, 1996, and shall remain available through September 30, 1997: Provided, That the Republic of the Marshall Islands and the Federated States of Micronesia shall be considered jurisdictions for the purposes of section 611(e)(1), of the Individuals with Disabilities Education Act: Provided further, That notwithstanding section 621(e), funds made available for section 621 shall be distributed among each of the regional centers and the Federal center in proportion to the amount that each such center received in fiscal year 1995.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, $2,452,620,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,680,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $42,180,000: Provided, That from the amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $77,629,000: Provided, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the National Literacy Act of 1991, $1,257,888,000, of which $4,869,000 shall be for the National Institute for Literacy, and of which $5,100,000 shall be available to carry out title VI of the National Literacy Act of 1991; and of which $1,254,969,000 shall become available on July 1, 1996 and shall remain available through September 30, 1997: Provided, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $5,000,000 shall be for national programs under title IV without regard to section 451 and $350,000 shall be for evaluations under section 346(b) of the Act and no funds shall be available for State councils under section 112.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C, and part E of title IV of the Higher Education Act of 1965, as amended, $6,165,290,000, which shall remain available through September 30, 1997: Provided, That notwithstanding section 401(a)(1) of the Act, there shall be not to exceed 3,634,000 Pell Grant recipients in award year 1995–1996.

The maximum Pell Grant for which a student shall be eligible during award year 1996–1997 shall be $2,440: Provided, That notwithstanding section 401(g) of the Act, as amended, if the Secretary determines, prior to publication of the payment schedule for award year 1996–1997, that the $4,814,000,000 included within this appropriation for Pell Grant awards for award year 1996–1997, and any funds available from the fiscal year 1995 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, $30,066,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, parts A and B of title III, without regard to section 360(a)(1)(B)(ii), chapters I and II of subpart 2 and subpart 6 of part A of title IV, subpart 2 of part E of title V, parts A, B and C of title VI, title VII, parts C, D, and G of title IX, part A and subpart 1 of part B of title X, and part A of title XI of the Higher Education Act of 1965, as amended, Public Law 102–423, and the Mutual Educational and Cultural Exchange Act of 1961; $836,964,000, of which $16,712,000 for interest subsidies under title VII of the Higher Education Act, as amended, shall remain available until expended: Provided, That notwithstanding sections 419D, 419E, and 419H of the Higher Education Act, as amended, scholarships made under title IV, part A, subpart 6 shall be prorated to maintain the same number of new scholarships in fiscal year 1996 as in fiscal year 1995.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $174,671,000: Provided, That from the amount available, the University may at its discretion use funds for the endowment program as authorized under the Howard University Endowment Act (Public Law 98–480).

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $700,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment

of costs for inspections and site visits, shall be available for the operating expenses of this account.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, $166,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act; the National Education Statistics Act; sections 2102, 3134, and 3136, parts B, C, and D of title III, parts A, B, I, and K, and section 10601 of title X, part C of title XIII of the Elementary and Secondary Education Act of 1965, as amended, and title VI of the Goals 2000: Educate America Act, $328,268,000: Provided, That $4,000,000 shall be for section 10601 of the Elementary and Secondary Education Act: Provided further, That $25,000,000 shall be for sections 3136 and 3141 of the Elementary and Secondary Education Act: Provided further, That $51,000,000 shall be for regional laboratories, $5,000,000 shall be for International Education Exchange, and $3,000,000 shall be for the elementary mathematics and science equipment projects under the fund for the improvement of education: Provided further That funds shall be used to extend star schools partnership projects that received continuation grants in fiscal year 1995.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, and III of the Library Services and Construction Act, and title II-B of the Higher Education Act, $131,505,000, of which $16,369,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended; and $2,500,000 shall be for section 222 and $2,000,000 shall be for section 223 of the Higher Education Act: Provided, That $1,000,000 shall be awarded to a nonprofit foundation using multi-media technology to document and archive not less than 40,000 holocaust survivors' testimony: Provided further, That $1,000,000 shall be for the continued funding of an existing demonstration project making information available for public use by connecting Internet to a multistate consortium.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, $327,319,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $55,451,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $28,654,000.

HEADQUARTERS RENOVATION

For necessary expenses for the renovation of the Department of Education headquarters building, $7,000,000, to remain available until September 30, 1998.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 304. Notwithstanding any other provision of law, funds available under section 458 of the Higher Education Act shall not exceed $460,000,000 for fiscal year 1996. The Department of Education shall pay (i) administrative cost allowances owed to guaranty agencies for fiscal year 1995 estimated at $95,000,000. The Department of Education shall pay administrative cost allowances to guaranty agencies, payable quarterly, calculated on the basis of 0.85 percent of the total principal amount of loans upon which insurance was issued on or after October 1, 1995 by such guaranty agency. Receipt of such funds and uses of such funds shall be in accordance with section 428(f).

Notwithstanding section 458 of the Higher Education Act, the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program during fiscal year 1996, nor may the Secretary require the return of guaranty agency reserve funds during fiscal year 1996, except after consultation with appropriate committees of Congress.

No funds available to the Secretary may be used for payment of administrative fees relating to the William D. Ford Direct Loan Program to institutions of higher education.

SEC. 305. (a)(1) From any unobligated funds that are available to the Secretary of Education to carry out section 5 or 14 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on September 30, 1994) not less than $11,500,000 shall be available to the Secretary of Education to carry out subsection (b).

(2) Any unobligated funds described in paragraph (1) that remain unobligated after the Secretary of Education carries out such paragraph shall be available to the Secretary of Education to carry out section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707).

(b)(1) The Secretary of Education shall award the funds described in subsection (a)(1) to local educational agencies, under such terms and conditions as the Secretary of Education determines appropriate, for the construction of public elementary or secondary schools on Indian reservations or in school districts that—

(A) the Secretary of Education determines are in dire need of construction funding;

(B) contain a public elementary or secondary school that serves a student population which is 90 percent Indian students; and

(C) serve students who are taught in inadequate or unsafe structures, or in a public elementary or secondary school that has been condemned.

(2) A local educational agency that receives construction funding under this subsection for fiscal year 1996 shall not be eligible to receive any funds under section 8007 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7707) for school construction for fiscal years 1996 and 1997.

(3) As used in this subsection, the term "construction" has the meaning given that term in section 8013(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(3)).

(4) No request for construction funding under this subsection shall be approved unless the request is received by the Secretary of Education not later than 30 days after the date of enactment of this Act.

SEC. 306. (a) Section 428(n) of the Higher Education Act of 1965 (20 U.S.C. 1078(n)) is amended by adding at the end the following new paragraph:

"(5) APPLICABILITY TO PART D LOANS.—The provisions of this subsection shall apply to institutions of higher education participating in direct lending under part D with respect to loans made under such part, and for the purposes of this paragraph, paragraph (4) shall be applied by inserting 'or part D' after 'this part'.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1996.

This title may be cited as the "Department of Education Appropriations Act, 1996".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, $55,971,000, of which $1,954,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $201,294,000, of which $5,024,000 shall be available to carry out section 109 of the Domestic Volunteer Service Act of 1973.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1998, $250,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is

excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $32,396,000 including $1,500,000, to remain available through September 30, 1997, for activities authorized by the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged for special training activities up to full-cost recovery shall be credited to and merged with this account, and shall remain available until expended: Provided further, That the Director of the Service is authorized to accept on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $6,200,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $829,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,793,000.

NATIONAL EDUCATION GOALS PANEL

For expenses necessary for the National Education Goals Panel, as authorized by title II, part A of the Goals 2000: Educate America Act, $1,000,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $167,245,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,837,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $8,100,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $2,923,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,267,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $22,641,000.

In addition, to reimburse these trust funds for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986, $10,000,000, to remain available until expended.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, $485,396,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1997, $170,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $18,595,012,000, to remain available until expended, of which $1,500,000 shall be for a demonstration program to foster economic independence among people with disabilities through disability sport, in connection with the Tenth Paralympic Games: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1997, $9,260,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two medium size passenger motor vehicles, and not to exceed $10,000 for official reception and representation expenses, not more than $5,271,183,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 from any one or all of the trust funds referred to therein: Provided, That reimbursement to the trust funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1997: Provided further, That unobligated balances at the end of fiscal year 1996 shall remain available until expended for a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network.

In addition to funding already available under this heading, and subject to the same terms and conditions, $407,000,000, for disability caseload processing.

In addition to funding already available under this heading, and subject to the same terms and conditions, $167,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,816,000, together with not to exceed $21,076,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $239,000,000, which shall include amounts becoming available in fiscal year 1996 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $239,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $300,000, to remain available through September 30, 1997, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board in administering the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $89,094,000, to be derived as authorized by section 15(h) of the Railroad Retirement Act and section 10(a) of the Railroad Unemployment Insurance Act, from the accounts referred to in those sections.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $659,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $5,673,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,500,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. 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. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, 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.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 504. The Secretaries of Labor and Education are each authorized to make available not to exceed $15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Secretary of Health and Human Services determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs.

SEC. 506. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 507. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 508. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

SEC. 509. Notwithstanding any other provision of law—

(1) no amount may be transferred from an appropriation account for the Departments of Labor, Health and Human Services, and Education except as authorized in this or any subsequent appropriation act, or in the Act establishing the program or activity for which funds are contained in this Act;

(2) no department, agency, or other entity, other than the one responsible for administering the program or activity for which an appropriation is made in this Act, may exercise authority for the timing of the obligation and expenditure of such appropriation, or for the purposes for which it is obligated and expended, except to the extent and in the manner otherwise provided in sections 1512 and 1513 of title 31, United States Code; and

(3) no funds provided under this Act shall be available for the salary (or any part thereof) of an employee who is reassigned on a temporary detail basis to another position in the employing agency or department or in any other agency or department, unless the detail is independently approved by the head of the employing department or agency.

SEC. 510. LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used for the expenses of an electronic benefit transfer (EBT) task force.

SEC. 511. None of the funds made available in this Act may be used to enforce the requirements of section 428(b)(1)(U)(iii) of the Higher Education Act of 1965 with respect to any lender when it is made known to the Federal official having authority to obligate or expend such funds that the lender has a loan portfolio under part B of title IV of such Act that is equal to or less than $5,000,000.

SEC. 512. None of the funds made available in this Act may be used for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 to students attending an institution of higher education that is ineligible to participate in a loan program under such title as a result of a default determination under section 435(a)(2) of such Act, unless such institution has a participation rate index (as defined at 34 CFR 668.17) that is less than or equal to 0.0375.

SEC. 513. No more than 1 percent of salaries appropriated for each Agency in this Act may be expended by that Agency on cash performance awards: Provided, That of the budgetary resources available to Agencies in this Act for salaries and expenses during fiscal year 1996, $30,500,000, to be allocated by the Office of Management and Budget, are permanently canceled: Provided further, That the foregoing proviso shall not apply to the Food and Drug Administration and the Indian Health Service.

SEC. 514. (a) HIGH COST TRAINING EXCEPTION.—Section 428H(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078–8(d)(2)) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following:

"except in cases where the Secretary determines, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1996".

(e) Such amounts as may be necessary for programs, projects or activities provided for in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 at a rate of operations and to the extent and in the manner provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1996, and for other purposes.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198); $18,331,561,000, to remain available until expended: Provided, That not to exceed $25,180,000 of the amount appropriated shall be reimbursed to "General operating expenses" and "Medical care" for necessary expenses in implementing those provisions authorized in the Omnibus Budget Reconciliation Act of 1990, and in the Veterans' Benefits Act of 1992 (38 U.S.C. chapters 51, 53, and 55), the funding source for which is specifically provided as the "Compensation and pensions" appropriation: Provided further, That such sums as may be earned on an actual qualifying patient basis, shall be reimbursed to "Medical facilities revolving fund" to augment the funding of individual medical facilities for nursing home care provided to pensioners as authorized by the Veterans' Benefits Act of 1992 (38 U.S.C. chapter 55): Provided further, That $12,000,000 previously transferred from "Compensation and pensions" to "Medical facilities revolving fund" shall be transferred to this heading.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34, 35, 36, 39, 51, 53, 55, and 61), $1,345,300,000, to remain available until expended: Provided, That funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $24,890,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $65,226,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $52,138,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That during 1996, within the resources available, not to exceed $300,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $459,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $4,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $195,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $54,000, as authorized by 38 U.S.C. chapter 31, as amended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,964,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $377,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For administrative expenses to carry out the direct loan program authorized by 38 U.S.C. chapter 37, subchapter V, as amended, $205,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; oversight, engineering and architectural activities not charged to project cost; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $8,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $16,564,000,000, plus reimbursements: Provided, That of the funds made available under this heading, $789,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1996, and shall remain available for obligation until September 30, 1997.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1997, $257,000,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law; administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; $63,602,000, plus reimbursements.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8, which shall be transferred from the "General post fund": Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $54,000, which shall be transferred from the "General post fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $848,143,000: Provided, That of the amount appropriated and any other funds made available from any other source for activities funded under this heading, except reimbursements, not to exceed $214,109,000 shall be available for General Administration; including not to exceed (1) $50,000 for travel in the Office of the Secretary, (2) $75,000 for travel in the Office of the Assistant Secretary for Policy and Planning, (3) $33,000 for travel in the Office of the Assistant Secretary for Congressional Affairs, and (4) $100,000 for travel in the Office of Assistant Secretary for Public and Intergovernmental Affairs: Provided further, That during fiscal year 1996, notwithstanding any other provision of law, the number of individuals employed by the Department of Veterans Affairs (1) in other than "career appointee" positions in the Senior Executive Service shall not exceed 6, and (2) in schedule C positions shall not exceed 11: Provided further, That not to exceed $6,000,000 of the amount appropriated shall be available for administrative expenses to carry out the direct and guaranteed loan programs under the Loan Guaranty Program Account: Provided further, That funds under this heading shall be available to administer the Service Members Occupational Conversion and Training Act: Provided further, That none of the funds under this heading may be obligated or expended for the acquisition of automated data processing equipment and services for Department of Veterans Affairs regional offices to support Stage III of the automated data equipment modernization program of the Veterans Benefits Administration.

NATIONAL CEMETERY SYSTEM

For necessary expenses for the maintenance and operation of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized by law; purchase of three passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $72,604,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,900,000.

CONSTRUCTION, MAJOR PROJECTS

(INCLUDING TRANSFER OF FUNDS)

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $136,155,000, to remain available until expended: Provided, That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: Provided further, That funds provided in this appropriation for fiscal year 1996, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1996, and (2) by the awarding of a construction contract by September 30, 1997: Provided further, That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): Provided further, That no funds from any other account except the "Parking revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: Provided further, That of the funds made available under this heading in Public Law 103–327, $7,000,000 shall be transferred to the "Parking revolving fund".

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, offsite utility and storm drainage system construction costs, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $190,000,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: Provided, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING REVOLVING FUND

For the parking revolving fund as authorized by law (38 U.S.C. 8109), income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $47,397,000, to remain available until expended.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $1,000,000, to remain available until September 30, 1998.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. Any appropriation for 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

SEC. 102. Appropriations available to the Department of Veterans Affairs for 1996 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 103. No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects", and the "Parking revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

SEC. 104. No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

SEC. 105. Appropriations available to the Department of Veterans Affairs for fiscal year 1996 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the corresponding prior year accounts within the last quarter of fiscal year 1995.

SEC. 106. Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1996 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

SEC. 107. Notwithstanding any other provision of law, the Secretary of Veterans Affairs is authorized to transfer, without compensation or reimbursement, the jurisdiction and control of a parcel of land consisting of approximately 6.3 acres, located on the south edge of the Department of Veterans Affairs Medical and Regional Office Center, Wichita, Kansas, including buildings Nos. 8 and 30 and other improvements thereon, to the Secretary of Transportation for the purpose of expanding and modernizing United States Highway 54: Provided, That if necessary, the exact acreage and legal description of the real property transferred shall be determined by a survey satisfactory to the Secretary of Veterans Affairs and the Secretary of Transportation shall bear the cost of such survey: Provided further, That the Secretary of Transportation shall be responsible for all costs associated with the transferred land and improvements thereon, and compliance with all existing statutes and regulations: Provided further, That the Secretary of Veterans Affairs and the Secretary of Transportation may require such additional terms and conditions as each Secretary considers appropriate to effectuate this transfer of land.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $10,103,795,000, to remain available until expended: Provided, That of the total amount provided under this head, $160,000,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb): Provided further, That of the total amount provided under this head, $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including up to $20,000,000 for the inspection of public housing units, contract expertise, and training and technical assistance, directly or indirectly, under grants, contracts, or cooperative agreements, to assist in the oversight and management of public and Indian housing (whether or not the housing is being modernized with assistance under this proviso) or tenant-based assistance, including, but not limited to, an annual resident survey, data collection and analysis, training and technical assistance by or to officials and employees of the Department and of public housing agencies and to residents in connection with the public and Indian housing program, or for carrying out activities under section 6(j) of the Act: Provided further, That of the total amount provided under this head, $400,000,000 shall be for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the Act, except that such amounts shall be used only for units necessary to provide housing assistance for residents to be relocated from existing federally subsidized or assisted housing, for replacement housing for units demolished or disposed of (including units to be disposed of pursuant to a homeownership program under section 5(h) or title III of the United States Housing Act of 1937) from the public housing inventory, for funds related to litigation settlements, for the conversion of section 23 projects to assistance under section 8, for public housing agencies to implement allocation plans approved by the Secretary for designated housing, for funds to carry out the family unification program, and for the relocation of witnesses in connection with efforts to combat crime in public and assisted housing pursuant to a request from a law enforcement or prosecution agency: Provided further, That of the total amount provided under this head, $4,350,862,000 shall be for assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) for use in connection with expiring or terminating section 8 subsidy contracts, such amounts shall be merged with all remaining obligated and unobligated balances heretofore appropriated under the heading "Renewal of expiring section 8 subsidy contracts": Provided further, That notwithstanding any other provision of law, assistance reserved under the two preceding provisos may be used in connection with any provision of Federal law enacted in this Act or after the enactment of this Act that authorizes the use of

rental assistance amounts in connection with such terminated or expired contracts: Provided further, That the Secretary may determine not to apply section 8(o)(6)(B) of the Act to housing vouchers during fiscal year 1996: Provided further, That of the total amount provided under this head, $610,575,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; and $209,000,000 shall be for section 8 assistance and rehabilitation grants for property disposition: Provided further, That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: Provided further, That of the total amount provided under this head, $171,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act; and $65,000,000 shall be for the lead-based paint hazard reduction program as authorized under sections 1011 and 1053 of the Residential Lead-Based Hazard Reduction Act of 1992: Provided further, That the Secretary may make up to $5,000,000 of any amount recaptured in this account available for the development of performance and financial systems.

Of the total amount provided under this head, $624,000,000, plus amounts recaptured from interest reduction payment contracts for section 236 projects whose owners prepay their mortgages during fiscal year 1996 (which amounts shall be transferred and merged with this account), shall be for use in conjunction with properties that are eligible for assistance under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA) or the Emergency Low-Income Housing Preservation Act of 1987 (ELIHPA): Provided, That prior to August 15, 1996, funding to carry out plans of action shall be limited to sales of projects to non-profit organizations, tenant-sponsored organizations, and other priority purchasers: Provided further, That of the amount made available by this paragraph, up to $10,000,000 shall be available for preservation technical assistance grants pursuant to section 253 of the Housing and Community Development Act of 1987, as amended: Provided further, That with respect to amounts made available by this paragraph, after August 15, 1996, if the Secretary determines that the demand for funding may exceed amounts available for such funding, the Secretary (1) may determine priorities for distributing available funds, including giving priority funding to tenants displaced due to mortgage prepayment and to projects that have not yet been funded but which have approved plans of action; and (2) may impose a temporary moratorium on applications by potential recipients of such funding: Provided further, That an owner of eligible low-income housing may prepay the mortgage or request voluntary termination of a mortgage insurance contract, so long as said owner agrees not to raise rents for sixty days after such prepayment: Provided further, That an owner of eligible low-income housing who has not timely filed a second notice under section 216(d) prior to the effective date of this Act may file such notice by April 15, 1996: Provided further, That such developments have been determined to have preservation equity at least equal to the lesser of $5,000 per unit or $500,000 per project or the equivalent of eight times the most recently published fair market rent for the area in which the project is located as the appropriate unit size for all of the units in the eligible project: Provided further, That the Secretary may modify the regulatory agreement to permit owners and priority purchasers to retain rental income in excess of the basic rental charge in projects assisted under section 236 of the National Housing Act, for the purpose of preserving the low and moderate income character of the housing: Provided further, That the Secretary may give priority to funding and processing the following projects provided that the funding is obligated not later than September 15, 1996: (1) projects with approved plans of action to retain the housing that file a modified plan of action no later than August 15, 1996 to transfer the housing; (2) projects with approved plans of action that are subject to a repayment or settlement agreement that was executed between the owner and the Secretary prior to September 1, 1995; (3) projects for which submissions were delayed as a result of their location in areas that were designated as a Federal disaster area in a Presidential Disaster Declaration; and (4) projects whose processing was, in fact or in practical effect, suspended, deferred, or interrupted for a period of twelve months or more because of differing interpretations, by the Secretary and an owner or by the Secretary and a State or local rent regulatory agency, concerning the timing of filing eligibility or the effect of a presumptively applicable State or local rent control law or regulation on the determination of preservation value under section 213 of LIHPRHA, as amended, if the owner of such project filed notice of intent to extend the low-income affordability restrictions of the housing, or transfer to a qualified purchaser who would extend such restrictions, on or before November 1, 1993: Provided further, That eligible low-income housing shall include properties meeting the requirements of this paragraph with mortgages that are held by a State agency as a result of a sale by the Secretary without insurance, which immediately before the sale would have been eligible low-income housing under LIHPRHA: Provided further, That notwithstanding any other provision of law, subject to the availability of appropriated funds, each unassisted low-income family residing in the housing on the date of prepayment or voluntary termination, and whose rent, as a result of a rent increase occurring no later than one year after the date of the prepayment, exceeds 30 percent of adjusted income, shall be offered tenant-based assistance in accordance with section 8 or any successor program, under which the family shall pay no less for rent than it paid on such date: Provided further, That any family receiving tenant-based assistance under the preceding proviso may elect (1) to remain in the unit of the housing and if the rent exceeds the fair market rent or payment standard, as applicable, the rent shall be deemed to be the applicable standard, so long as the administering public housing agency finds that the rent is reasonable in comparison with rents charged for comparable unassisted housing units in the market or (2) to move from the housing and the rent will be subject to the fair market rent of the payment standard, as applicable, under existing program rules and procedures: Provided further, That rents and rent increases for tenants of projects for which plans of action are funded under section 220(d)(3)(B) of LIHPRHA shall be governed in accordance with the requirements of the program under which the first mortgage is insured or made (sections 236 or 221(d)(3) BMIR, as appropriate): Provided further, That the immediately foregoing proviso shall apply hereafter to projects for which plans of action are to be funded under such section 220(d)(3)(B), and shall apply to any project that has been funded under such section starting one year after the date that such project was funded: Provided further, That up to $10,000,000 of the amount made available by this paragraph may be used at the discretion of the Secretary to reimburse owners of eligible properties for which plans of action were submitted prior to the effective date of this Act, but were not executed for lack of available funds, with such reimbursement available only for documented costs directly applicable to the preparation of the plan of action as determined by the Secretary, and shall be made available on terms and conditions to be established by the Secretary: Provided further, That, notwithstanding any other provision of law, effective October 1, 1996, the Secretary shall suspend further processing of preservation applications which do not have approved plans of action.

Of the total amount provided under this head, $780,190,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959; and $233,168,000 shall be for capital advances, including amendments to capital advance contracts, for supportive housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act; and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: Provided, That the Secretary may designate up to 25 percent of the amounts earmarked under this paragraph for section 811 of the Cranston-Gonzalez National Affordable Housing Act for tenant-based assistance, as authorized under that section, which assistance is five years in duration: Provided further, That the Secretary may waive any provision of section 202 of the Housing Act of 1959 and section 811 of the National Affordable Housing Act (including the provisions governing the terms and conditions of project rental assistance) that the Secretary determines is not necessary to achieve the objectives of these programs, or that otherwise impedes the ability to develop, operate or administer projects assisted under these programs, and may make provision for alternative conditions or terms where appropriate.

PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

For grants to public housing agencies for the purposes of enabling the demolition of obsolete public housing projects or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such projects are located, replacement housing which will avoid or lessen concentrations of very low-income families, and tenant-based assistance in accordance with section 8 of the United States Housing Act of 1937 for the purpose of providing replacement housing and assisting tenants to be displaced by the demolition, $380,000,000, to remain available until expended: Provided, That the Secretary of Housing and Urban Development shall award such funds to public housing agencies based upon, among other relevant criteria, the local and national impact of the proposed demolition and revitalization activities and the extent to which the public housing agency could undertake such

activities without the additional assistance to be provided hereunder: Provided further, That eligible expenditures hereunder shall be those expenditures eligible under section 8 and section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f and l): Provided further, That the Secretary may impose such conditions and requirements as the Secretary deems appropriate to effectuate the purposes of this paragraph: Provided further, That the Secretary may require an agency selected to receive funding to make arrangements satisfactory to the Secretary for use of an entity other than the agency to carry out this program where the Secretary determines that such action will help to effectuate the purpose of this paragraph: Provided further, That in the event an agency selected to receive funding does not proceed expeditiously as determined by the Secretary, the Secretary shall withdraw any funding made available pursuant to this paragraph that has not been obligated by the agency and distribute such funds to one or more other eligible agencies, or to other entities capable of proceeding expeditiously in the same locality with the original program: Provided further, That of the foregoing $380,000,000, the Secretary may use up to .67 per centum for technical assistance, to be provided directly or indirectly by grants, contracts or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of the Department and of public housing agencies and to residents: Provided further, That any replacement housing provided with assistance under this head shall be subject to section 18(f) of the United States Housing Act of 1937, as amended by section 201(b)(2) of this Act.

FLEXIBLE SUBSIDY FUND

(INCLUDING TRANSFER OF FUNDS)

From the fund established by section 236(g) of the National Housing Act, as amended, all uncommitted balances of excess rental charges as of September 30, 1995, and any collections during fiscal year 1996 shall be transferred, as authorized under such section, to the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1996 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: Provided, That up to $163,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 1996.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,800,000,000.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public and Indian housing agencies for use in eliminating crime in public housing projects authorized by 42 U.S.C. 11901-11908, for grants for federally assisted low-income housing authorized by 42 U.S.C. 11909, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, $290,000,000, to remain available until expended, of which $10,000,000 shall be for grants, technical assistance, contracts and other assistance training, program assessment, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training) and of which $2,500,000 shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home program administered by the Inspector General of the Department of Housing and Urban Development: Provided, That the term "drug-related crime", as defined in 42 U.S.C. 11905(2), shall also include other types of crime as determined by the Secretary: Provided further, That notwithstanding section 5130(c) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(c)), the Secretary may determine not to use any such funds to provide public housing youth sports grants: Provided further, That an additional $30,000,000, to be derived by transfer from unobligated balances from the Homeownership and Opportunity for People Everywhere Grants (HOPE Grants) account, shall be available for use for grants for federally-assisted low-income housing, in addition to any other amount made available for this purpose under this heading, without regard to any percentage limitation otherwise applicable.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, $1,400,000,000, to remain available until expended.

INDIAN HOUSING LOAN GUARANTEE FUND PROGRAM ACCOUNT

For the cost of guaranteed loans, $3,000,000, as authorized by section 184 of the Housing and Community Development Act of 1992 (106 Stat. 3739): Provided, That such costs, including the costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $36,900,000.

HOMELESS ASSISTANCE

HOMELESS ASSISTANCE GRANTS

For the emergency shelter grants program (as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended); the supportive housing program (as authorized under subtitle C of title IV of such Act); the section 8 moderate rehabilitation single room occupancy program (as authorized under the United States Housing Act of 1937, as amended) to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act; and the shelter plus care program (as authorized under subtitle F of title IV of such Act), $823,000,000, to remain available until expended.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,600,000,000, to remain available until September 30, 1998: Provided, That $50,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $2,000,000 shall be available as a grant to the Housing Assistance Council, $1,000,000 shall be available as a grant to the National American Indian Housing Council, and $27,000,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: Provided further, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant made available under the preceding proviso to the Housing Assistance Council or the National American Indian Housing Council, or a grant using funds under section 107(b)(3) of the Housing and Community Development Act of 1974) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: Provided further, That section 105(a)(25) of such Act, as added by section 907(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, shall continue to be effective after September 30, 1995, notwithstanding section 907(b)(2) of such Act: Provided further, That section 916 of the Cranston-Gonzalez National Affordable Housing Act shall apply with respect to fiscal year 1996, notwithstanding section 916(f) of that Act.

Of the amount provided under this heading, the Secretary of Housing and Urban Development may use up to $53,000,000 for grants to public housing agencies (including Indian housing authorities), nonprofit corporations, and other appropriate entities for a supportive services program to assist residents of public and assisted housing, former residents of such housing receiving tenant-based assistance under section 8 of such Act (42 U.S.C. 1437f), and other low-income families and individuals to become self-sufficient: Provided, That the program shall provide supportive services, principally for the benefit of public housing residents, to the elderly and the disabled, and to families with children where the head of the household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job training or educational programs: Provided further, That the supportive services shall include congregate services for the elderly and disabled, service coordinators, and coordinated educational, training, and other supportive services, including academic skills training, job search assistance, assistance related to retaining employment, vocational and entrepreneurship development and support programs, transportation, and child care: Provided further, That the Secretary shall require applicants to demonstrate firm commitments of funding or services from other sources: Provided further, That the Secretary shall select public and Indian housing agencies to receive assistance under this head on a competitive basis, taking into account the quality of the proposed program (including any innovative approaches), the extent of the proposed coordination of supportive services, the extent of commitments of funding or services from other sources, the extent to which the proposed program includes reasonably achievable, quantifiable goals for measuring performance under the program over a three-year period, the extent of success an agency has had in carrying out other comparable initiatives, and other appropriate criteria established by the Secretary.

Of the amount made available under this heading, notwithstanding any other provision of law, $12,000,000 shall be available for contracts, grants, and other assistance, other than loans, not otherwise provided for, for providing counseling and advice to tenants and homeowners both current and prospective, with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106 of the Housing and Urban Development Act

of 1968, as amended, notwithstanding section 106(c)(9) and section 106(d)(13) of such Act.

Of the amount made available under this heading, notwithstanding any other provision of law, $15,000,000 shall be available for the tenant opportunity program.

Of the amount made available under this heading, notwithstanding any other provision of law, $20,000,000 shall be available for youthbuild program activities authorized by subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, as amended, and such activities shall be an eligible activity with respect to any funds made available under this heading.

Of the amount otherwise made available under this heading in this Act, notwithstanding any other provision of law, $80,000,000 shall be available for Economic Development Initiative grants as authorized by section 232 of the Multifamily Housing Property Disposition Reform Act of 1994, Public Law 103–233, on a competitive basis as required by section 102 of the HUD Reform Act.

Of the amount made available under this heading, notwithstanding any other provision of law, $13,000,000 shall be for a grant to Watertown, South Dakota for the construction of wastewater treatment facilities.

For the cost of guaranteed loans, $31,750,000, as authorized by section 108 of the Housing and Community Development Act of 1974: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $1,500,000,000: Provided further, That the Secretary of Housing and Urban Development may make guarantees not to exceed the immediately foregoing amount notwithstanding the aggregate limitation on guarantees set forth in section 108(k) of the Housing and Community Development Act of 1974. In addition, for administrative expenses to carry out the guaranteed loan program, $675,000 which shall be transferred to and merged with the appropriation for departmental salaries and expenses.

The amount made available for fiscal year 1995 for a special purpose grant for the renovation of the central terminal in Buffalo, New York, shall be made available for the central terminal and for other public facilities in Buffalo, New York.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $34,000,000, to remain available until September 30, 1997.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and for contracts with qualified fair housing enforcement organizations, as authorized by section 561 of the Housing and Community Development Act of 1987, as amended by the Housing and Community Development Act of 1992, $30,000,000, to remain available until September 30, 1997.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $962,558,000, of which $532,782,000 shall be provided from the various funds of the Federal Housing Administration, and $9,101,000 shall be provided from funds of the Government National Mortgage Association, and $675,000 shall be provided from the Community Development Grants Program account.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,850,000, of which $11,283,000 shall be transferred from the various funds of the Federal Housing Administration.

OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For carrying out the Federal Housing Enterprise Financial Safety and Soundness Act of 1992, $14,895,000, to remain available until expended, from the Federal Housing Enterprise Oversight Fund: Provided, That such amounts shall be collected by the Director as authorized by section 1316 (a) and (b) of such Act, and deposited in the Fund under section 1316(f) of such Act.

FEDERAL HOUSING ADMINISTRATION

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1996, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $110,000,000,000: Provided, That during fiscal year 1996, the Secretary shall sell assigned mortgage notes having an unpaid principal balance of up to $4,000,000,000, which notes were originally insured under section 203(b) of the National Housing Act: Provided further, That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996 for the disposition of properties or notes under this heading.

During fiscal year 1996, obligations to make direct loans to carry out the purposes of section 204(g) of the National Housing Act, as amended, shall not exceed $200,000,000: Provided, That the foregoing amount shall be for loans to nonprofit and governmental entities in connection with sales of single family real properties owned by the Secretary and formerly insured under section 203 of such Act.

For administrative expenses necessary to carry out the guaranteed and direct loan program, $341,595,000, to be derived from the FHA-mutual mortgage insurance guaranteed loans receipt account, of which not to exceed $334,483,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which not to exceed $7,112,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), including the cost of modifying such loans, $85,000,000, to remain available until expended: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $17,400,000,000: Provided further, That during fiscal year 1996, the Secretary shall sell assigned notes having an unpaid principal balance of up to $4,000,000,000, which notes were originally obligations of the funds established under sections 238 and 519 of the National Housing Act: Provided further, That the Secretary may use any negative subsidy amounts from the sale of such assigned mortgage notes during fiscal year 1996, in addition to amounts otherwise provided, for the disposition of properties or notes under this heading (including the credit subsidy for the guarantee of loans or the reduction of positive credit subsidy amounts that would otherwise be required for the sale of such properties or notes), and for any other purpose under this heading: Provided further, That any amounts made available in any prior appropriation Act for the cost (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans that are obligations of the funds established under section 238 or 519 of the National Housing Act that have not been obligated or that are deobligated shall be available to the Secretary of Housing and Urban Development in connection with the making of such guarantees and shall remain available until expended, notwithstanding the expiration of any period of availability otherwise applicable to such amounts.

Gross obligations for the principal amount of direct loans, as authorized by sections 204(g), 207(l), 238(a), and 519(a) of the National Housing Act, shall not exceed $120,000,000; of which not to exceed $100,000,000 shall be for bridge financing in connection with the sale of multifamily real properties owned by the Secretary and formerly insured under such Act; and of which not to exceed $20,000,000 shall be for loans to nonprofit and governmental entities in connection with the sale of single-family real properties owned by the Secretary and formerly insured under such Act.

In addition, for administrative expenses necessary to carry out the guaranteed and direct loan programs, $202,470,000, of which $198,299,000 shall be transferred to the appropriation for departmental salaries and expenses; and of which $4,171,000 shall be transferred to the appropriation for the Office of Inspector General.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1996, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $110,000,000,000.

For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $9,101,000, to be derived from the GNMA—guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $9,101,000 shall be transferred to the appropriation for departmental salaries and expenses.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

EXTEND ADMINISTRATIVE PROVISIONS FROM THE RESCISSION ACT

SEC. 201. (a) PUBLIC AND INDIAN HOUSING MODERNIZATION.—

(1) EXPANSION OF USE OF MODERNIZATION FUNDING.—Subsection 14(q) of the United States Housing Act of 1937 is amended to read as follows:

"(q)(1) In addition to the purposes enumerated in subsections (a) and (b), a public housing agency may use modernization assistance provided under section 14, and development assistance provided under section 5(a) that was not allocated, as determined by the Secretary, for priority replacement housing, for any eligible activity authorized by this section, by section 5, or by applicable Appropriations Acts for a public housing agency, including the demolition, rehabilitation, revitalization, and replacement of existing units and projects and, for up to 10 percent of its allocation of such funds in any fiscal year, for any operating subsidy purpose authorized in section 9. Except for assistance used for operating subsidy purposes under the preceding sentence, assistance provided to a public housing agency under this section shall principally be used for the physical improvement, replacement of public housing, other capital purposes, and for associated management improvements, and such other extraordinary purposes as may be approved by the Secretary. Low-income and very low-income units assisted under this paragraph shall be eligible for operating subsidies, unless the Secretary determines that such units or projects do not meet other requirements of this Act.

"(2) A public housing agency may provide assistance to developments that include units for other than units assisted under this Act (except for units assisted under section 8 hereof) ('mixed income developments'), in the form of a grant, loan, operating assistance, or other form of investment which may be made to—

"(A) a partnership, a limited liability company, or other legal entity in which the public housing agency or its affiliate is a general partner, managing member, or otherwise participates in the activities of such entity; or

"(B) any entity which grants to the public housing agency the option to purchase the development within 20 years after initial occupancy in accordance with section 42(i)(7) of the Internal Revenue Code of 1986, as amended.

"Units shall be made available in such developments for periods of not less than 30 years, by master contract or by individual lease, for occupancy by low-income and very low-income families referred from time to time by the public housing agency from its central or site-based waiting list. The number of such units shall be:

"(i) in the same proportion to the total number of units in such development that the total financial commitment provided by the public housing agency bears to the value of the total financial commitment in the development, or

"(ii) not be less than the number of units that could have been developed under the conventional public housing program with the assistance involved, or

"(iii) as may otherwise be approved by the Secretary.

"(3) A mixed income development may elect to have all units subject only to the applicable local real estate taxes, notwithstanding that the low-income units assisted by public housing funds would otherwise be subject to section 6(d) of the Housing Act of 1937.

"(4) If an entity that owns or operates a mixed-income project under this subsection enters into a contract with a public housing agency, the terms of which obligate the entity to operate and maintain a specified number of units in the project as public housing units in accordance with the requirements of this Act for the period required by law, such contractual terms may provide that, if, as a result of a reduction in appropriations under section 9, or any other change in applicable law, the public housing agency is unable to fulfill its contractual obligations with respect to those public housing units, that entity may deviate, under procedures and requirements developed through regulations by the Secretary, from otherwise applicable restrictions under this Act regarding rents, income eligibility, and other areas of public housing management with respect to a portion or all of those public housing units, to the extent necessary to preserve the viability of those units while maintaining the low-income character of the units, to the maximum extent practicable.".

(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937, as amended by subsection (a) of this section, shall be effective only with respect to assistance provided from funds made available for fiscal year 1996 or any preceding fiscal year.

(3) APPLICABILITY TO IHAS.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendment made by this subsection shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(b) ONE-FOR-ONE REPLACEMENT OF PUBLIC AND INDIAN HOUSING.—

(1) EXTENDED AUTHORITY.—Section 1002(d) of Public Law 104–19 is amended to read as follows:

"(d) Subsections (a), (b), and (c) shall be effective for applications for the demolition, disposition, or conversion to homeownership of public housing approved by the Secretary, and other consolidation and relocation activities of public housing agencies undertaken, on, before, or after September 30, 1995 and before September 30, 1996.".

(2) Section 18(f) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence:

"No one may rely on the preceding sentence as the basis for reconsidering a final order of a court issued, or a settlement approved by, a court.".

(3) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subsection and by sections 1002 (a), (b), and (c) of Public Law 104–19 shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

CONVERSION OF CERTAIN PUBLIC HOUSING TO VOUCHERS

SEC. 203. (a) IDENTIFICATION OF UNITS.—Each public housing agency shall identify any public housing developments—

(1) that are on the same or contiguous sites;

(2) that total more than—

(A) 300 dwelling units; or

(B) in the case of high-rise family buildings or substantially vacant buildings; 300 dwelling units;

(3) that have a vacancy rate of at least 10 percent for dwelling units not in funded, on schedule modernization programs;

(4) identified as distressed housing that the public housing agency cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income; and

(5) for which the estimated cost of continued operation and modernization of the developments as public housing exceeds the cost of providing tenant-based assistance under section 8 of the United States Housing Act of 1937 for all families in occupancy, based on appropriate indicators of cost (such as the percentage of total development cost required for modernization).

(b) IMPLEMENTATION AND ENFORCEMENT.—

(1) STANDARDS FOR IMPLEMENTATION.—The Secretary shall establish standards to permit implementation of this section in fiscal year 1996.

(2) CONSULTATION.—Each public housing agency shall consult with the applicable public housing tenants and the unit of general local government in identifying any public housing developments under subsection (a).

(3) FAILURE OF PHAS TO COMPLY WITH SUBSECTION (a).—Where the Secretary determines that—

(A) a public housing agency has failed under subsection (a) to identify public housing developments for removal from the inventory of the agency in a timely manner;

(B) a public housing agency has failed to identify one or more public housing developments which the Secretary determines should have been identified under subsection (a); or

(C) one or more of the developments identified by the public housing agency pursuant to subsection (a) should not, in the determination of the Secretary, have been identified under that subsection;

the Secretary may designate the developments to be removed from the inventory of the public housing agency pursuant to this section.

(c) REMOVAL OF UNITS FROM THE INVENTORIES OF PUBLIC HOUSING AGENCIES.—

(1) Each public housing agency shall develop and carry out a plan in conjunction with the Secretary for the removal of public housing units identified under subsection (a) or subsection (b)(3), over a period of up to five years, from the inventory of the public housing agency and the annual contributions contract. The plan shall be approved by the relevant local official as not inconsistent with the Comprehensive Housing Affordability Strategy under title I of the Housing and Community Development Act of 1992, including a description of any disposition and demolition plan for the public housing units.

(2) The Secretary may extend the deadline in paragraph (1) for up to an additional five years where the Secretary makes a determination that the deadline is impracticable.

(3) The Secretary shall take appropriate actions to ensure removal of developments identified under subsection (a) or subsection (b)(3) from the inventory of a public housing agency, if the public housing agency fails to adequately develop a plan under paragraph (1), or fails to adequately implement such plan in accordance with the terms of the plan.

(4) To the extent approved in appropriations Acts, the Secretary may establish requirements and provide funding under the Urban Revitalization Demonstration program for demolition and disposition of public housing under this section.

(5) Notwithstanding any other provision of law, if a development is removed from the inventory of a public housing agency and the annual contributions contract pursuant to paragraph (1), the Secretary may authorize or direct the transfer of—

(A) in the case of an agency receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such development pursuant to section 14 of the United States Housing Act of 1937;

(B) in the case of an agency receiving public and Indian housing modernization assistance by formula pursuant to section 14 of the United States Housing Act of 1937, any amounts provided to the agency which are attributable pursuant to the formula for allocating such assistance to the development removed from the inventory of that agency; and

(C) in the case of an agency receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of the development pursuant to section 5 of such Act,

to the tenant-based assistance program or appropriate site revitalization of such agency.

(6) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if,

in the determination of the Secretary, a development meets or is likely to meet the criteria set forth in subsection (a), the Secretary may direct the public housing agency to cease additional spending in connection with the development, except to the extent that additional spending is necessary to ensure decent, safe, and sanitary housing until the Secretary determines or approves an appropriate course of action with respect to such development under this section.

(d) CONVERSION TO TENANT-BASED ASSISTANCE.—

(1) The Secretary shall make authority available to a public housing agency to provide tenant-based assistance pursuant to section 8 to families residing in any development that is removed from the inventory of the public housing agency and the annual contributions contract pursuant to subsection (b).

(2) Each conversion plan under subsection (c) shall—

(A) require the agency to notify families residing in the development, consistent with any guidelines issued by the Secretary governing such notifications, that the development shall be removed from the inventory of the public housing agency and the families shall receive tenant-based or project-based assistance, and to provide any necessary counseling for families; and

(B) ensure that all tenants affected by a determination under this section that a development shall be removed from the inventory of a public housing agency shall be offered tenant-based or project-based assistance and shall be relocated, as necessary, to other decent, safe, sanitary, and affordable housing which is, to the maximum extent practicable, housing of their choice.

(e) IN GENERAL.—

(1) The Secretary may require a public housing agency to provide such information as the Secretary considers necessary for the administration of this section.

(2) As used in this section, the term "development" shall refer to a project or projects, or to portions of a project or projects, as appropriate.

(3) Section 18 of the United States Housing Act of 1937 shall not apply to the demolition of developments removed from the inventory of the public housing agency under this section.

STREAMLINING SECTION 8 TENANT-BASED ASSISTANCE

SEC. 204. (a) "TAKE-ONE, TAKE-ALL".—Section 8(t) of the United States Housing Act of 1937 is hereby repealed.

(b) EXEMPTION FROM NOTICE REQUIREMENTS FOR THE CERTIFICATE AND VOUCHER PROGRAMS.—Section 8(c) of such Act is amended—

(1) in paragraph (8), by inserting after "section" the following: "(other than a contract for assistance under the certificate or voucher program)"; and

(2) in the first sentence of paragraph (9), by striking "(but not less than 90 days in the case of housing certificates or vouchers under subsection (b) or (o))" and inserting ", other than a contract under the certificate or voucher program".

(c) ENDLESS LEASE.—Section 8(d)(1)(B) of such Act is amended—

(1) in clause (ii), by inserting "during the term of the lease," after "(ii)"; and

(2) in clause (iii), by striking "provide that" and inserting "during the term of the lease,".

(d) APPLICABILITY.—The provisions of this section shall be effective for fiscal year 1996 only.

PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION

SEC. 206. (a) PURPOSE.—The purpose of this demonstration is to give public housing agencies and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that: reduce cost and achieve greater cost effectiveness in Federal expenditures; give incentives to families with children where the head of household is working, seeking work, or is preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1996 under which up to 30 public housing agencies (including Indian housing authorities) administering the public or Indian housing program and the section 8 housing assistance payments program may be selected by the Secretary to participate. The Secretary shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 15 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration. Under the demonstration, notwithstanding any provision of the United States Housing Act of 1937 except as provided in subsection (e), an agency may combine operating assistance provided under section 9 of the United States Housing Act of 1937, modernization assistance provided under section 14 of such Act, and assistance provided under section 8 of such Act for the certificate and voucher programs, to provide housing assistance for low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937, and services to facilitate the transition to work on such terms and conditions as the agency may propose and the Secretary may approve.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance under sections 8, 9, and 14 of the United States Housing Act of 1937;

(2) shall be submitted only after the public housing agency provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the agency that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) families to be assisted, which shall require that at least 75 percent of the families assisted by participating demonstration public housing authorities shall be very low-income families, as defined in section 3(b)(2) of the United States Housing Act of 1937;

(B) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent;

(C) continuing to assist substantially the same total number of eligible low-income families as would have been served had the amounts not been combined;

(D) maintaining a comparable mix of families (by family size) as would have been provided had the amounts not been used under the demonstration; and

(E) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION.—In selecting among applications, the Secretary shall take into account the potential of each agency to plan and carry out a program under the demonstration, the relative performance by an agency under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937, and other appropriate factors as determined by the Secretary.

(e) APPLICABILITY OF 1937 ACT PROVISIONS.—

(1) Section 18 of the United States Housing Act of 1937 shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 12 of such Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON SECTION 8, OPERATING SUBSIDIES, AND COMPREHENSIVE GRANT PROGRAM ALLOCATIONS.—The amount of assistance received under section 8, section 9, or pursuant to section 14 by a public housing agency participating in the demonstration under this part shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each agency shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each agency shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH PHA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of public housing agencies and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the demonstration. The report shall also include findings and recommendations for any appropriate legislative action.

(i) FUNDING FOR TECHNICAL ASSISTANCE AND EVALUATION.—From amounts appropriated for assistance under section 14 of the United States Housing Act of 1937 for fiscal years 1996, 1997, and 1998, the Secretary may use up to a total of $5,000,000—

(1) to provide, directly or by contract, training and technical assistance—

(A) to public housing agencies that express an interest to apply for training and technical assistance pursuant to subsection (c)(4), to assist them in designing programs to be proposed for the demonstration; and

(B) to up to 10 agencies selected to receive training and technical assistance pursuant to subsection (c)(4), to assist them in implementing the approved program; and

(2) to conduct detailed evaluations of the activities of the public housing agencies under paragraph (1)(B), directly or by contract.

EXTENSION OF MULTIFAMILY HOUSING FINANCE PROGRAM

SEC. 208. (a) The first sentence of section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not more than 15,000 units over fiscal years 1993 and 1994" and inserting "on not more than 7,500 units during fiscal year 1996".

(b) The first sentence of section 542(c)(4) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995" and inserting "on not more than 10,000 units during fiscal year 1996".

FORECLOSURE OF HUD-HELD MORTGAGES THROUGH THIRD PARTIES

SEC. 209. During fiscal year 1996, the Secretary of Housing and Urban Development may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

RESTRUCTURING OF THE HUD MULTIFAMILY MORTGAGE PORTFOLIO THROUGH STATE HOUSING FINANCE AGENCIES

SEC. 210. During fiscal year 1996, the Secretary of Housing and Urban Development may sell or otherwise transfer multifamily mortgages held by the Secretary under the National Housing Act to a State housing finance agency in connection with a program authorized under section 542 (b) or (c) of the Housing and Community Development Act of 1992 without regard to the unit limitations in section 542(b)(5) or 542(c)(4) of such Act.

TRANSFER OF SECTION 8 AUTHORITY

SEC. 211. Section 8 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end:

"(bb) TRANSFER OF BUDGET AUTHORITY.—If an assistance contract under this section, other than a contract for tenant-based assistance, is terminated or is not renewed, or if the contract expires, the Secretary shall, in order to provide continued assistance to eligible families, including eligible families receiving the benefit of the project-based assistance at the time of the termination, transfer any budget authority remaining in the contract to another contract. The transfer shall be under such terms as the Secretary may prescribe.".

DOCUMENTATION OF MULTIFAMILY REFINANCINGS

SEC. 212. Notwithstanding the 16th paragraph under the item relating to "administrative provisions" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103-327; 108 Stat. 2316), the amendments to section 223(a)(7) of the National Housing Act made by the 15th paragraph of such Act shall be effective during fiscal year 1996 and thereafter.

FHA MULTIFAMILY DEMONSTRATION AUTHORITY

SEC. 213. (a) On and after October 1, 1995, and before October 1, 1997, the Secretary of Housing and Urban Development shall initiate a demonstration program with respect to multifamily projects whose owners agree to participate and whose mortgages are insured under the National Housing Act and that are assisted under section 8 of the United States Housing Act of 1937 and whose present section 8 rents are, in the aggregate, in excess of the fair market rent of the locality in which the project is located. These programs shall be designed to test the feasibility and desirability of the goal of ensuring, to the maximum extent practicable, that the debt service and operating expenses, including adequate reserves, attributable to such multifamily projects can be supported with or without mortgage insurance under the National Housing Act and with or without above-market rents and utilizing project-based assistance or, with the consent of the property owner, tenant-based assistance, while taking into account the need for assistance of low- and very low-income families in such projects. In carrying out this demonstration, the Secretary may use arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(1) GOALS.—The Secretary of Housing and Urban Development shall carry out the demonstration programs under this section in a manner that—

(A) will protect the financial interests of the Federal Government;

(B) will result in significant discretionary cost savings through debt restructuring and subsidy reduction; and

(C) will, in the least costly fashion, address the goals of—

(i) maintaining existing housing stock in a decent, safe, and sanitary condition;

(ii) minimizing the involuntary displacement of tenants;

(iii) restructuring the mortgages of such projects in a manner that is consistent with local housing market conditions;

(iv) supporting fair housing strategies;

(v) minimizing any adverse income tax impact on property owners; and

(vi) minimizing any adverse impact on residential neighborhoods.

In determining the manner in which a mortgage is to be restructured or the subsidy reduced, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(2) DEMONSTRATION APPROACHES.—In carrying out the demonstration programs, subject to the appropriation in subsection (f), the Secretary may use one or more of the following approaches:

(A) Joint venture arrangements with third parties, under which the Secretary may provide for the assumption by the third parties (by delegation, contract, or otherwise) of some or all of the functions, obligations, and benefits of the Secretary.

(B) Subsidization of the debt service of the project to a level that can be paid by an owner receiving an unsubsidized market rent.

(C) Renewal of existing project-based assistance contracts where the Secretary shall approve proposed initial rent levels that do not exceed the greater of 120 percent of fair market rents or comparable market rents for the relevant metropolitan market area or at rent levels under a budget-based approach.

(D) Nonrenewal of expiring existing project-based assistance contracts and providing tenant-based assistance to previously assisted households.

(b) For purposes of carrying out demonstration programs under subsection (a)—

(1) the Secretary may manage and dispose of multifamily properties owned by the Secretary as of October 1, 1995 and multifamily mortgages held by the Secretary as of October 1, 1995 for properties assisted under section 8 with rents above 110 percent of fair market rents without regard to any other provision of law; and

(2) the Secretary may delegate to one or more entities the authority to carry out some or all of the functions and responsibilities of the Secretary in connection with the foreclosure of mortgages held by the Secretary under the National Housing Act.

(c) For purposes of carrying out demonstration programs under subsection (a), subject to such third party consents (if any) as are necessary including but not limited to (i) consent by the Government National Mortgage Association where it owns a mortgage insured by the Secretary; (ii) consent by an issuer under the mortgage-backed securities program of the Association, subject to the responsibilities of the issuer to its security holders and the Association under such program; and (iii) parties to any contractual agreement which the Secretary proposes to modify or discontinue, and subject to the appropriation in subsection (c), the Secretary or one or more third parties designated by the Secretary may take the following actions:

(1) Notwithstanding any other provision of law, and subject to the agreement of the project owner, the Secretary or third party may remove, relinquish, extinguish, modify, or agree to the removal of any mortgage, regulatory agreement, project-based assistance contract, use agreement, or restriction that had been imposed or required by the Secretary, including restrictions on distributions of income which the Secretary or third party determines would interfere with the ability of the project to operate without above market rents. The Secretary or third party may require an owner of a property assisted under the section 8 new construction/substantial rehabilitation program to apply any accumulated residual receipts toward effecting the purposes of this section.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may enter into contracts to purchase reinsurance, or enter into participations or otherwise transfer economic interest in contracts of insurance or in the premiums paid, or due to be paid, on such insurance to third parties, on such terms and conditions as the Secretary may determine.

(3) The Secretary may offer project-based assistance with rents at or below fair market rents for the locality in which the project is located and may negotiate such other terms as are acceptable to the Secretary and the project owner.

(4) The Secretary may offer to pay all or a portion of the project's debt service, including payments monthly from the appropriate Insurance Fund, for the full remaining term of the insured mortgage.

(5) Notwithstanding any other provision of law, the Secretary may forgive and cancel any FHA-insured mortgage debt that a demonstration program property cannot carry at market rents while bearing full operating costs.

(6) For demonstration program properties that cannot carry full operating costs (excluding debt service) at market rents, the Secretary may approve project-based rents sufficient to carry such full operating costs and may offer to pay the full debt service in the manner provided in paragraph (4).

(d) COMMUNITY AND TENANT INPUT.—In carrying out this section, the Secretary shall develop procedures to provide appropriate and timely notice to officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project.

(e) LIMITATION ON DEMONSTRATION AUTHORITY.—The Secretary may carry out demonstration programs under this section with respect to mortgages not to exceed 15,000 units. The demonstration authorized under this section shall not be expanded until the reports required under subsection (g) are submitted to the Congress.

(f) APPROPRIATION.—For the cost of modifying loans held or guaranteed by the Federal Housing Administration, as authorized by this subsection (a)(2) and subsection (c), $15,000,000, to remain available until September 30, 1997: Provided, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended.

(g) REPORT TO CONGRESS.—The Secretary shall submit to the Congress every six months after the date of enactment of this Act a report describing and assessing the programs carried out under the demonstrations. The Secretary shall also submit a final report to the Congress not later than six months after the end of the demonstrations. The reports shall include findings and recommendations for any legislative action appropriate. The reports shall also include a description of the status of each multifamily housing project selected for the demonstrations under this section. The final report may include—

(1) the size of the projects;

(2) the geographic locations of the projects, by State and region;

(3) the physical and financial condition of the projects;

(4) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;

(5) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the transfer or sale of multifamily housing projects;

(6) a description of the extent to which the demonstrations under this section have displaced tenants of multifamily housing projects;

(7) a description of any of the functions performed in connection with this section that are transferred or contracted out to public or private entities or to States;

(8) a description of the impact to which the demonstrations under this section have affected the localities and communities where the selected multifamily housing projects are located; and

(9) a description of the extent to which the demonstrations under this section have affected the owners of multifamily housing projects.

ASSESSMENT COLLECTION DATES FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT

SEC. 216. Section 1316(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4516(b)) is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually for each fiscal year, on October 1 and April 1.".

MERGER LANGUAGE FOR ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS AND ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

SEC. 217. All remaining obligated and unobligated balances in the Renewal of Expiring Section 8 Subsidy Contracts account on September 30, 1995, shall immediately thereafter be transferred to and merged with the obligated and unobligated balances, respectively, of the Annual Contributions for Assisted Housing account.

DEBT FORGIVENESS

SEC. 218. (a) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hubbard Hospital Authority of Hubbard, Texas, relating to the public facilities loan for Project Number PFL-TEX-215, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(b) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Groveton Texas Hospital Authority relating to the public facilities loan for Project Number TEX-41-PFL0162, issued under title II of the Housing Amendments of 1955. Such hospital authority is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

(c) The Secretary of Housing and Urban Development shall cancel the indebtedness of the Hepzibah Public Service District of Hepzibah, West Virginia, relating to the public facilities loan for Project Number WV-46-PFL0031, issued under title II of the Housing Amendments of 1955. Such public service district is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any fees and charges payable in connection with such loan.

CLARIFICATIONS

SEC. 219. For purposes of Federal law, the Paul Mirabile Center in San Diego, California, including areas within such Center that are devoted to the delivery of supportive services, has been determined to satisfy the "continuum of care" requirements of the Department of Housing and Urban Development, and shall be treated as—

(a) consisting solely of residential units that (i) contain sleeping accommodations and kitchen and bathroom facilities, (ii) are located in a building that is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on December 19, 1989) to independent living within 24 months, (iii) are suitable for occupancy, with each cubicle constituting a separate bedroom and residential unit, (iv) are used on other than a transient basis, and (v) shall be originally placed in service on November 1, 1995; and

(b) property that is entirely residential rental property, namely, a project for residential rental property.

EMPLOYMENT LIMITATIONS

SEC. 220. (a) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than eight Assistant Secretaries, notwithstanding section 4(a) of the Department of Housing and Urban Development Act.

(b) By the end of fiscal year 1996 the Department of Housing and Urban Development shall employ no more than 85 schedule C and 20 noncareer senior executive service employees.

USE OF FUNDS

SEC. 221. (a) Of the $93,400,000 earmarked in Public Law 101-144 (103 Stat. 850), as amended by Public Law 101-302 (104 Stat. 237), for special projects and purposes, any amounts remaining of the $500,000 made available to Bethlehem House in Highland, California, for site planning and loan acquisition shall instead be made available to the County of San Bernardino in California to assist with the expansion of the Los Padrinos Gang Intervention Program and the Unity Home Domestic Violence Shelter.

(b) The amount made available for fiscal year 1995 for the removal of asbestos from an abandoned public school building in Toledo, Ohio shall be made available for the renovation and rehabilitation of an industrial building at the University of Toledo in Toledo, Ohio.

LEAD-BASED PAINT ABATEMENT

SEC. 222. (a) Section 1011 of Title X—Residential Lead-Based Paint Hazard Reduction Act of 1992 is amended as follows: Strike "priority housing" wherever it appears in said section and insert "housing".

(b) Section 1011(a) shall be amended as follows: At the end of the subsection after the period, insert: "Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

"(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

"(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

"(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.".

EXTENSION PERIOD FOR SHARING UTILITY COST SAVINGS WITH PHAS

SEC. 223. Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by striking "for a period not to exceed 6 years".

MORTGAGE NOTE SALES

SEC. 223A. The first sentence of section 221(g)(4)(C)(viii) of the National Housing Act is amended by striking "September 30, 1995" and inserting in lieu thereof "September 30, 1996".

REPEAL OF FROST-LELAND

SEC. 223B. Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-213) is repealed effective the date of enactment of Public Law 104-19. The Secretary is authorized to demolish the structures identified in such section. The Secretary is also authorized to compensate those local governments which, due to this provision, expended local revenues demolishing the developments identified in such provision.

FHA SINGLE-FAMILY ASSIGNMENT PROGRAM REFORM

SEC. 223C. (a) CORRECTION TO FORECLOSURE AVOIDANCE PROVISION.— The penultimate proviso of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)). As added by section 407(a) of the Balanced Budget Downpayment Act, I, is amended by striking "special foreclosure" and inserting in lieu thereof "special forebearance".

(b) CORRECTION TO SAVINGS PROVISION.—Section 230(d) of the National Housing Act, as amended by section 407(b) of the Balanced Budget Downpayment Act, I, is amended to read as follows:

"(d) SAVINGS PROVISION.—Any mortgage for which the mortgagor has applied to the Secretary, before March 15, 1996, for assignment pursuant to subsection (b) of this section as in effect before enactment of the Balanced Budget Downpayment Act, I, shall continue to be governed by the provisions of this section as in effect immediately before enactment of the Balanced Budget Downpayment Act, I."

(c) CORRECTION TO DATE FOR REGULATIONS.—Section 407(d) of the Balanced Budget Downpayment Act, I, is amended to read as follows:

"(d) REGULATIONS.—Not later than April 15, 1996, the Secretary of Housing and Urban Development shall issue interim regulations to implement this section and the amendments made by this section."

SPENDING LIMITATIONS

SEC. 223D. (a) None of the funds in this Act may be used by the Secretary to impose any sanction, or penalty because of the enactment of any State or local law or regulation declaring English as the official language.

(b) No part of any appropriation contained in this Act shall be used for lobbying activities as prohibited by law.

TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF JUSTICE

SEC. 223E. All functions, activities and responsibilities of the Secretary of Housing and Urban Development relating to title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and the Fair Housing Act, including any rights guaranteed under the Fair Housing Act (including any functions relating to the Fair Housing Initiatives program under section 561 of the Housing and Community Development Act of 1987), are hereby transferred to the Attorney General of the United States effective April 1, 1997: Provided, That none of the aforementioned authority or responsibility for enforcement of the Fair Housing Act shall be transferred to the Attorney General until adequate personnel and resources allocated to such activity at the Department of Housing and Urban Development are transferred to the Department of Justice.

SEC. 224. None of the funds provided in this Act may be used during fiscal year 1996 to investigate or prosecute under the Fair Housing Act (42 U.S.C. 3601, et seq.) any otherwise lawful activity engaged in by one or more persons, including the filing or maintaining of non-frivolous legal action, that is engaged in solely for the purposes of achieving or preventing action by a Government official, entity, or court of competent jurisdiction.

SEC. 225. None of the funds provided in this Act many be used to take any enforcement action with respect to a complaint of discrimination under the Fair Housing Act (42 U.S.C. 3601, et seq.) on the basis of familial status and which involves an occupancy standard established by the housing provider except to the extent that it is found that there has been discrimination in contravention of the standards provided in the March 20, 1991 Memorandum from the General Counsel of the Department of Housing and Urban Development to all Regional Counsel or until such time that HUD issues a final rule in accordance with section 553 of title 5, United States Code.

CDBG ELIGIBLE ACTIVITIES

SEC. 226. Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (4)—

(A) by inserting "reconstruction," after "removal,"; and

(B) by striking "acquisition for rehabilitation, and rehabilitation" and inserting "acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation";

(2) in paragraph (13), by striking "and" at the end;

(3) by striking paragraph (19);

(4) in paragraph (24), by striking "and" at the end;

(5) in paragraph (25), by striking the period at the end and inserting "; and";

(6) by redesignating paragraphs (20) through (25) as paragraphs (19) through (24), respectively; and

(7) by redesignating paragraph (21) (as added by section 1012(f)(3) of the Housing and Community Development Act of 1992) as paragraph (25).

SEC. 227. (a) The second sentence of section 236(f)(1) of the National Housing Act, as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, is amended—

(1) by striking "or (ii)" and inserting "(ii)"; and

(2) by striking "located," and inserting: "located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,".

(b) The first sentence of section 236(g) of the National Housing Act is amended by inserting the phrase "on a unit-by-unit basis" after "collected".

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $20,265,000, to remain available until expended: Provided, That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: Provided further, That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: Provided further, That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

DEPARTMENT OF THE TREASURY

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND

PROGRAM ACCOUNT

For grants, loans, and technical assistance to qualifying community development financial institutions, and administrative expenses of the Fund, $50,000,000, to remain available until September 30, 1997: Provided, That of the funds made available under this heading not to exceed $4,000,000 may be used for the cost of direct loans, and not to exceed $400,000 may be used for administrative expenses to carry out the direct loan program: Provided further, That the cost of direct loans, including the cost of modifying such loans, shall be defined as in section 502 of the Congressional Budget Act of 1974: Provided further, That such funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $31,600,000: Provided further, That none of these funds shall be used to supplement existing resources provided to the Department for activities such as external affairs, general counsel, administration, finance, or office of inspector general: Provided further, That none of these funds shall be available for expenses of an Administrator as defined in section 104 of the Community Development Banking and Financial Institutions Act of 1994 (CDBFI Act): Provided further, That notwithstanding any other provision of law, for purposes of administering the Community Development Financial Institutions Fund, the Secretary of the Treasury shall have all powers and rights of the Administrator of the CDBFI Act and the Fund shall be within the Department of the Treasury.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $40,000,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $383,500,000, of which $234,000,000 shall be available for obligation from September 1, 1996, through August 21, 1997: Provided, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12681(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): Provided further, That not more than $175,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program): Provided further, That not more than $3,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That not more than $40,000,000 of the funds made available under this heading may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)), and none of such funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): Provided further, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That not more than $15,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12653 et seq.): Provided further, That not more than $5,000,000

shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-federal cost of supporting participants in community service activities: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title 1, and shall reduce the total Federal cost per participant in all programs.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $2,000,000.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $9,000,000, of which not to exceed $678,000, to remain available until September 30, 1997, shall be available for the purpose of providing financial assistance as described, and in accordance with the process and reporting procedures set forth, under this head in Public Law 102–229.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $11,946,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For science and technology, including research and development activities, which shall include research and development activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended; necessary expenses for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; procurement of laboratory equipment and supplies; other operating expenses in support of research and development; construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project; $525,000,000, which shall remain available until September 30, 1997.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

For environmental programs and management, including necessary expenses, not otherwise provided for, for personnel and related costs and travel expenses, including uniforms, or allowances therefore, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,590,300,000, which shall remain available until September 30, 1997: Provided, That, notwithstanding any other provision of law, for this fiscal year and hereafter, an industrial discharger that is a pharmaceutical manufacturing facility and discharged to the Kalamazoo Water Reclamation Plant (an advanced wastewater treatment plant with activated carbon) prior to the date of enactment of this Act may be exempted from categorical pretreatment standards under section 307(b) of the Federal Water Pollution Control Act, as amended, if the following conditions are met:

(1) the owner or operator of the Kalamazoo Water Reclamation Plant applies to the State of Michigan for an exemption for such industrial discharger,

(2) the State or Administrator, as applicable, approves such exemption request based upon a determination that the Kalamazoo Water Reclamation Plant will provide treatment and pollution removal equivalent to or better than that which would be required through a combination of pretreatment by such industrial discharger and treatment by the Kalamazoo Water Reclamation Plant in the absence of the exemption, and

(3) compliance with paragraph (2) is addressed by the provisions and conditions of a permit issued to the Kalamazoo Water Reclamation Plant under section 402 of such Act, and there exists an operative financial contract between the City of Kalamazoo and the industrial user and an approved local pretreatment program, including a joint monitoring program and local controls to prevent against interference and pass through.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $28,500,000.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of, or use by, the Environmental Protection Agency, $60,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; not to exceed $1,263,400,000, to remain available until expended, consisting of $1,013,400,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508 (of which, $100,000,000 shall not become available until September 1, 1996), and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508: Provided, That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: Provided further, That $11,000,000 of the funds appropriated under this heading shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996: Provided further, That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $59,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: Provided further, That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1996: Provided further, That none of the funds made available under this heading may be used by the Environmental Protection Agency to propose for listing or to list any additional facilities on the National Priorities List established by section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended (42 U.S.C. 9605), unless the Administrator receives a written request to propose for listing or to list a facility from the Governor of the State in which the facility is located, or unless legislation to reauthorize CERCLA is enacted.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $45,827,000, to remain available until expended: Provided, That no more than $7,000,000 shall be available for administrative expenses: Provided further, That $500,000 shall be transferred to the Office of Inspector General appropriation to remain available until September 30, 1996.

OIL SPILL RESPONSE

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $15,000,000, to be derived from the Oil Spill Liability trust fund, and to remain available until expended: Provided, That not more than $8,000,000 of these funds shall be available for administrative expenses.

STATE AND TRIBAL ASSISTANCE GRANTS

For environmental programs and infrastructure assistance, including capitalization grants for State revolving funds and performance partnership grants, $2,423,000,000, to remain available until expended, of which $1,500,000,000 shall be for making capitalization grants for State revolving funds to support water infrastructure financing; $100,000,000 for architectural, engineering, design, construction and related activities in connection with the construction of high priority water and wastewater facilities in the area of the United States-Mexico Border, after consultation with the appropriate border commission; $50,000,000 for grants to the State of Texas, which shall be matched by an equal amount of State funds from State resources, for the purpose of improving wastewater treatment for colonias; $15,000,000 for

grants to the State of Alaska, subject to an appropriate cost share as determined by the Administrator, to address wastewater infrastructure needs of rural and Alaska Native villages; and $100,000,000 for making grants for the construction of wastewater treatment facilities and the development of groundwater in accordance with the terms and conditions specified for such grants in the Conference Report accompanying this Act (H.R. 2099): Provided, That beginning in fiscal year 1996 and each fiscal year thereafter, and notwithstanding any other provision of law, the Administrator is authorized to make grants annually from funds appropriated under this heading, subject to such terms and conditions as the Administrator shall establish, to any State or federally recognized Indian tribe for multimedia or single media pollution prevention, control and abatement and related environmental activities at the request of the Governor or other appropriate State official or the tribe: Provided further, That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs: Provided further, That of the $1,500,000,000 for capitalization grants for State revolving funds to support water infrastructure financing, $325,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended: Provided further, That of the funds made available in Public Law 103–327 and in Public Law 103–124 for capitalization grants for State revolving funds to support water infrastructure financing, $225,000,000 shall be made available for capitalization grants for State revolving funds under title VI of the Federal Water Pollution Control Act, as amended, if no drinking water State revolving fund legislation is enacted by June 1, 1996: Provided further, That of the funds made available under this heading for capitalization grants for State Revolving Funds under title VI of the Federal Water Pollution Control Act, as amended, $50,000,000 shall be for wastewater treatment in impoverished communities pursuant to section 102(d) of H.R. 961 as approved by the United States House of Representatives on May 16, 1995: Provided further, That of the funds appropriated in the Construction Grants and Water Infrastructure/State Revolving Funds accounts since the appropriation for the fiscal year ending September 30, 1992, and hereafter, for making grants for wastewater treatment works construction projects, portions may be provided by the recipients to States for managing construction grant activities, on condition that the States agree to reimburse the recipients from State funding sources: Provided further, That the funds made available in Public Law 103–327 for a grant to the City of Mt. Arlington, New Jersey, in accordance with House Report 103–715, shall be available for a grant to that city for water and sewer improvements.

ADMINISTRATIVE PROVISIONS

SEC. 301. None of the funds provided in this Act may be used within the Environmental Protection Agency for any final action by the Administrator or her delegate for signing and publishing for promulgation of a rule concerning any new standard for radon in drinking water.

SEC. 302. None of the funds provided in this Act may be used during fiscal year 1996 to sign, promulgate, implement or enforce the requirement proposed as "Regulation of Fuels and Fuel Additives: Individual Foreign Refinery Baseline Requirements for Reformulated Gasoline" at volume 59 of the Federal Register at pages 22800 through 22814.

SEC. 303. None of the funds appropriated to the Environmental Protection Agency for fiscal year 1996 may be used to implement section 404(c) of the Federal Water Pollution Control Act, as amended. No pending action by the Environmental Protection Agency to implement section 404(c) with respect to an individual permit shall remain in effect after the date of enactment of this Act.

SEC. 304. None of the funds appropriated under this Act may be used to implement the requirements of section 186(b)(2), section 187(b) or section 211(m) of the Clean Air Act (42 U.S.C. 7512(b)(2), 7512a(b), or 7545(m)) with respect to any moderate nonattainment area in which the average daily winter temperature is below 0 degrees Fahrenheit. The preceding sentence shall not be interpreted to preclude assistance from the Environmental Protection Agency to the State of Alaska to make progress toward meeting the carbon monoxide standard in such areas and to resolve remaining issues regarding the use of oxygenated fuels in such areas.

SEC. 305. Notwithstanding any other provision of law, the Environmental Protection Agency shall: (1) transfer all real property acquired in Bay City, Michigan, for the creation of the Center for Ecology, Research and Training (CERT) to the City of Bay City or other local public or municipal entity; and (2) make a grant in fiscal year 1996 to the recipient of the property of not less than $3,000,000 from funds previously appropriated for the CERT project for the purpose of environmental remediation and rehabilitation of real property included in the boundaries of the CERT project. The disposition of property shall be by donation or no-cost transfer and shall be made to the City of Bay City, Michigan or other local public or municipal entity.

Further, notwithstanding any other provision of law, the agency shall have the authority to demolish or dispose of any improvements on such real property, or to donate, sell, or transfer any personal property or improvements on such real property to members of the general public, by auction or public sale, and to apply any funds received to costs related to the transfer of the real property authorized hereunder.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $4,981,000: Provided, That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Improvement Act of 1970 and Reorganization Plan No. 1 of 1977, $2,180,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $222,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For the cost of direct loans, $2,155,000, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $25,000,000.

In addition, for administrative expenses to carry out the direct loan program, $95,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses; $168,900,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,673,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947, as amended (50 U.S.C. 404–405), and Reorganization Plan No. 3 of 1978, $203,044,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $100,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: Provided, That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973, and the National Flood Insurance Reform Act of 1994, not to exceed $20,562,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $70,464,000 for flood mitigation, including up to $12,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968, as amended, which amount shall be available until September 30, 1997. In fiscal year 1996, no funds in excess of (1) $47,000,000 for operating expenses, (2) $292,526,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISION

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a methodology for assessment and collection of fees to be assessed and collected beginning in fiscal year 1996 applicable to persons subject to the Federal Emergency Management

Agency's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1996 shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable, and shall reflect the full amount of costs of providing radiological emergency planning, preparedness, response and associated services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1996.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,061,000, to be deposited into the Consumer Information Center Fund: Provided, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $7,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1996 shall not exceed $2,602,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1996 in excess of $7,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,456,600,000, to remain available until September 30, 1997.

SCIENCE, AERONAUTICS AND TECHNOLOGY

For necessary expenses, not otherwise provided for, for the conduct and support of science, aeronautics, and technology research and development activities, including research; development; operations; services; maintenance; construction of facilities including repair, rehabilitation and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law; space flight, spacecraft control and communications activities including operations, production, and services; and purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; $5,845,900,000, to remain available until September 30, 1997.

MISSION SUPPORT

For necessary expenses, not otherwise provided for, in carrying out mission support for human space flight programs and science, aeronautical, and technology programs, including research operations and support; space communications activities including operations, production, and services; maintenance; construction of facilities including repair, rehabilitation, and modification of facilities, minor construction of new facilities and additions to existing facilities, facility planning and design, environmental compliance and restoration, and acquisition or condemnation of real property, as authorized by law; program management; personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); travel expenses; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $2,502,200,000, to remain available until September 30, 1997.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $16,000,000.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, when any activity has been initiated by the incurrence of obligations for construction of facilities as authorized by law, the amount available for such activity shall remain available until expended. This provision does not apply to the amounts appropriated in "Mission support" pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

Notwithstanding the limitation on the availability of funds appropriated for "Human space flight", "Science, aeronautics and technology", or "Mission support" by this appropriations Act, the amounts appropriated for construction of facilities shall remain available until September 30, 1998.

Notwithstanding the limitation on the availability of funds appropriated for "Mission support" and "Office of Inspector General", amounts made available by this Act for personnel and related costs and travel expenses of the National Aeronautics and Space Administration shall remain available until September 30, 1996 and may be used to enter into contracts for training, investigations, cost associated with personnel relocation, and for other services, to be provided during the next fiscal year.

The unexpired balances of prior appropriations to NASA for activities for which funds are provided under this Act may be transferred to the new account established for the appropriation that provides funds for such activity under this Act. Balances so transferred may be merged with funds in the newly established account and thereafter may be accounted for as one fund to be available for the same purposes and under the same terms and conditions.

Upon the determination by the Administrator that such action is necessary, the Administrator may, with the approval of the Office of Management and Budget, transfer not to exceed $50,000,000 of funds made available in this Act to the National Aeronautics and Space Administration between such appropriations or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen requirements, than those for which originally appropriated: Provided further, That the Administrator of the National Aeronautics and Space Administration shall notify the Congress promptly of all transfers made pursuant to this authority.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1996, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: Provided, That administrative expenses of the Central Liquidity Facility in fiscal year 1996 shall not exceed $560,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $2,274,000,000, of which not to exceed $235,000,000 shall remain available until expended for Polar research and operations support, and for reimbursement to other Federal agencies for operational and science support and logistical and other related activities for the United States Antarctic program; the balance to remain available until September 30, 1997: Provided, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: Provided further, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

MAJOR RESEARCH EQUIPMENT

For necessary expenses in carrying out major construction projects, and related expenses, pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), $70,000,000, to remain available until expended.

ACADEMIC RESEARCH INFRASTRUCTURE

For necessary expenses in carrying out an academic research infrastructure program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $100,000,000, to remain available until September 30, 1997.

EDUCATION AND HUMAN RESOURCES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $599,000,000, to remain available until September 30, 1997: Provided, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $9,000 for official reception and representation expenses; uniforms or allowances therefor, as

authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $127,310,000: Provided, That contracts may be entered into under salaries and expenses in fiscal year 1996 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $4,490,000, to remain available until September 30, 1997.

NATIONAL SCIENCE FOUNDATION HEADQUARTERS RELOCATION

For necessary support of the relocation of the National Science Foundation, $5,200,000: Provided, That these funds shall be used to reimburse the General Services Administration for services and related acquisitions in support of relocating the National Science Foundation.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $38,667,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $22,930,000: Provided, That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: Provided further, That none of the funds appropriated by the Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1996 for such corporation or agency except as hereinafter provided: Provided, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $11,400,000.

TITLE V

GENERAL PROVISIONS

SEC. 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: Provided, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of 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 performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: Provided further, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. 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. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: Provided, That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the rate paid for Level IV of the Executive Schedule, unless specifically authorized by law.

SEC. 509. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 510. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 511. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 512. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 513. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 514. Such sums as may be necessary for fiscal year 1996 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 515. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000 unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

SEC. 516. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased

with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 517. None of the funds appropriated in this Act may be used to implement any cap on reimbursements to grantees for indirect costs, except as published in Office of Management and Budget Circular A-21.

SEC. 518. None of the funds made available in this Act may be used for any program, project, or activity, when it is made known to the Federal entity or official to which the funds are made available that the program, project, or activity is not in compliance with any Federal law relating to risk assessment, the protection of private property rights, or unfunded mandates.

SEC. 519. In fiscal year 1996, the Director of the Federal Emergency Management Agency shall sell the disaster housing inventory of mobile homes and trailers, and the proceeds thereof shall be deposited in the Treasury.

SEC. 520. Such funds as may be necessary to carry out the orderly termination of the Office of Consumer Affairs shall be made available from funds appropriated to the Department of Health and Human Services for fiscal year 1996.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996".

TITLE II—EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1996

CHAPTER 1

DEPARTMENT OF AGRICULTURE

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and Flood Prevention Operations" to repair damages to waterways and watersheds resulting from flooding in the Pacific Northwest, the Northeast blizzards and floods, and other natural disasters, $107,514,000, to remain available until expended: Provided, That if the Secretary determines that the cost of land and farm structures restoration exceeds the fair market value of an affected cropland, the Secretary may use sufficient amounts from funds provided under this heading to accept bids from willing sellers to provide conservation easements for such cropland inundated by floods as provided for by the Wetlands Reserve Program, authorized by subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837): Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSOLIDATED FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205) for expenses resulting from floods in the Pacific Northwest and other natural disasters, $30,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Housing Insurance Fund Program Account" for the cost of direct loans to assist in the recovery from floods in the Pacific Northwest and other natural disasters, to remain available until expended, $5,000,000 for the cost of section 502 direct loans; and $1,500,000 for the cost of section 504 housing repair loans: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very Low-Income Housing Repair Grants" to make housing repairs needed as a result of floods and other natural disasters, pursuant to Section 504 of the Housing Act of 1949, as amended, $1,100,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL UTILITIES SERVICE

RURAL UTILITIES ASSISTANCE PROGRAM

For an additional amount for the "Rural Utilities Assistance Program" for the cost of direct loans and grants to assist in the recovery from floods in the Pacific Northwest and other natural disasters, $11,000,000, to remain available until expended: Provided, That such funds may be available for emergency community water assistance grants as authorized by 7 U.S.C. 1926b: Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ADMINISTRATIVE PROVISION

With the prior approval of the House and Senate Committees on Appropriations, funds appropriated to the Department of Agriculture under this chapter may be transferred by the Secretary of Agriculture between accounts of the Department of Agriculture included in this Act to satisfy emergency disaster funding requirements.

CHAPTER 2

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for emergency expenses resulting from flooding in the Pacific Northwest, and in the Devils Lake Basin in North Dakota $25,000,000, to remain available until expended for grants and related expenses pursuant to the Public Works and Economic Development Act of 1965, as amended; and in addition, $2,500,000 for administrative expenses to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": Provided, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CONSTRUCTION

For an additional amount for "Construction" for emergency expenses resulting from flooding in the Pacific Northwest and other natural disasters, $10,000,000, to remain available until expended: Provided, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account", $69,700,000 for the cost of direct loans, to remain available until expended: Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974; and for administrative expenses to carry out the direct loan program, $30,300,000, to remain available until expended: Provided, That both amounts are hereby designated by Congress as emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 3

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $30,000,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget

and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies", $135,000,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount for the "Construction Program", $18,000,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 4

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

CONSTRUCTION AND ACCESS

For an additional amount for "Construction and Access", $5,000,000, to remain available until expended, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged due to the Pacific Northwest flooding: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OREGON AND CALIFORNIA GRANT LANDS

For an additional amount for "Oregon and California Grant Lands", $35,000,000, to remain available until expended, to repair roads, culverts, bridges, facilities, fish and wildlife protective structures, and recreation sites, damaged due to the Pacific Northwest flooding: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for Resource Management, $1,600,000, to remain available until expended, to provide technical assistance to the Natural Resource Conservation Service, the Federal Emergency Management Agency, the United States Army Corps of Engineers and other agencies on fish and wildlife habitat issues related to damage caused by floods, storms and other acts of nature: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $37,300,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature, and to protect natural resources in the Devils Lake Basin in North Dakota: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL PARK SERVICE

CONSTRUCTION

For an additional amount for "Construction", $47,000,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $2,000,000, to remain available until September 30, 1997, for the costs related to hurricanes, floods and other acts of nature: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian Programs", $500,000, to remain available until September 30, 1998, for emergency operations and repairs related to winter floods: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $16,500,000, to remain available until expended, for emergency repairs related to winter floods: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ASSISTANCE TO TERRITORIES

For an additional amount for "Assistance to Territories", $13,000,000, to remain available until expended, for recovery efforts from Hurricane Marilyn: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF AGRICULTURE

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System", $26,600,000, to remain available until expended, to repair damage caused by hurricanes, floods and other acts of nature, including $300,000 for the costs associated with response and rehabilitation, including access repairs, at the Amalgamated Mill site in the Willamette National Forest containing sulphur-rich and other mining tailings in order to prevent contamination of Battle Ax Creek, and the Little North Fork of the Santiam River, from which the City of Salem, Oregon, obtains its municipal water supply: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to

Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction", $60,800,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 5

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

PAYMENTS TO AIR CARRIERS

The first proviso under the head "Payments to Air Carriers" in Title I of the Department of Transportation and Related Agencies Appropriations Act, 1996 (Public Law 104–50), is amended to read as follows: "Provided, That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $22,600,000 from the Airport and Airway Trust Fund for the Payments to Air Carriers program in fiscal year 1996:".

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

For the Emergency Fund authorized by 23 U.S.C. 125 to cover expenses arising from the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States and other disasters, $300,000,000, to be derived from the Highway Trust Fund and to remain available until expended: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That such amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the provisions of 23 U.S.C. 125(b)(1) shall not apply to projects relating to the January 1996 flooding in the Mid-Atlantic, Northeast, and Northwest States.

FEDERAL RAILROAD ADMINISTRATION

LOCAL RAIL FREIGHT ASSISTANCE

For expenses pursuant to subtitle 5 of the Department of Transportation Act (49 U.S.C.), to repair and rebuild rail lines of other than class I railroads as defined by the Surface Transportation Board or railroads owned or controlled by a class I railroad, having carried 5 million gross ton miles or less per mile during the prior year, and damaged as a result of the floods of 1996, $10,000,000: Provided, That for the purposes of administering this emergency relief, the Secretary of Transportation shall have authority to make funds available notwithstanding section 22101, (a)(1) and (3) and (d), sections 22102 to 22104, section 22105(a) and section 22108, (a) and (b) of 49 U.S.C. as the Secretary deems appropriate and shall consider the extent to which the State has available unexpended local rail freight assistance funds or available repaid loan funds: Provided further, That, notwithstanding 49 U.S.C. chapter 221, the Secretary may prescribe the form and time for applications for assistance made available herein: Provided further, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That all funds made available under this head are to remain available until September 30, 1997.

FEDERAL TRANSIT ADMINISTRATION

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For an additional amount for payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, $375,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

CHAPTER 6

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For an additional amount for "Community development grants", $100,000,000, to remain available until September 30, 1998, for emergency expenses and repairs related to recent Presidentially declared disaster areas, including up to $10,000,000 which may be made for rental subsidy contracts under the section 8 existing housing certificate program and the housing voucher program under section 8 of the United States Housing Act of 1937, as amended, except that such amount shall be available only for temporary housing assistance, not in excess of one year in duration, and shall not be subject to renewal: Provided, That the entire amount shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Disaster Relief", $150,000,000, to remain available until expended, which, in whole or in part, may be transferred to the Disaster Assistance Direct Loan Program Account for the cost of direct loans as authorized under section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.): Provided, That such transfer may be made to subsidize gross obligations for the principal amount of direct loans not to exceed $170,000,000 under section 417 of the Stafford Act: Provided further, That any such transfer of funds shall be made only upon certification by the Director of the Federal Emergency Management Agency that all requirements of section 417 of the Stafford Act will be complied with: Provided further, That the entire amount of this appropriation shall be available only to the extent that an official budget request for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER 7

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS FOR DEFENSE OF ISRAEL AGAINST TERRORISM

For emergency expenses necessary to meet unanticipated needs for the acquisition and provision of goods, services, and/or grants for Israel necessary to support the eradication of terrorism in and around Israel, $50,000,000: Provided, That none of the funds appropriated in this paragraph shall be available for obligation except through the regular notification procedures of the Committees on Appropriations: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AGENCY FOR INTERNATIONAL DEVELOPMENT

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

For an additional amount for "Assistance for Eastern Europe and the Baltic States" for Bosnia and Herzegovina, including demining assistance, $200,000,000, of which amount $5,000,000 shall be used for the administrative expenses of the U.S. Agency for International Development: Provided, That not to exceed $5,000,000 of such funds and any other funds appropriated under the same heading for fiscal year 1996 is available for the cost of modifying direct loans and loan guarantees, as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That contracts to carry out programs using such funds shall, to the maximum extent practicable, be entered into with companies organized under the laws of a State of the United States and organizations (including community chests, funds, foundations, non-incorporated businesses, and other institutions) organized in the United States: Provided further, That none of the funds appropriated or otherwise made available under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations: Provided further, That the entire amount appropriated is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That funds appropriated by this Act for economic reconstruction may only be made available for projects, activities, or programs within the sector assigned to American forces of the NATO Military Implementation Force (IFOR) and Sarajevo: Provided further, That priority consideration shall be given to projects and activities designated in the IFOR "Task Force Eagle civil military project list": Provided further, That no funds made available under this Act, or any other Act, may be obligated for the purposes of rebuilding or repairing housing in

areas where refugees or displaced persons are refused the right of return by Federation or local authorities due to ethnicity or political party affiliation: Provided further, That no funds may be made available under this heading in this Act, or any other Act, to any banking or financial institution in Bosnia and Herzegovina unless such institutions agree in advance, and in writing, to allow the United States General Accounting Office access for the purposes of audit of the use of United States assistance: Provided further, That effective ninety days after the date of enactment of this Act, none of the funds appropriated under this heading may be made available for the purposes of economic reconstruction in Bosnia and Herzegovina unless the President determines and certifies in writing to the Committee on Appropriations that the aggregate bilateral contributions pledged by non-United States donors for economic reconstruction are at least equivalent to the United States bilateral contributions made under this Act and in the fiscal year 1995 and fiscal year 1996 Foreign Operations, Export Financing and Related Programs Appropriations bills.

Except for funds made available for demining activities, no funds may be provided under this heading in this Act until the President certifies to the Committees on Appropriations that:

(1) The Federation of Bosnia and Herzegovina is in compliance with Article III, Annex 1A of the Dayton Agreement; and

(2) Intelligence cooperation on training, investigations, or related activities between Iranian officials and Bosnian officials has been terminated.

MILITARY ASSISTANCE

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for "Foreign Military Financing Program" for grants for Jordan pursuant to section 23 of the Arms Export Control Act, $70,000,000: Provided, That such funds may be used for Jordan to finance transfers by lease of defense articles under chapter 6 of such Act.

CHAPTER 8

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $244,400,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $11,700,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $2,600,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $27,300,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $195,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", $900,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $190,000,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $79,800,000.

PROCUREMENT

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force", $26,000,000.

GENERAL PROVISION

(TRANSFER OF FUNDS)

SEC. 801. Section 8005 of the Department of Defense Appropriations Act, 1996 (Public Law 104–61), is amended by striking out "$2,400,000,000" and inserting in lieu thereof "$2,700,000,000".

SEC. 802. Notwithstanding any other provision of law, funds appropriated in the Department of Defense Appropriations Act, 1996 (Public Law 104–61) under the heading "Aircraft Procurement, Air Force" may be obligated for advance procurement and procurement of F–15E aircraft.

SEC. 803. Funds appropriated under the heading, "Aircraft Procurement, Air Force," in Public Laws 104–61, 103–335, and 103–139 that are or remain available for C–17 airframes, C–17 aircraft engines, and complementary widebody aircraft/NDAA may be used for multiyear procurement contracts for C–17 aircraft: Provided, That the duration of multiyear contracts awarded under the authority of this section may be for a period not to exceed seven program years, notwithstanding section 2306b(1) of title 10, United States Code: Provided further, That the authority under this section may not be used to enter into a multiyear procurement contract until the earlier of (1) May 24, 1996, or (2) the day after the date of the enactment of an Act that contains a provision authorizing the Department of Defense to enter into a multiyear contract for the C–17 aircraft program.

SEC. 804. (a) In addition to the amounts made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $50,000,000 is hereby made available to continue the activities of the semiconductor manufacturing consortium known as Sematech.

(b) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Army", $7,000,000 are rescinded.

(c) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Navy", $12,500,000 are rescinded.

(d) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Air Force", $16,000,000 are rescinded.

(e) Of the funds made available in Public Law 104–61 under the heading "Research, Development, Test and Evaluation, Defense-Wide", $14,500,000 are rescinded.

(f) Of the funds rescinded under subsection (e) of this provision, none of the reduction shall be applied to the Ballistic Missile Defense Organization.

SEC. 805. Of the funds appropriated in title II of Public Law 104–61, under the heading "Overseas Humanitarian, Disaster, and Civic Aid", for training and activities related to the clearing of landmines for humanitarian purposes, up to $15,000,000 may be transferred to "Operations and Maintenance, Defense Wide", to be available for the payment of travel, transportation and subsistence expenses of Department of Defense personnel incurred in carrying out humanitarian assistance activities related to the detection and clearance of landmines.

SEC. 806. Notwithstanding any other provision of law, $15,000,000 made available for "Operations and Maintenance, Army" in P.L. 104–61 shall be obligated for the remediation of environmental contamination at the National Presto Industries, Inc. site in Eau Claire, Wisconsin. These funds shall be obligated only for the implementation and execution of the 1988 agreement between the Department of the Army and National Presto Industries, Inc.

SEC. 807. (a) Subsection (b) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding after paragraph (3), flush to the subsection margin, the following:

"Notwithstanding any other provision of law, including the matter under the heading 'NATIONAL SECURITY EDUCATION TRUST FUND' in title VII of Public Law 104–61, the work of an individual accepting a scholarship or fellowship under the program shall be the work specified in paragraph (2), or such other work as the individual and the Secretary agree upon under an agreement having modified service requirements pursuant to subsection (f).".

(b) Such section is further amended by adding at the end the following:

"(f) AUTHORITY TO MODIFY SERVICE AGREEMENT REQUIREMENTS.—The Secretary shall have sole authority to modify, amend, or revise the requirements under subsection (b) that apply to service agreements.".

(c) Subsection (a) of such section is amended by adding at the end the following:

"(5) EMPLOYMENT OPPORTUNITY OUTREACH.—The Secretary shall take appropriate actions to make available to recipients of scholarships or fellowships under the program information on employment opportunities in the departments and agencies of the Federal Government having responsibility for national security matters.".

SEC. 808. (a)(1) Section 1177 of title 10, United States Code, relating to mandatory discharge or retirement of members of the Armed Forces infected with HIV–1 virus, is repealed.

(2) The table of sections at the beginning of chapter 59 of such title is amended by striking out the item relating to section 1177.

(b) Subsection (b) of section 567 of the National Defense Authorization Act for Fiscal Year 1996 is repealed.

(TRANSFER OF FUNDS)

SEC. 809. Of the funds appropriated or otherwise made available in title IV of the Department of Defense Appropriations Act, 1996 (Public Law 104–61) under the paragraph "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", $44,900,000 are transferred to and merged with funds appropriated or otherwise made available under title II of that Act under the paragraph "OPERATION AND MAINTENANCE, AIR FORCE" and shall be available for obligation and expenditure for the operation and maintenance of 94 B–52H bomber aircraft in active status or in attrition reserve.

SEC. 810. Of the funds made available in Public Law 104–61 under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", $500,000 of the funds provided for the Advanced Research Projects Agency may be available to purchase photographic technology to support research in detonation physics: Provided, That the Director of Defense Research and Engineering shall provide the congressional defense committees on appropriations with a plan for the acquisition and use of this instrument no later than April 29, 1996.

SEC. 811. Of the funds made available in Public Law 104–61 under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE", up to $2,000,000 of the funds provided for the Joint DoD-DoE Munitions Technology Development program element shall be used to develop and test an open-architecture machine tool controller.

CHAPTER 9

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For an additional amount for "North Atlantic Treaty Organization Security Investment Program", $37,500,000, to remain available until expended: Provided, That the Secretary of Defense may make additional contributions for the North Atlantic Treaty Organization as provided

in section 2806 of title 10, United States Code: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS

SEC. 901. LAND CONVEYANCE, ARMY RESERVE CENTER, GREENSBORO, ALABAMA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to Hale County, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 5.17 acres and located at the Army Reserve Center, Greensboro, Alabama, that was conveyed by Hale County, Alabama, to the United States by warranty deed dated September 12, 1988.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under subsection (a) shall be as described in the deed referred to in that subsection.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

CHAPTER 10

RESCINDING CERTAIN BUDGET AUTHORITY

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

SUBSIDY APPROPRIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 104–107, $25,000,000 are rescinded.

DEPARTMENT OF DEFENSE—MILITARY

PROCUREMENT

MISSILE PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $310,000,000 are rescinded.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $265,000,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 103–335, $245,000,000 are rescinded.

CHAPTER 11

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT

EXECUTIVE OFFICE OF THE PRESIDENT AND

FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses," $3,900,000.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

(RESCISSION)

Of the funds made available for installment acquisition payments under this heading in Public Law 104–52, $3,500,000 are rescinded: Provided, That of the funds made available for advance design under this heading in Public Law 104–52, $200,000 are rescinded: Provided further, That the aggregate amount made available to the Fund shall be $5,062,449,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in public law 104–52, $200,000 are rescinded.

CHAPTER 12

GENERAL PROVISIONS

SEC. 1201. In administering funds provided herein for domestic assistance, the Secretary of any involved department may waive or specify alternative requirements for any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or any use of the recipient of these funds, except for the requirement related to civil rights, fair housing and nondiscrimination, the environment, and labor standards, upon finding that such waiver is required to facilitate the obligation and use of such funds would not be inconsistent with the overall purpose of the statute or regulation.

SEC. 1202. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1203. ALLOCATION OF FUNDS.

Notwithstanding any other provision of this title, funds made available under this title for emergency or disaster assistance programs of the Department of Agriculture, Department of Housing and Urban Development, Economic Development Administration, National Park Service, Small Business Administration, and United States Fish and Wildlife Service shall be allocated in accordance with the established prioritization process of the respective Department, Administration, or Service.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Federal Bureau of Investigation's efforts in the United States to combat Middle Eastern terrorism, $7,000,000, to remain available until expended: Provided, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: Provided further, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for emergency expenses necessary to enhance the Office of Foreign Assets Control's efforts in the United States to combat Middle Eastern terrorism, $3,000,000, to remain available until expended: Provided, That such activities shall include efforts to enforce Executive Order 12947 ("Prohibiting Transactions with Terrorists Who Threaten to Disrupt the Middle East Peace Process") to prevent fundraising in the United States on the behalf of organizations that support terror to undermine the peace process: Provided further, That the entire amount is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the entire amount, shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted to Congress.

This title may be cited as the "Emergency Supplemental Appropriations Act of 1996".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 3001. The President may make available funds for population planning activities or other population assistance pursuant to programs under title II and title IV of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996, Public Law 104–107, notwithstanding the provisions of section 518A of such Act, if he determines and reports to the Congress that the effects of those restrictions would be that the demand for family planning services would be less likely to be met and that there would be a significant increase in abortions than would otherwise be the case in the absence of such restrictions.

SEC. 3002. Section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)) is amended—

(1) in the heading, by striking "GRANTS" and inserting "ASSISTANCE";

(2) in paragraph (1), by striking "award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered" and inserting "assist persons engaged in commercial fisheries by providing direct assistance to those persons or by providing indirect assistance to those persons through assistance to agencies of States and political subdivisions thereof and to nonprofit organizations, for projects or other measures designed to alleviate harm that the Secretary determines was incurred";

(3) in paragraph (3), by striking "a grant" and inserting "direct assistance to a person";

(4) by striking "gross revenues annually," in paragraph (3) and inserting "net annual revenue from commercial fisheries,";

(5) by striking paragraph (4) and inserting the following:

"(4) Assistance may not be provided under this subsection as part of a fishing capacity reduction program in a fishery unless the Secretary determines that—

"(A) adequate conservation and management measures are in place in that fishery; and

"(B) adequate measures are in place to prevent the replacement of fishing capacity eliminated by the program in that fishery."; and

(6) in paragraph (5), by striking "for awarding grants" and all that follows through the end of the paragraph and inserting "for providing assistance under this subsection.".

SEC. 3003. BONNEVILLE POWER ADMINISTRATION REFINANCING.

(a) DEFINITIONS.—

For the purposes of this section—

(1) "Administrator" means the Administrator of the Bonneville Power Administration;

(2) "capital investment" means a capitalized cost funded by Federal appropriations that—

(A) is for a project, facility, or separable unit or feature of a project or facility;

(B) is a cost for which the Administrator is required by law to establish rates to repay to the United States Treasury through the sale of electric power, transmission, or other services;

(C) excludes a Federal irrigation investment; and

(D) excludes an investment financed by the current revenues of the Administrator or by bonds issued and sold, or authorized to be issued and sold, by the Administrator under section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k);

(3) "new capital investment" means a capital investment for a project, facility, or separable unit or feature of a project or facility, placed in service after September 30, 1996;

(4) "old capital investment" means a capital investment the capitalized cost of which—

(A) was incurred, but not repaid, before October 1, 1996, and

(B) was for a project, facility, or separable unit or feature of a project or facility, placed in service before October 1, 1996;

(5) "repayment date" means the end of the period within which the Administrator's rates are to assure the repayment of the principal amount of a capital investment; and

(6) "Treasury rate" means—

(A) for an old capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding October 1, 1996, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between October 1, 1996, and the repayment date for the old capital investment; and

(B) for a new capital investment, a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the new capital investment.

(b) NEW PRINCIPAL AMOUNTS.—

(1) PRINCIPAL AMOUNT.—Effective October 1, 1996, an old capital investment has a new principal amount that is the sum of—

(A) the present value of the old payment amounts for the old capital investment, calculated using a discount rate equal to the Treasury rate for the old capital investment; and

(B) an amount equal to $100,000,000 multiplied by a fraction whose numerator is the principal amount of the old payment amounts for the old capital investment and whose denominator is the sum of the principal amounts of the old payment amounts for all old capital investments.

(2) DETERMINATION.—With the approval of the Secretary of the Treasury based solely on consistency with this section, the Administrator shall determine the new principal amounts under subsection (b) and the assignment of interest rates to the new principal amounts under subsection (c).

(3) OLD PAYMENT AMOUNTS.—For the purposes of this subsection, "old payment amounts" means, for an old capital investment, the annual interest and principal that the Administrator would have paid to the United States Treasury from October 1, 1996, if this section had not been enacted, assuming that—

(A) the principal were repaid—

(i) on the repayment date the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned a repayment date before October 1, 1994, on a repayment date the Administrator shall assign to the old capital investment in accordance with paragraph 10(d)(1) of the version of Department of Energy Order RA 6120.2 in effect on October 1, 1994; and

(B) interest were paid—

(i) at the interest rate the Administrator assigned before October 1, 1994, to the old capital investment, or

(ii) with respect to an old capital investment for which the Administrator has not assigned an interest rate before October 1, 1994, at a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year in which the related project, facility, or separable unit or feature is placed in service, on outstanding interest-bearing obligations of the United States with periods to maturity comparable to the period between the beginning of the fiscal year and the repayment date for the old capital investment.

(c) INTEREST RATE FOR NEW PRINCIPAL AMOUNTS.—

As of October 1, 1996, the unpaid balance on the new principal amount established for an old capital investment under subsection (b) bears interest annually at the Treasury rate for the old capital investment until the earlier of the date that the new principal amount is repaid or the repayment date for the new principal amount.

(d) REPAYMENT DATES.—

As of October 1, 1996, the repayment date for the new principal amount established for an old capital investment under subsection (b) is no earlier than the repayment date for the old capital investment assumed in subsection (b)(3)(A).

(e) PREPAYMENT LIMITATIONS.—

During the period October 1, 1996, through September 30, 2001, the total new principal amounts of old capital investments, as established under subsection (b), that the Administrator may pay before their respective repayment dates shall not exceed $100,000,000.

(f) INTEREST RATES FOR NEW CAPITAL INVESTMENTS DURING CONSTRUCTION.—

(1) NEW CAPITAL INVESTMENT.—The principal amount of a new capital investment includes interest in each fiscal year of construction of the related project, facility, or separable unit or feature at a rate equal to the one-year rate for the fiscal year on the sum of—

(A) construction expenditures that were made from the date construction commenced through the end of the fiscal year, and

(B) accrued interest during construction.

(2) PAYMENT.—The Administrator is not required to pay, during construction of the project, facility, or separable unit or feature, the interest calculated, accrued, and capitalized under subsection (f)(1).

(3) ONE-YEAR RATE.—For the purposes of this section, "one-year rate" for a fiscal year means a rate determined by the Secretary of the Treasury, taking into consideration prevailing market yields, during the month preceding the beginning of the fiscal year, on outstanding interest-bearing obligations of the United States with periods to maturity of approximately one year.

(g) INTEREST RATES FOR NEW CAPITAL INVESTMENTS.—

The unpaid balance on the principal amount of a new capital investment bears interest at the Treasury rate for the new capital investment from the date the related project, facility, or separable unit or feature is placed in service until the earlier of the date the new capital investment is repaid or the repayment date for the new capital investment.

(h) CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY.—

The Confederated Tribe of the Colville Reservation Grand Coulee Dam Settlement Act (Public Law No. 103-436; 108 Stat. 4577) is amended by striking section 6 and inserting the following:

"SEC. 6. CREDITS TO ADMINISTRATOR'S REPAYMENT TO THE UNITED STATES TREASURY

So long as the Administrator makes annual payments to the tribes under the settlement agreement, the Administrator shall apply against amounts otherwise payable by the Administrator to the United States Treasury a credit that reduces the Administrator's payment, in the amount and for each fiscal year as follows: $15,860,000 in fiscal year 1997; $16,490,000 in fiscal year 1998; $17,150,000 in fiscal year 1999; $17,840,000 in fiscal year 2000; $18,550,000 in fiscal year 2001; and $4,600,000 in each succeeding fiscal year.".

(i) CONTRACT PROVISIONS.—

In each contract of the Administrator that provides for the Administrator to sell electric power, transmission, or related services, and that is in effect after September 30, 1996, the Administrator shall offer to include, or as the case may be, shall offer to amend to include, provisions specifying that after September 30, 1996—

(1) the Administrator shall establish rates and charges on the basis that—

(A) the principal amount of an old capital investment shall be no greater than the new principal amount established under subsection (b);

(B) the interest rate applicable to the unpaid balance of the new principal amount of an old capital investment shall be no greater than the interest rate established under subsection (c);

(C) any payment of principal of an old capital investment shall reduce the outstanding principal balance of the old capital investment in the amount of the payment at the time the payment is tendered; and

(D) any payment of interest on the unpaid balance of the new principal amount of an old capital investment shall be a credit against the appropriate interest account in the amount of the payment at the time the payment is tendered;

(2) apart from charges necessary to repay the new principal amount of an old capital investment as established under subsection (b) and to pay the interest on the principal amount under subsection (c), no amount may be charged for return to the United States Treasury as repayment for or return on an old capital investment, whether by way of rate, rent, lease payment, assessment, user charge, or any other fee;

(3) amounts provided under section 1304 of title 31, United States Code, shall be available to pay, and shall be the sole source for payment of, a judgment against or settlement by the Administrator or the United States on a claim for a breach of the contract provisions required by this Part; and

(4) the contract provisions specified in this Part do not—

(A) preclude the Administrator from recovering, through rates or other means, any tax that is generally imposed on electric utilities in the United States, or

(B) affect the Administrator's authority under applicable law, including section 7(g) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(g)), to—

(i) allocate costs and benefits, including but not limited to fish and wildlife costs, to rates or resources, or

(ii) design rates.

(j) SAVINGS PROVISIONS.—

(1) REPAYMENT.—This subchapter does not affect the obligation of the Administrator to repay the principal associated with each capital investment, and to pay interest on the principal, only from the "Administrator's net proceeds," as defined in section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k(b)).

(2) PAYMENT OF CAPITAL INVESTMENT.—Except as provided in subsection (e), this section does not affect the authority of the Administrator to pay all or a portion of the principal amount associated with a capital investment before the repayment date for the principal amount.

SEC. 3004. Notwithstanding any other provision of law, of the amounts made available under the Federal Transit Administration's Discretionary Grants program for Kauai, Hawaii in Public Law 103-122 and Public Law 103-311, $3,250,000 shall be transferred to and administered in accordance with 49 U.S.C. 5307 and made available for operating expenses to Kauai, Hawaii.

SEC. 3005. The Secretary shall advance emergency relief funds to the State of Missouri for the replacement in kind of the Hannibal Bridge on the Mississippi River damaged by the 1993 floods notwithstanding the provisions of section 125 of title 23, United States Code: Provided, That this provision shall be subject to the Federal Share provisions of section 120, title 123, United States Code.

SEC. 3006. (a) SURFACE TRANSPORTATION PROGRAM.—Notwithstanding section 133 of title 23, United States Code, for fiscal year 1996 and each subsequent fiscal year, the State of Vermont may obligate funds apportioned to the State for the surface transportation program established under section 133 of the title for—

(1) construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for railroads, including any such construction or reconstruction necessary to accommodate other transportation modes;

(2) all eligible activities under section 5311 of title 49, United States Code, and publicly owned rail passenger terminals and facilities, including terminals and facilities owned by the National Railroad Passenger Corporation;

(3) capital costs for passenger rail services; and

(4) beginning in fiscal year 1997, operating costs for passenger rail services.

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Notwithstanding section 149 of title 23, United States Code, for fiscal year 1996 and each subsequent fiscal year, the State of Vermont may obligate funds apportioned to the State for the congestion mitigation and air quality improvement program established under the section for a transportation project or program that—

(1) is for an area in the State described in the matter preceding paragraph (1) of section 149(b) of the title; and

(2) will have air quality benefits through construction of, and operational improvements for, intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by the State for a fiscal year under this subsection may be obligated for operating support.

SEC. 3007. Any funds heretofore appropriated and made available in Public Law 102-104 and Public Law 102-377 to carry out the provisions for the project for navigation, St. Louis Harbor, Missouri and Illinois; may be utilized by the Secretary of the Army in carrying out the Upper Mississippi and Illinois Waterway System Navigation Study, Iowa, Illinois, Missouri, Wisconsin, Minnesota, in fiscal year 1996 or until expended.

SEC. 3008. The Secretary of Health and Human Services shall grant a waiver of the requirements set forth in section 1903(m)(2)(A)(ii) of the Social Security Act to D.C. Chartered Health Plan, Inc. of the District of Columbia: Provided, That such waiver shall be deemed to have been in place for all contract periods from October 1, 1991 through the current contract period or October 1, 1999, whichever shall be later.

SEC. 3009. Of the funds appropriated by Public Law 104-37 or otherwise made available to the Food Safety and Inspection Service for fiscal year 1996, not less than $363,000,000 shall be available for salaries and benefits of in-plant personnel: Provided, That this limitation shall not apply if the Secretary of Agriculture certifies to the House and Senate Committees on Appropriations that a lesser amount will be adequate to fully meet in-plant inspection requirements for the fiscal year.

SEC. 3010. The appropriation for the Arms Control and Disarmament Agency in Public Law 103-317 (108 Stat. 1768) is amended by deleting after "until expended" the following: "only for activities related to the implementation of the Chemical Weapons Convention": Provided, That amounts made available shall not be used to undertake new programs or to increase employment above levels on board at the time of enactment of this Act.

SEC. 3011. Section 347(b)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (P.L. 104-50), is amended to read as follows:

"(3) chapter 71, relating to labor-management relations,".

SEC. 3012. Within its Mission to Planet Earth program, NASA is urged to fund Phase A studies for a radar satellite initiative.

SEC. 3013. ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State or local government that receives Federal financial assistance, may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—In determining whether to grant a legal status to a health care entity (including a license or certificate), or to provide such entity with financial assistance, services or other benefits, the Federal Government, or any State or local government that receives Federal financial assistance, shall deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an accreditation standards that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions. The government involved shall formulate such regulations or other mechanisms, or enter into such agreements with accrediting agencies, as are necessary to comply with this subsection.

"(2) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(B) EXCEPTIONS.—This section shall not—

"(i) prevent any health care entity from voluntarily electing to be trained, to train, or to arrange for training in the performance of, to perform, or to make referrals for induced abortions; or

"(ii) prevent an accrediting agency or a Federal, State or local government from establishing standards of medical competency applicable only to those individuals who have voluntarily elected to perform abortions.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".

SEC. 3014. (a) The Senate finds that:

(1) Record low temperatures across the country this winter, coupled with record snowfalls in many areas, have generated substantial and sustained demand among eligible low-income Americans for home heating assistance, and put many who face heating-related crises at risk.

(2) Home heating assistance for working and low-income families with children, the elderly on fixed incomes, the disabled, and others who need such help is a critical part of the social safety net in cold-weather areas.

(3) The President has released approximately $900,000,000 in regular Low Income Home Energy Assistance Program (LIHEAP) funding for this year, compared to a funding level of $1,319,000,000 last year, and a large LIHEAP funding shortfall remains which has adversely affected eligible recipients in many cold-weather States.

(4) LIHEAP is a highly targeted, cost-effective way to help approximately 6 million low-income Americans to pay their energy bills. More than two-thirds of LIHEAP-eligible households have annual incomes of less than $8,000; more than one-half have annual incomes below $6,000.

(5) LIHEAP program funding has been substantially reduced in recent years, and cannot sustain any further spending cuts if the program is to remain a viable means of meeting the home heating and other energy-related needs of low-income people in cold-weather States.

(6) Traditionally, LIHEAP has received advance appropriations for the next fiscal year. This allows States to properly plan for the upcoming winter and best serve the energy needs of low-income families.

(7) Congress was not able to pass an appropriations bill for the Departments of Labor, Health and Human Services, and Education by the beginning of this fiscal year and it was only because LIHEAP received advance appropriations last fiscal year that the President was able to release the $578,000,000 he did in December—the bulk of the funds made available to the States this winter.

(8) There is currently available to the President up to $300,000,000 in emergency LIHEAP funding, which could be made available immediately, on a targeted basis, to meet the urgent home heating needs of eligible persons who otherwise could be faced with heating-related emergencies, including shut-offs, in the coming weeks.

(b) Therefore, it is the sense of the Senate that—

(1) the President should release immediately a substantial portion of available emergency funding for the Low Income Home Energy Assistance Program for fiscal year 1996, to help meet continuing urgent needs for home heating assistance during this unusually cold winter; and

(2) not less than the $1,000,000,000 in regular advance-appropriated LIHEAP funding for next winter provided for in this bill should be retained in a House-Senate conference on this measure.

SEC. 3015. LAND EXCHANGE

(a) SHORT TITLE.—This section may be cited as the "Greens Creek Land Exchange Act of 1996".

(b) FINDINGS.—The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act established the Admiralty Island National Monument and sections 503 and 504 of that Act provided special provisions under which the Greens Creek Claims would be developed. The provisions supplemented the general mining laws under which these claims were staked.

(2) The Kennecott Greens Creek Mining Company, Inc., currently holds title to the Greens Creek Claims, and the area surrounding these claims has further mineral potential which is yet unexplored.

(3) Negotiations between the United States Forest Service and the Kennecott Greens Creek Mining Company, Inc., have resulted in an agreement by which the area surrounding the Greens Creek Claims could be explored and developed under terms and conditions consistent with the protection of the values of the Admiralty Island National Monument.

(4) The full effectuation of the Agreement, by its terms, requires the approval and ratification by Congress.

(c) DEFINITIONS.—As used in this section—

(1) the term "Agreement" means the document entitled the "Greens Creek Land Exchange Agreement" executed on December 14, 1994, by the Under Secretary of Agriculture for Natural Resources and Environment on behalf of the United States and the Kennecott Greens Creek Mining Company and Kennecott Corporation;

(2) the term "ANILCA" means the Alaska National Interest Lands Conservation Act, Public Law 96–487 (94 Stat. 2371);

(3) the term "conservation system unit" has the same meaning as defined in section 102(4) of ANILCA;

(4) the term "Greens Creek Claims" means those patented mining claims of Kennecott Greens Creek Mining Company within the Monument recognized pursuant to section 504 of ANILCA;

(5) the term "KGCMC" means the Kennecott Greens Creek Mining Company, Inc., a Delaware corporation;

(6) the term "Monument" means the Admiralty Island National Monument in the State of Alaska established by section 503 of ANILCA;

(7) the term "Royalty" means Net Island Receipts Royalty as that latter term is defined in Exhibit C to the Agreement; and

(8) the term "Secretary" means the Secretary of Agriculture.

(d) RATIFICATION OF THE AGREEMENT.—The Agreement is hereby ratified and confirmed as to the duties and obligations of the United States and its agencies, and KGCMC and Kennecott Corporation, as a matter of Federal law. The agreement may be modified or amended, without further action by the Congress, upon written agreement of all parties thereto and with notification in writing being made to the appropriate committees of the Congress.

(e) IMPLEMENTATION OF THE AGREEMENT.—

(1) LAND ACQUISITION.—Without diminishment of any other land acquisition authority of the Secretary in Alaska and in furtherance of the purposes of the Agreement, the Secretary is authorized to acquire lands and interests in land within conservation system units in the Tongass National Forest, and any land or interest in land so acquired shall be administered by the Secretary as part of the National Forest System and any conservation system unit in which it is located. Priority shall be given to acquisition of non-Federal lands within the Monument.

(2) ACQUISITION FUNDING.—There is hereby established in the Treasury of the United States an account entitled the 'Greens Creek Land Exchange Account' into which shall be deposited the first $5,000,000 in royalties received by the United States under part 6 of the Agreement after the distribution of the amounts pursuant to paragraph (3) of this subsection. Such moneys in the special account in the Treasury may, to the extent provided in appropriations Acts, be used for land acquisition pursuant to paragraph (1) of this subsection.

(3) TWENTY-FIVE PERCENT FUND.—All royalties paid to the United States under the Agreement shall be subject to the 25 percent distribution provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) relating to payments for roads and schools.

(4) MINERAL DEVELOPMENT.—Notwithstanding any provision of ANILCA to the contrary, the lands and interests in lands being conveyed to KGCMC pursuant to the Agreement shall be available for mining and related activities subject to and in accordance with the terms of the Agreement and conveyances made thereunder.

(5) ADMNISTRATION.—The Secretary of Agriculture is authorized to implement and administer the rights and obligations of the Federal Government under the Agreement, including monitoring the Government's interests relating to extralateral rights, collecting royalties, and conducting audits. The Secretary may enter into cooperative arrangements with other Federal agencies for the performance of any Federal rights or obligations under the Agreement or this Act.

(6) REVERSIONS.—Before reversion to the United States of KGCMC properties located on Admiralty Island, KGCMC shall reclaim the surface disturbed in accordance with an approved plan of operations and applicable laws and regulations. Upon reversion to the United States of KGCMC properties located on Admiralty, those properties located within the Monument shall become part of the Monument and those properties lying outside the Monument shall be managed as part of the Tongass National Forest.

(7) SAVINGS PROVISIONS.—Implementation of the Agreement in accordance with this section shall not be deemed a major Federal action significantly affecting the quality of the human environment, nor shall implementation require further consideration pursuant to the National Historic Preservation Act, title VIII of ANILCA, or any other law.

(f) RECISION RIGHTS.—Within 60 days of the enactment of this section, KGCMC and Kennecott Corporation shall have a right to rescind all rights under the Agreement and this section. Recision shall be effected by a duly authorized resolution of the Board of Directors of either KGCMC or Kennecott Corporation and delivered to the Chief of the Forest Service at the Chief's principal office in Washington. District of Columbia. In the event of a recision, the status quo ante provisions of the Agreement shall apply.

SEC. 3016. SEAFOOD SAFETY.

Notwithstanding any other provision of law, any domestic fish or fish product produced in compliance with food safety standards or procedures accepted by the Food and Drug Administration as satisfying the requirements of the "Procedures for the Safe and Sanitary Processing and Importing of Fish and Fish Products" (published by the Food and Drug Administration as a final regulation in the Federal Register of December 18, 1995), shall be deemed to have met any inspection requirements of the Department of Agriculture or other Federal agency for any Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) except that the Department of Agriculture or other Federal agency may utilize lot inspection to establish a reasonable degree of certainty that fish or fish products purchased under a Federal commodity purchase program, including the program authorized under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), meet Federal product specifications.

SEC. 3017. CONTINUED OPERATION OF AN EXISTING HYDROELECTRIC FACILITY IN MONTANA.

(a) Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other law requiring payment to the United States of an annual or other charge for the use, occupancy, and enjoyment of land by the holder of a license issued by the Federal Energy Regulatory Commission under part I of the Federal Power Act (16 U.S.C. 792 et seq.) for project numbered 1473: Provided, That the current licensee receives no payment or consideration for the transfer of the license a political subdivision of the State of Montana that accepts the license—

(1) shall not be required to pay such charges during the 5-year period following the date of acceptance; and

(2) after that 5-year period, and for so long as the political subdivision holds the license, shall not be required to pay such charges that exceed 100 percentum of the net revenues derived from the sale of electric power from the project.

(b) The provisions of subsection (a) shall not be effective if—

(1) a competing license application is filed within 90 days of the date of enactment of this Act; or

(2) the Federal Energy Regulatory Commission issues an order within 90 days of the date of enactment of this Act which makes a determination that in the absence of the reduction in charges provided by subsection (a) the license transfer will occur.

SEC. 3018. SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.—It is the sense of the Senate that the conference on S. 1594, making omnibus consolidated rescissions and appropriations for the fiscal year ending September 30, 1996, and for other purposes, shall find sufficient funding reductions to offset the costs of providing any Federal disaster assistance.

SEC. 3019. SENSE OF THE SENATE REGARDING THE BUDGET TREATMENT OF FEDERAL DISASTER ASSISTANCE.—It is the sense of the Senate that Congress and the relevant committees of the Senate shall examine the manner in which Federal disaster assistance is provided and develop a long-term funding plan for the budgetary treatment of any Federal assistance, providing for such funds out of existing budget allocation rather than taking the expenditures off budget and adding to the Federal deficit.

SEC. 3020. None of the funds made available by this Act or any previous Act shall be expended if such expenditure would cause total fiscal year 1996 non-defense discretionary expenditures for:

(1) Agriculture, rural development and related programs or activities contained in this or prior year Acts to exceed $13,581,000,000;

(2) Commerce, Justice, State, the Judiciary and related programs or activities contained in this or prior year Acts to exceed $23,762,000,000;

(3) Energy and water development programs or activities contained in this or prior year Acts to exceed $9,272,000,000;

(4) Foreign operations programs or activities contained in this or prior year Acts to exceed $13,867,000,000;

(5) Interior and related programs or activities contained in this or prior year Acts to exceed $13,215,000,000;

(6) Labor, Health and Human Services, Education and related programs or activities contained in this or prior year Acts to exceed $68,565,000,000;

(7) Transportation and related programs or activities contained in this or prior year Acts to exceed $36,756,000,000; and

(8) Veterans Affairs, Housing and independent agencies' programs or activities contained in this or prior year Acts to exceed $74,270,000,000: Provided, That the President shall report to the Committees on Appropriations within 30 days of the enactment into law of this Act on the implementation of this section: Provided further, That no more than 50 percent of the funds appropriated or otherwise made available for obligation for non-defense programs and activities in TITLE II—EMERGENCY APPROPRIATIONS—of this Act and containing an emergency designation shall be expended until the report mentioned in the preceding proviso is transmitted to the Committees on Appropriations.

SEC. 3021. WALLA WALLA MEDICAL CENTER.

(a) Designation.—The Walla Walla Veterans Medical Center located at 77 Wainwright Drive, Walla Walla, Washington, shall be known and designated as the "Jonathan M. Wainwright Memorial VA Medical Center".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Walla Walla Veterans Medical Center referred to in subsection (a) shall be deemed to be a reference to the "Jonathan M. Wainwright Memorial VA Medical Center".

SEC. 3022. PLAN FOR ALLOCATION OF HEALTH CARE RESOURCES BY DEPARTMENT OF VETERANS AFFAIRS.

(a) PLAN.—(1) The Secretary of Veterans Affairs shall develop a plan for the allocation of health care resources (including personnel and funds) of the Department of Veterans Affairs among the health care facilities of the Department so as to ensure that veterans having similar economic status, eligibility priority and, or, similar medical conditions who are eligible for medical care in such facilities have similar access to such care in such facilities regardless of the region of the United States in which such veterans reside.

(2) The Plan shall reflect, to the maximum extent possible, the Veterans Integrated Service Network, as well as the Resource Planning and Management System developed by the Department of Veterans Affairs to account for forecasts in expected workload and to ensure fairness to facilities that provide cost-efficient health care, and shall include procedures to identify reasons for variations in operating costs among similar facilities and ways to improve the allocation of resources so as to promote efficient use of resources and provision of quality health care.

(3) The Secretary shall prepare the plan in consultation with the Under Secretary of Health of the Department of Veterans Affairs.

(b) PLAN ELEMENTS.—The plan under subsection (a) shall set forth—

(1) milestones for achieving the goal referred to in that subsection; and

(2) a means of evaluating the success of the Secretary in meeting the goals through the plan.

(c) SUBMITTAL TO CONGRESS.—The Secretary shall submit to Congress the plan developed under subsection (a) not later than 180 days after the date of the enactment of this Act.

(d) PLAN IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) within 60 days of submitting such plan to Congress under subsection (b), unless within such period the Secretary notifies the appropriate Committees of Congress that such plan will not be implemented along with an explanation of why such plan will not be implemented.

SEC. 3023. COMPOSITION OF NATIONAL COMMISSION ON RESTRUCTURING THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 637(b)(2) of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104-52, 109 Stat. 509) is amended—

(1) by striking "thirteen" and inserting "seventeen", and

(2) in subparagraphs (B) and (D)—

(A) by striking "Two" and inserting "Four", and

(B) by striking "one from private life" and inserting "three from private life".

(b) 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.

TITLE IV—CONTINGENCY APPROPRIATIONS

CHAPTER 1

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

INDUSTRIAL TECHNOLOGY SERVICES

In addition to funds provided elsewhere in this Act, for necessary expenses of the Advanced Technology Program of the National Institute of Standards and Technology, $235,000,000, to remain available until expended: Provided, That none of the funds made available under this heading in this or any other Act may be used for the purposes of carrying out additional program competitions under the Advanced Technology Program: Provided further, That any unobligated balances from carryover of current and prior year appropriations under the Advanced Technology Program may be used only for the purposes of providing continuation grants.

TECHNOLOGY ADMINISTRATION

UNDER SECRETARY FOR TECHNOLOGY/OFFICE OF TECHNOLOGY POLICY

SALARIES AND EXPENSES

In addition to funds provided elsewhere in this Act, $2,000,000, to remain available until October 30, 1997, for grants to be awarded by the United States-Israel Science and Technology Commission.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SECURITY AND MAINTENANCE OF UNITED STATES MISSIONS

In addition to funds provided elsewhere in this Act for Security and Maintenance of United States Missions and under the same terms and conditions as are applicable to those funds under this Act, $8,500,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

In addition to funds provided elsewhere in this Act for Contributions to International Organizations and under the same terms and conditions as are applicable to those funds under this Act, $223,000,000.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

In addition to funds provided elsewhere in this Act for Contributions for International Peacekeeping Activities and under the same terms and conditions as are applicable to those funds under this Act, $215,000,000.

RELATED AGENCY

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

In addition to funds provided elsewhere in this Act, for payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $9,000,000 for basic field programs.

CHAPTER 2

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

PAYMENTS IN LIEU OF TAXES

In addition to funds provided elsewhere in this Act, $12,500,000.

NATIONAL PARK SERVICE

OPERATIONS OF THE NATIONAL PARK SYSTEM

In addition to funds provided elsewhere in this Act, $35,000,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

In addition to funds provided elsewhere in this Act, $35,000,000, to remain available until expended.

DEPARTMENT OF ENERGY

ENERGY CONSERVATION

In addition to funds provided elsewhere in this Act, $35,000,000, to remain available until expended.

CHAPTER 3

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES

SUBCHAPTER A—AMOUNTS

In addition to the amounts provided in Title I of this Act for the Department of Labor:

Under the heading "Training and Employment Services", $1,213,300,000, of which $487,300,000 is available for obligation for the period July 1, 1996 through June 30, 1997, and of which $91,000,000 is available from July 1, 1996, through September 30, 1997, for carrying out activities of the School-to-Work Opportunities Act, and of which $635,000,000 is for carrying out title II, part B of the Job Training Partnership Act;

Under the heading "State Unemployment Insurance and Employment Service Operations", $18,000,000, which shall be available for obligation for the period July 1, 1996 through June 30, 1997;

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Children and Families Services Programs", $136,700,000.

In addition to the amounts provided for in Title I of this Act for the Department of Education:

Under the heading "Education Reform", $151,000,000, which shall become available on October 1, 1996 and shall remain available through September 30, 1997: Provided, That $60,000,000 shall be for the Goals 2000: Educate Act and $91,000,000 shall be for the School-to-Work Opportunities Act.

Under the heading "Education for the Disadvantaged", $814,489,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997: Provided, That $700,228,000 shall be available for basic grants and $114,261,000 shall be for concentration grants.

Under the heading "School Improvement Programs", $208,000,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997.

Under the heading "Vocational and Adult Education", $82,750,000, which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997.

Under the heading "Student Financial Assistance", the maximum Pell Grant for which a student shall be eligible during award year 1996–1997 shall be increased by $60.00: Provided, That funding for title IV, part E shall be increased by $58,000,000 and funding for title IV, part A, subpart 4 shall be increased by $32,000,000.

Under the heading "Education Research, Statistics, and Improvement", $10,000,000 which shall become available for obligation on October 1, 1996 and shall remain available through September 30, 1997, shall be for sections 3136 and 3141 of the Elementary and Secondary Education Act.

SUBCHAPTER B—ADDITIONAL AMOUNTS

In addition to the amounts provided in Title I of this Act for the Department of Labor:

Under the heading "Departmental Management, Salaries and Expenses", $12,000,000, of which $10,000,000 shall be only for terminal leave, severance pay, and other costs directly related to the reduction of the number of employees in the Department.

In addition to the amounts provided for in Title I of this Act for the Department of Health and Human Services:

Under the heading "Health Resources and Services", $55,256,000: Provided, That $52,000,000 of such funds shall be used only for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act and shall be distributed to States as authorized by section 2618(b)(2) of such Act; and

Under the heading "Substance Abuse and Mental Health Services", $134,107,000.

SUBCHAPTER C—GENERAL PROVISIONS

Notwithstanding any other provision of this Act, section 4002 shall not apply to part 1 of chapter 3 of title IV.

ADMINISTRATION FOR CHILDREN AND FAMILIES

JOB OPPORTUNITIES AND BASIC SKILLS

(RESCISSION)

Of the funds made available under this heading elsewhere in this Act, there is rescinded an amount equal to the total of the funds within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year.

Section 403(k)(3)(F) of the Social Security Act (as amended by Public Law 100–485) is amended by adding: "reduced by an amount equal to the total of those funds that are within each State's limitation for fiscal year 1996 that are not necessary to pay such State's allowable claims for such fiscal year (except that such amount for such year shall be deemed to be $1,000,000,000 for the purpose of determining the amount of the payment under subsection (1) to which each State is entitled),".

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORIZATION)

Of the available contract authority balances under this account, $616,000,000 are rescinded.

SUBCHAPTER D—UNITED STATES ENRICHMENT CORPORATION PRIVATIZATION

SEC. 401. SHORT TITLE.

This subchapter may be cited as the "USEC Privatization Act".

SEC. 402. DEFINITIONS.

For purposes of this subchapter:

(1) The term "AVLIS" means atomic vapor laser isotope separation technology.

(2) The term "Corporation" means the United States Enrichment Corporation and, unless the context otherwise requires, includes the private corporation and any successor thereto following privatization.

(3) The term "gaseous diffusion plants" means the Paducah Gaseous Diffusion Plant at Paducah, Kentucky and the Portsmouth Gaseous Diffusion Plant at Piketon, Ohio.

(4) The term "highly enriched uranium" means uranium enriched to 20 percent or more of the uranium-235 isotope.

(5) The term "low-enriched uranium" means uranium enriched to less than 20 percent of the uranium-235 isotope, including that which is derived from highly enriched uranium.

(6) The term "low-level radioactive waste" has the meaning given such term in section 2(9) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b(9)).

(7) The term "private corporation" means the corporation established under section 405.

(8) The term "privatization" means the transfer of ownership of the Corporation to private investors.

(9) The term "privatization date" means the date on which 100 percent of the ownership of the Corporation has been transferred to private investors.

(10) The term "public offering" means an underwritten offering to the public of the common stock of the private corporation pursuant to section 404.

(11) The "Russian HEU Agreement" means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993.

(12) The term "Secretary" means the Secretary of Energy.

(13) The "Suspension Agreement" means the Agreement to Suspend the Antidumping Investigation on Uranium from the Russian Federation, as amended.

(14) The term "uranium enrichment" means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

SEC. 403. SALE OF THE CORPORATION.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer the interest of the United States in the United States Enrichment Corporation to the private sector in a manner that provides for the long-term viability of the Corporation, provides for the continuation by the Corporation of the operation of the Department of Energy's gaseous diffusion plants, provides for the protection of the public interest in maintaining a reliable and economical domestic source of uranium mining, enrichment and conversion services, and, to the extent not inconsistent with such purposes, secures the maximum proceeds to the United States.

(b) PROCEEDS.—Proceeds from the sale of the United States' interest in the Corporation shall be deposited in the general fund of the Treasury.

SEC. 404. METHOD OF SALE.

(a) AUTHORIZATION.—The Board of Directors of the Corporation, with the approval of the Secretary of the Treasury, shall transfer ownership of the assets and obligations of the Corporation to the private corporation established under section 405 (which may be consummated through a merger or consolidation effected in accordance with, and having the effects provided under, the law of the State of incorporation of the private corporation, as if the Corporation were incorporated thereunder).

(b) BOARD DETERMINATION.—The Board, with the approval of the Secretary of the Treasury, shall select the method of transfer and establish terms and conditions for the transfer that will provide the maximum proceeds to the Treasury of the United States and will provide for the long-term viability of the private corporation, the continued operation of the gaseous diffusion plants, and the public interest in maintaining reliable and economical domestic uranium mining and enrichment industries.

(c) ADEQUATE PROCEEDS.—The Secretary of the Treasury shall not allow the privatization of the Corporation unless before the sale date the Secretary of the Treasury determines that the method of transfer will provide the maximum proceeds to the Treasury consistent with the principles set forth in section 403(a).

(d) APPLICATION OF SECURITIES LAWS.—Any offering or sale of securities by the private corporation shall be subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the provisions of the Constitution and laws of any State, territory, or possession of the United States relating to transactions in securities.

(e) EXPENSES.—Expenses of privatization shall be paid from Corporation revenue accounts in the United States Treasury.

SEC. 405. ESTABLISHMENT OF PRIVATE CORPORATION.

(a) INCORPORATION.—(1) The directors of the Corporation shall establish a private for-profit corporation under the laws of a State for the purpose of receiving the assets and obligations of the Corporation at privatization and continuing the business operations of the Corporation following privatization.

(2) The directors of the Corporation may serve as incorporators of the private corporation and shall take all steps necessary to establish the private corporation, including the filing of articles of incorporation consistent with the provisions of this subchapter.

(3) Employees and officers of the Corporation (including members of the Board of Directors) acting in accordance with this section on behalf of the private corporation shall be deemed to be acting in their official capacities as employees or officers of the Corporation for purposes of section 205 of title 18, United States Code.

(b) STATUS OF THE PRIVATE CORPORATION.—(1) The private corporation shall not be an agency, instrumentality, or establishment of the United States, a Government corporation, or a Government-controlled corporation.

(2) Except as otherwise provided by this subchapter, financial obligations of the private corporation shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

(3) No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on actions of the private corporation.

(c) APPLICATION OF POST-GOVERNMENT EMPLOYMENT RESTRICTIONS.—Beginning on the privatization date, the restrictions stated in section 207 (a), (b), (c), and (d) of title 18, United States Code, shall not apply to the acts of an individual done in carrying out official duties as a director, officer, or employee of the private corporation, if the individual was an officer or employee of the Corporation (including a director) continuously during the 45 days prior to the privatization date.

(d) DISSOLUTION.—In the event that the privatization does not occur, the Corporation will provide for the dissolution of the private corporation within 1 year of the private corporation's incorporation unless the Secretary of the Treasury or his delegate, upon the Corporation's request, agrees to delay any such dissolution for an additional year.

SEC. 406. TRANSFERS TO THE PRIVATE CORPORATION.

Concurrent with privatization, the Corporation shall transfer to the private corporation—

(1) the lease of the gaseous diffusion plants in accordance with section 407,

(2) all personal property and inventories of the Corporation,

(3) all contracts, agreements, and leases under section 408(a),

(4) the Corporation's right to purchase power from the Secretary under section 408(b),

(5) such funds in accounts of the Corporation held by the Treasury or on deposit with any bank or other financial institution as approved by the Secretary of the Treasury, and

(6) all of the Corporation's records, including all of the papers and other documentary materials, regardless of physical form or characteristics, made or received by the Corporation.

SEC. 407. LEASING OF GASEOUS DIFFUSION FACILITIES.

(a) TRANSFER OF LEASE.—Concurrent with privatization, the Corporation shall transfer to the private corporation the lease of the gaseous diffusion plants and related property for the remainder of the term of such lease in accordance with the terms of such lease.

(b) RENEWAL.—The private corporation shall have the exclusive option to lease the gaseous diffusion plants and related property for additional periods following the expiration of the initial term of the lease.

(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—The Secretary shall not lease to the private corporation any facilities necessary for the production of highly enriched uranium but may, subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), grant the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before July 1, 1993, at the gaseous diffusion plants shall remain the sole responsibility of the Secretary.

(e) ENVIRONMENTAL AUDIT.—For purposes of subsection (d), the conditions existing before July 1, 1993, at the gaseous diffusion plants shall be determined from the environmental audit conducted pursuant to section 1403(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c-2(e)).

(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, under this section shall be deemed to be a contract for purposes of section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)).

(g) WAIVER OF EIS REQUIREMENT.—The execution or transfer of the lease between the Secretary and the Corporation or the private corporation, and any extension or renewal thereof, shall not be considered to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

SEC. 408. TRANSFER OF CONTRACTS.

(a) TRANSFER OF CONTRACTS.—Concurrent with privatization, the Corporation shall transfer to the private corporation all contracts, agreements, and leases, including all uranium enrichment contracts, that were—

(1) transferred by the Secretary to the Corporation pursuant to section 1401(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297c(b)), or

(2) entered into by the Corporation before the privatization date.

(b) NONTRANSFERABLE POWER CONTRACTS.—The Corporation shall transfer to the private corporation the right to purchase power from the Secretary under the power purchase contracts for the gaseous diffusion plants executed by the Secretary before July 1, 1993. The Secretary shall continue to receive power for the gaseous diffusion plants under such contracts and shall continue to resell such power to the private corporation at cost during the term of such contracts.

(c) EFFECT OF TRANSFER.—(1) Notwithstanding subsection (a), the United States shall remain obligated to the parties to the contracts, agreements, and leases transferred under subsection (a) for the performance of its obligations under such contracts, agreements, or leases during their terms. Performance of such obligations by the private corporation shall be considered performance by the United States.

(2) If a contract, agreement, or lease transferred under subsection (a) is terminated, extended, or materially amended after the privatization date—

(A) the private corporation shall be responsible for any obligation arising under such contract, agreement, or lease after any extension or material amendment, and

(B) the United States shall be responsible for any obligation arising under the contract, agreement, or lease before the termination, extension, or material amendment.

(3) The private corporation shall reimburse the United States for any amount paid by the United States under a settlement agreement entered into with the consent of the private corporation or under a judgment, if the settlement or judgment—

(A) arises out of an obligation under a contract, agreement, or lease transferred under subsection (a), and

(B) arises out of actions of the private corporation between the privatization date and the date of a termination, extension, or material amendment of such contract, agreement, or lease.

(d) PRICING.—The Corporation may establish prices for its products, materials, and services provided to customers on a basis that will allow it to attain the normal business objectives of a profit making corporation.

SEC. 409. LIABILITIES.

(a) LIABILITY OF THE UNITED STATES.—(1) Except as otherwise provided in this subchapter, all liabilities arising out of the operation of the uranium enrichment enterprise before July 1, 1993, shall remain the direct liabilities of the Secretary.

(2) Except as provided in subsection (a)(3) or otherwise provided in a memorandum of agreement entered into by the Corporation and the Office of Management and Budget prior to the privatization date, all liabilities arising out of the operation of the Corporation between July 1, 1993, and the privatization date shall remain the direct liabilities of the United States.

(3) All liabilities arising out of the disposal of depleted uranium generated by the Corporation between July 1, 1993, and the privatization date shall become the direct liabilities of the Secretary.

(4) Any stated or implied consent for the United States, or any agent or officer of the United States, to be sued by any person for any legal, equitable, or other relief with respect to any claim arising from any action taken by any agent or officer of the United States in connection with the privatization of the Corporation is hereby withdrawn.

(5) To the extent that any claim against the United States under this section is of the type otherwise required by Federal statute or regulation to be presented to a Federal agency or official for adjudication or review, such claim shall be presented to the Department of Energy in accordance with procedures to be established by the Secretary. Nothing in this paragraph shall be construed to impose on the Department of Energy liability to pay any claim presented pursuant to this paragraph.

(6) The Attorney General shall represent the United States in any action seeking to impose liability under this subsection.

(b) LIABILITY OF THE CORPORATION.—Notwithstanding any provision of any agreement to which the Corporation is a party, the Corporation shall not be considered in breach, default, or violation of any agreement because of the transfer of such agreement to the private corporation under section 408 or any other action the Corporation is required to take under this subchapter.

(c) LIABILITY OF THE PRIVATE CORPORATION.—Except as provided in this subchapter, the private corporation shall be liable for any liabilities arising out of its operations after the privatization date.

(d) LIABILITY OF OFFICERS AND DIRECTORS.—(1) No officer, director, employee, or agent of the Corporation shall be liable in any civil proceeding to any party in connection with any action taken in connection with the privatization if, with respect to the subject matter of the action, suit, or proceeding, such person was acting within the scope of his employment.

(2) This subsection shall not apply to claims arising under the Securities Act of 1933 (15 U.S.C. 77a. et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a. et seq.), or under the Constitution or laws of any State, territory, or possession of the United States relating to transactions in securities.

SEC. 410. EMPLOYEE PROTECTIONS.

(a) CONTRACTOR EMPLOYEES.—(1) Privatization shall not diminish the accrued, vested pension benefits of employees of the Corporation's operating contractor at the two gaseous diffusion plants.

(2) In the event that the private corporation terminates or changes the contractor at either or both of the gaseous diffusion plants, the plan sponsor or other appropriate fiduciary of the pension plan covering employees of the prior operating contractor shall arrange for the transfer of all plan assets and liabilities relating to accrued pension benefits of such plan's participants and beneficiaries from such plant to a pension plan sponsored by the new contractor or the private corporation or a joint labor-management plan, as the case may be.

(3) In addition to any obligations arising under the National Labor Relations Act (29 U.S.C. 151 et seq.), any employer (including the private corporation if it operates a gaseous diffusion plant without a contractor or any contractor of the private corporation) at a gaseous diffusion plant shall—

(A) abide by the terms of any unexpired collective bargaining agreement covering employees in bargaining units at the plant and in effect on the privatization date until the stated expiration or termination date of the agreement; or

(B) in the event a collective bargaining agreement is not in effect upon the privatization date, have the same bargaining obligations under section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) as it had immediately before the privatization date.

(4) If the private corporation replaces its operating contractor at a gaseous diffusion plant, the new employer (including the new contractor or the private corporation if it operates a gaseous diffusion plant without a contractor) shall—

(A) offer employment to non-management employees of the predecessor contractor to the extent that their jobs still exist or they are qualified for new jobs, and

(B) abide by the terms of the predecessor contractor's collective bargaining agreement until the agreement expires or a new agreement is signed.

(5) In the event of a plant closing or mass layoff (as such terms are defined in section 2101(a)(2) and (3) of title 29, United States Code) at either of the gaseous diffusion plants, the Secretary of Energy shall treat any adversely affected employee of an operating contractor at either plant who was an employee at such plant on July 1, 1993, as a Department of Energy employee for purposes of sections 3161 and 3162 of the National Defense Authorization Act for Fiscal Year 1993 (42 U.S.C. 7274h–7274i).

(6)(A) The Secretary and the private corporation shall cause the post-retirement health benefits plan provider (or its successor) to continue to provide benefits for eligible persons, as described under subparagraph (B), employed by an operating contractor at either of the gaseous diffusion plants in an economically efficient manner and at substantially the same level of coverage as eligible retirees are entitled to receive on the privatization date.

(B) Persons eligible for coverage under subparagraph (A) shall be limited to:

(i) persons who retired from active employment at one of the gaseous diffusion plants on or before the privatization date as vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant; and

(ii) persons who are employed by the Corporation's operating contractor on or before the privatization date and are vested participants in a pension plan maintained either by the Corporation's operating contractor or by a contractor employed prior to July 1, 1993, by the Department of Energy to operate a gaseous diffusion plant.

(C) The Secretary shall fund the entire cost of post-retirement health benefits for persons who retired from employment with an operating contractor prior to July 1, 1993.

(D) The Secretary and the Corporation shall fund the cost of post-retirement health benefits for persons who retire from employment with an operating contractor on or after July 1, 1993, in proportion to the retired person's years and months of service at a gaseous diffusion plant under their respective management.

(7)(A) Any suit under this subsection alleging a violation of an agreement between an employer and a labor organization shall be brought in accordance with section 301 of the Labor Management Relations Act (29 U.S.C. 185).

(B) Any charge under this subsection alleging an unfair labor practice violative of section 8 of the National Labor Relations Act (29 U.S.C. 158) shall be pursued in accordance with section 10 of the National Labor Relations Act (29 U.S.C. 160).

(C) Any suit alleging a violation of any provision of this subsection, to the extent it does not allege a violation of the National Labor Relations Act, may be brought in any district court of the United States having jurisdiction over the parties, without regard to the amount in controversy or the citizenship of the parties.

(b) FORMER FEDERAL EMPLOYEES.—(1)(A) An employee of the Corporation that was subject to either the Civil Service Retirement System (referred to in this section as "CSRS") or the Federal Employees' Retirement System (referred to in this section as "FERS") on the day immediately preceding the privatization date shall elect—

(i) to retain the employee's coverage under either CSRS or FERS, as applicable, in lieu of coverage by the Corporation's retirement system, or

(ii) to receive a deferred annuity or lump-sum benefit payable to a terminated employee under CSRS or FERS, as applicable.

(B) An employee that makes the election under subparagraph (A)(ii) shall have the option to transfer the balance in the employee's Thrift Savings Plan account to a defined contribution plan under the Corporation's retirement system, consistent with applicable law and the terms of the Corporation's defined contribution plan.

(2) The Corporation shall pay to the Civil Service Retirement and Disability Fund—

(A) such employee deductions and agency contributions as are required by sections 8334, 8422, and 8423 of title 5, United States Code, for those employees who elect to retain their coverage under either CSRS or FERS pursuant to paragraph (1);

(B) such additional agency contributions as are determined necessary by the Office of Personnel Management to pay, in combination with the sums under subparagraph (A), the "normal cost" (determined using dynamic assumptions) of retirement benefits for those employees who elect to retain their coverage under CSRS pursuant to paragraph (1), with the concept of "normal cost" being used consistent with generally accepted actuarial standards and principles; and

(C) such additional amounts, not to exceed two percent of the amounts under subparagraphs (A) and (B), as are determined necessary by the Office of Personnel Management to pay the cost of administering retirement benefits for employees who retire from the Corporation after the privatization date under either CSRS or FERS, for their survivors, and for survivors of employees of the Corporation who die after the privatization date (which amounts shall be available to the Office of Personnel Management as provided in section 8348(a)(1)(B) of title 5, United States Code).

(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required by section 8432 of title 5, United States Code, for those employees who elect to retain their coverage under FERS pursuant to paragraph (1).

(4) Any employee of the Corporation who was subject to the Federal Employee Health Benefits Program (referred to in this section as "FEHBP") on the day immediately preceding the privatization date and who elects to retain coverage under either CSRS or FERS pursuant to paragraph (1) shall have the option to receive health benefits from a health benefit plan established by the Corporation or to continue without interruption coverage under the FEHBP, in lieu of coverage by the Corporation's health benefit system.

(5) The Corporation shall pay to the Employees Health Benefits Fund—

(A) such employee deductions and agency contributions as are required by section 8906(a)–(f) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4); and

(B) such amounts as are determined necessary by the Office of Personnel Management under paragraph (6) to reimburse the Office of Personnel Management for contributions under section 8906(g)(1) of title 5, United States Code, for those employees who elect to retain their coverage under FEHBP pursuant to paragraph (4).

(6) The amounts required under paragraph (5)(B) shall pay the Government contributions for retired employees who retire from the Corporation after the privatization date under either CSRS or FERS, for survivors of such retired employees, and for survivors of employees of the Corporation who die after the privatization date, with said amounts prorated to reflect only that portion of the total service of such employees and retired persons that was performed for the Corporation after the privatization date.

SEC. 411. OWNERSHIP LIMITATIONS.

(a) SECURITIES LIMITATIONS.—No director, officer, or employee of the Corporation may acquire any securities, or any rights to acquire any securities of the private corporation on terms more favorable than those offered to the general public—

(1) in a public offering designed to transfer ownership of the Corporation to private investors,

(2) pursuant to any agreement, arrangement, or understanding entered into before the privatization date, or

(3) before the election of the directors of the private corporation.

(b) OWNERSHIP LIMITATION.—Immediately following the consummation of the transaction or series of transactions pursuant to which 100 percent of the ownership of the Corporation is transferred to private investors, and for a period of three years thereafter, no person may acquire, directly or indirectly, beneficial ownership of securities representing more than 10 percent of the total votes of all outstanding voting securities of the Corporation. The foregoing limitation shall not apply to—

(1) any employee stock ownership plan of the Corporation,

(2) members of the underwriting syndicate purchasing shares in stabilization transactions in connection with the privatization, or

(3) in the case of shares beneficially held in the ordinary course of business for others, any commercial bank, broker-dealer, or clearing agency.

SEC. 412. URANIUM TRANSFERS AND SALES.

(a) TRANSFERS AND SALES BY THE SECRETARY.—The Secretary shall not provide enrichment services or transfer or sell any uranium (including natural uranium concentrates, natural uranium hexafluoride, or enriched uranium in any form) to any person except as consistent with this section.

(b) RUSSIAN HEU.—(1) On or before December 31, 1996, the United States Executive Agent under the Russian HEU Agreement shall transfer to the Secretary without charge title to an amount of uranium hexafluoride equivalent to the natural uranium component of low-enriched uranium derived from at least 18 metric tons of highly enriched uranium purchased from the Russian Executive Agent under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Secretary shall be based on a tails assay of 0.30 U^{235}. Uranium hexafluoride transferred to the Secretary pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(2) Within 7 years of the date of enactment of this Act, the Secretary shall sell, and receive payment for, the uranium hexafluoride transferred to the Secretary pursuant to paragraph (1). Such uranium hexafluoride shall be sold—

(A) at any time for use in the United States for the purpose of overfeeding;

(B) at any time for end use outside the United States;

(C) in 1995 and 1996 to the Russian Executive Agent at the purchase price for use in matched sales pursuant to the Suspension Agreement; or,

(D) in calendar year 2001 for consumption by end users in the United States not prior to January 1, 2002, in volumes not to exceed 3,000,000 pounds U_3O_8 equivalent per year.

(3) With respect to all enriched uranium delivered to the United States Executive Agent under the Russian HEU Agreement on or after January 1, 1997, the United States Executive Agent shall, upon request of the Russian Executive Agent, enter into an agreement to deliver concurrently to the Russian Executive Agent an

amount of uranium hexafluoride equivalent to the natural uranium component of such uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. The quantity of such uranium hexafluoride delivered to the Russian Executive Agent shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall transfer to the Russian Executive Agent upon delivery of such material to the Russian Executive Agent, with such delivery to take place at a North American facility designated by the Russian Executive Agent. Uranium hexafluoride delivered to the Russian Executive Agent pursuant to this paragraph shall be deemed under U.S. law for all purposes to be of Russian origin. Such uranium hexafluoride may be sold to any person or entity for delivery and use in the United States only as permitted in subsections (b)(5), (b)(6) and (b)(7) of this section.

(4) In the event that the Russian Executive Agent does not exercise its right to enter into an agreement to take delivery of the natural uranium component of any low-enriched uranium, as contemplated in paragraph (3), within 90 days of the date such low-enriched uranium is delivered to the United States Executive Agent, or upon request of the Russian Executive Agent, then the United States Executive Agent shall engage an independent entity through a competitive selection process to auction an amount of uranium hexafluoride or U_3O_8 (in the event that the conversion component of such hexafluoride has previously been sold) equivalent to the natural uranium component of such low-enriched uranium. An agreement executed pursuant to a request of the Russian Executive Agent, as contemplated in this paragraph, may pertain to any deliveries due during any period remaining under the Russian HEU Agreement. Such independent entity shall sell such uranium hexafluoride in one or more lots to any person or entity to maximize the proceeds from such sales, for disposition consistent with the limitations set forth in this subsection. The independent entity shall pay to the Russian Executive Agent the proceeds of any such auction less all reasonable transaction and other administrative costs. The quantity of such uranium hexafluoride auctioned shall be based on a tails assay of 0.30 U^{235}. Title to uranium hexafluoride auctioned pursuant to this paragraph shall transfer to the buyer of such material upon delivery of such material to the buyer. Uranium hexafluoride auctioned pursuant to this paragraph shall be deemed under United States law for all purposes to be of Russian origin.

(5) Except as provided in paragraphs (6) and (7), uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4), may not be delivered for consumption by end users in the United States either directly or indirectly prior to January 1, 1998, and thereafter only in accordance with the following schedule:

Annual Maximum Deliveries to End Users Year:

	(millions lbs. U_3O_8 equivalent)
1998	*2*
1999	*4*
2000	*6*
2001	*8*
2002	*10*
2003	*12*
2004	*14*
2005	*16*
2006	*17*
2007	*18*
2008	*19*
2009 and each year thereafter	*20.*

(6) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time as Russian-origin natural uranium in a matched sale pursuant to the Suspension Agreement, and in such case shall not be counted against the annual maximum deliveries set forth in paragraph (5).

(7) Uranium hexafluoride delivered to the Russian Executive Agent under paragraph (3) or auctioned pursuant to paragraph (4) may be sold at any time for use in the United States for the purpose of overfeeding in the operations of enrichment facilities.

(8) Nothing in this subsection (b) shall restrict the sale of the conversion component of such uranium hexafluoride.

(9) The Secretary of Commerce shall have responsibility for the administration and enforcement of the limitations set forth in this subsection. The Secretary of Commerce may require any person to provide any certifications, information, or take any action that may be necessary to enforce these limitations. The United States Customs Service shall maintain and provide any information required by the Secretary of Commerce and shall take any action requested by the Secretary of Commerce which is necessary for the administration and enforcement of the uranium delivery limitations set forth in this section.

(10) The President shall monitor the actions of the United States Executive Agent under the Russian HEU Agreement and shall report to the Congress not later than December 31 of each year on the effect the low-enriched uranium delivered under the Russian HEU Agreement is having on the domestic uranium mining, conversion, and enrichment industries, and the operation of the gaseous diffusion plants. Such report shall include a description of actions taken or proposed to be taken by the President to prevent or mitigate any material adverse impact on such industries or any loss of employment at the gaseous diffusion plants as a result of the Russian HEU Agreement.

(c) TRANSFERS TO THE CORPORATION.—(1) The Secretary shall transfer to the Corporation without charge up to 50 metric tons of enriched uranium and up to 7,000 metric tons of natural uranium from the Department of Energy's stockpile, subject to the restrictions in subsection (c)(2).

(2) The Corporation shall not deliver for commercial end use in the United States—

(A) any of the uranium transferred under this subsection before January 1, 1998;

(B) more than 10 percent of the uranium (by uranium hexafluoride equivalent content) transferred under this subsection or more than 4,000,000 pounds, whichever is less, in any calendar year after 1997; or

(C) more than 800,000 separative work units contained in low-enriched uranium transferred under this subsection in any calendar year.

(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (c) and (e), the Secretary may, from time to time, sell natural and low-enriched uranium (including low-enriched uranium derived from highly enriched uranium) from the Department of Energy's stockpile.

(2) Except as provided in subsections (b), (c), and (e), no sale or transfer of natural or low-enriched uranium shall be made unless—

(A) the President determines that the material is not necessary for national security needs,

(B) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement, and

(C) the price paid to the Secretary will not be less than the fair market value of the material.

(e) GOVERNMENT TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell enriched uranium—

(1) to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications;

(2) to any person for national security purposes, as determined by the Secretary; or

(3) to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

(f) SAVINGS PROVISION.—Nothing in this subchapter shall be read to modify the terms of the Russian HEU Agreement.

SEC. 413. LOW-LEVEL WASTE.

(a) RESPONSIBILITY OF DOE.—(1) The Secretary, at the request of the generator, shall accept for disposal low-level radioactive waste, including depleted uranium if it were ultimately determined to be low-level radioactive waste, generated by—

(A) the Corporation as a result of the operations of the gaseous diffusion plants or as a result of the treatment of such wastes at a location other than the gaseous diffusion plants, or

(B) any person licensed by the Nuclear Regulatory Commission to operate a uranium enrichment facility under sections 53, 63, and 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2073, 2093, and 2243).

(2) Except as provided in paragraph (3), the generator shall reimburse the Secretary for the disposal of low-level radioactive waste pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs, but in no event more than an amount equal to that which would be charged by commercial, State, regional, or interstate compact entities for disposal of such waste.

(3) In the event depleted uranium were ultimately determined to be low-level radioactive waste, the generator shall reimburse the Secretary for the disposal of depleted uranium pursuant to paragraph (1) in an amount equal to the Secretary's costs, including a pro rata share of any capital costs.

(b) AGREEMENTS WITH OTHER PERSONS.—The generator may also enter into agreements for the disposal of low-level radioactive waste subject to subsection (a) with any person other than the Secretary that is authorized by applicable laws and regulations to dispose of such wastes.

(c) STATE OR INTERSTATE COMPACTS.—Notwithstanding any other provision of law, no State or interstate compact shall be liable for the treatment, storage, or disposal of any low-level radioactive waste (including mized waste) attributable to the operation, decontamination, and decommissioning of any uranium enrichment facility.

SEC. 414. AVLIS.

(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Secretary.

(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

(1) IN GENERAL.—To the extent requested by the Corporation and subject to the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.), the President shall transfer without

charge to the Corporation all of the right, title, or interest in and to property owned by the United States under control or custody of the Secretary that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

(A) facilities, equipment, and materials for research, development, and demonstration activities; and

(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Secretary shall not transfer under paragraph (1)(B).

(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon the privatization date.

(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157b.(3) of the Atomic Energy Act of 1954 (42 U.S.C. 2187(b)(3)), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) of this section shall provide for a reduction of royalty payments to the Secretary to offset any payments, awards, settlements, or judgments under this subsection.

SEC. 415. APPLICATION OF CERTAIN LAWS.

(a) OSHA.—(1) As of the privatization date, the private corporation shall be subject to and comply with the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) The Nuclear Regulatory Commission and the Occupational Safety and Health Administration shall, within 90 days after the date of enactment of this Act, enter into a memorandum of agreement to govern the exercise of their authority over occupational safety and health hazards at the gaseous diffusion plants, including inspection, investigation, enforcement, and rulemaking relating to such hazards.

(b) ANTITRUST LAWS.—For purposes of the antitrust laws, the performance by the private corporation of a "matched import" contract under the Suspension Agreement shall be considered to have occurred prior to the privatization date, if at the time of privatization, such contract had been agreed to by the parties in all material terms and confirmed by the Secretary of Commerce under the Suspension Agreement.

(c) ENERGY REORGANIZATION ACT REQUIREMENTS.—(1) The private corporation and its contractors and subcontractors shall be subject to the provisions of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) to the same extent as an employer subject to such section.

(2) With respect to the operation of the facilities leased by the private corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the private corporation.

SEC. 416. AMENDMENTS TO THE ATOMIC ENERGY ACT.

(a) REPEAL.—(1) Chapters 22 through 26 of the Atomic Energy Act of 1954 (42 U.S.C. 2297–2297e–7) are repealed as of the privatization date.

(2) The table of contents of such Act is amended as of the privatization date by striking the items referring to sections repealed by paragraph (1).

(b) NRC LICENSING.—(1) Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014v.) is amended by striking "or the construction and operation of a uranium enrichment facility using Atomic Vapor Laser Isotope Separation technology".

(2) Section 193 of the Atomic Energy Act of 1954 (42 U.S.C. 2243) is amended by adding at the end the following:

"(f) LIMITATION.—No license or certificate of compliance may be issued to the United States Enrichment Corporation or its successor under this section or sections 53, 63, or 1701, if the Commission determines that—

"(1) the Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

"(2) the issuance of such a license or certificate of compliance would be inimical to—

"(A) the common defense and security of the United States; or

"(B) the maintenance of a reliable and economical domestic source of enrichment services.".

(3) Section 1701(c)(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f(c)(2)) is amended to read as follows:

"(2) PERIODIC APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1) periodically, as determined by the Commission, but not less than every 5 years. The Commission shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.".

(4) Section 1702(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297f–1(a)) is amended—

(1) by striking "other than" and inserting "including", and

(2) by striking "sections 53 and 63" and inserting "sections 53, 63, and 193".

(c) JUDICIAL REVIEW OF NRC ACTIONS.—Section 189b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended to read as follows:

"b. The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28, United States Code, and chapter 7 of title 5, United States Code:

"(1) Any final order entered in any proceeding of the kind specified in subsection (a).

"(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

"(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act.

"(4) Any final determination under section 1701(c) relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act, are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.".

(d) CIVIL PENALTIES.—Section 234a. of the Atomic Energy Act of 1954 (42 U.S.C. 2282(a) is amended by—

(1) striking "any licensing provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109" and inserting: "any licensing or certification provision of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, 109, or 1701"; and

(2) by striking "any license issued thereunder" and inserting: "any license or certification issued thereunder".

(e) REFERENCES TO THE CORPORATION.—Following the privatization date, all references in the Atomic Energy Act of 1954 to the United States Enrichment Corporation shall be deemed to be references to the private corporation.

SEC. 417. AMENDMENTS TO OTHER LAWS.

(a) DEFINITION OF GOVERNMENT CORPORATION.—As of the privatization date, section 9101(3) of title 31, United States Code, is amended by striking subparagraph (N) as added by section 902(b) of Public Law 102–486.

(b) DEFINITION OF THE CORPORATION.—Section 1018(1) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(1) is amended by inserting "or its successor" before the period.

SUBCHAPTER E—STRATEGIC PETROLEUM RESERVE

SEC. 431. SALE OF WEEKS ISLAND OIL.

Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), the Secretary of Energy shall draw down and sell in fiscal year 1996, $292,000,000 worth of oil formerly contained in the Weeks Island Strategic Petroleum Reserve.

CHAPTER 4

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

CONSTRUCTION, MAJOR PROJECTS

In addition to funds provided elsewhere in this Act, $16,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Veterans Affairs is authorized to carry out the design and construction of a medical research addition at the Department of Veterans Affairs Medical Center in Portland, Oregon in the amount of $32,100,000.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

In addition to funds provided elsewhere in this Act, $200,000,000, to remain available until expended: Provided, That $150,000,000 of such sum shall be available for purposes authorized by section 202 of the Housing Act of 1959, and $50,000,000 shall be available for purposes authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act: Provided further, That all such sums shall be available only to provide for rental subsidy terms of a longer duration than would otherwise be permitted by this Act.

PUBLIC HOUSING DEMOLITION, SITE REVITALIZATION, AND REPLACEMENT HOUSING GRANTS

In addition to funds provided elsewhere in this Act, $120,000,000, to remain available until expended.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

In addition to funds provided elsewhere in this Act, $50,000,000.

MANAGEMENT AND ADMINISTRATION

DEPARTMENTAL RESTRUCTURING FUND

In addition to funds provided elsewhere in this Act, $20,000,000, to remain available until September 30, 1997, to facilitate the down-sizing, streamlining, and restructuring of the Department of Housing and Urban Development, and to reduce overall departmental staffing to 7,500 full-time equivalents in fiscal year 2000: Provided, That such sum shall be available only for personnel training (including travel associated with such training), costs associated with the transfer of personnel from headquarters and regional offices to the field, and for necessary costs to acquire and upgrade information system infrastructure in support of Departmental field staff: Provided further, That not less than 60 days following enactment of this Act, the Secretary shall transmit to the Appropriations Committees of the Congress a report which specifies a plan and schedule for the utilization of these funds for personnel reductions and transfers in order to reduce headquarters on-board staffing levels to 3,100 by December 31, 1996, and 2,900 by October 1, 1997: Provided further, That by February 1, 1997 the Secretary shall certify to the

Congress that headquarters on-board staffing levels did not exceed 3,100 on December 31, 1996 and submit a report which details obligations and expenditures of funds made available hereunder: Provided further, That if the certification of headquarters personnel reductions required by this Act is not made by February 1, 1997, all remaining unobligated funds available under this paragraph shall be rescinded.

CLARIFICATION OF BLOCK GRANTS IN NEW YORK

(a) All funds allocated for the State of New York for fiscal years 1995, 1996, and all subsequent fiscal years, under the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625) shall be made available to the Chief Executive Officer of the State, or an entity designated by the Chief Executive Officer, to be used for activities in accordance with the requirements of the HOME investment partnerships program, notwithstanding the Memorandum from the General Counsel of the Department of Housing and Urban Development dated March 5, 1996.

(b) The Secretary of Housing and Urban Development shall award funds made available for fiscal year 1996 for grants allocated for the State of New York for a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in accordance with the requirements established under the Notice of Funding Availability for fiscal year 1995 for the New York State Small Cities Community Development Block Grant Program.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

In addition to funds provided elsewhere in this Act, $12,000,000, to remain available until September 30, 1997.

BUILDINGS AND FACILITIES

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, EPA is authorized to establish and construct a consolidated research facility at Research Triangle Park, North Carolina, at a maximum total construction cost of $232,000,000, and to obligate such monies as are made available by this Act, and hereafter, for this purpose.

STATE AND TRIBAL ASSISTANCE GRANTS

In addition to funds provided elsewhere in this Act, $100,000,000, to remain available until expended, for capitalization grants for State revolving funds to support water infrastructure financing: Provided, That of the funds made available by this paragraph, $50,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SPACE, AERONAUTICS AND TECHNOLOGY

In addition to funds provided elsewhere in this Act, $83,000,000, to remain available until September 30, 1997.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

In addition to funds provided elsewhere in this Act, $40,000,000, to remain available until September 30, 1997.

GENERAL PROVISIONS

SEC. 4001. No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 4002. No part of any appropriation contained in this title shall be made available for obligation or expenditure, nor any authority granted herein be effective, until the enactment into law of a subsequent Act entitled "An Act Incorporating an Agreement Between the President and Congress Relative to Federal Expenditures in Fiscal Year 1996 and Future Fiscal Years".

SEC. 4003. (a) This section may be cited as the "Federal Prohibition of Female Genital Mutilation Act of 1996".

(b) Congress finds that—

(1) the practice of female genital mutilation is carried out by members of certain cultural and religious groups within the United States;

(2) the practice of female genital mutilation often results in the occurrence of physical and psychological health effects that harm the women involved;

(3) such mutilation infringes upon the guarantees of rights secured by Federal and State law, both statutory and constitutional;

(4) the unique circumstances surrounding the practice of female genital mutilation place it beyond the ability of any single State or local jurisdiction to control;

(5) the practice of female genital mutilation can be prohibited without abridging the exercise of any rights guaranteed under the First Amendment to the Constitution or under any other law; and

(6) Congress has the affirmative power under section 8 of article I of the Constitution, as well as under section 5 of the Fourteenth Amendment to the Constitution, to enact such legislation.

(c) It is the purpose of this section to protect and promote the public safety and health and activities affecting interstate commerce by establishing Federal criminal penalties for the performance of female genital mutilation.

(d)(1) Chapter 7 of title 18, United States Code, is amended by adding at the end the following new section:

"§116. Female genital mutilation

"(a) Except as provided in subsection (b), whoever knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) A surgical operation is not a violation of this section if the operation is—

"(1) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or

"(2) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.

"(c) In applying subsection (b)(1), no account shall be taken of the effect on the person on whom the operation is to be performed of any belief on the part of that or any other person that the operation is required as a matter of custom or ritual.

"(d) Whoever knowingly denies to any person medical care or services or otherwise discriminates against any person in the provision of medical care or services, because—

"(1) that person has undergone female circumcision, excision, or infibulation; or

"(2) that person has requested that female circumcision, excision, or infibulation be performed on any person;

shall be fined under this title or imprisoned not more than one year, or both.".

(2) The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"116. Female genital mutilation.".

(e)(1) The Secretary of Health and Human Services shall do the following:

(A) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

(B) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(C) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

(2) For purposes of this subsection, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

(f) Subsection (e) shall take effect on the date of enactment of this Act, and the Secretary of Health and Human Services shall commence carrying out such section not later than 90 days after the date of the enactment of this Act. Subsection (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

This title may be cited as the "Contingency Appropriations Act, 1996".

TITLE V—ENVIRONMENTAL INITIATIVES

CHAPTER 1—DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

INDEPENDENT AGENCY

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

In addition to funds provided elsewhere in this Act, $75,000,000, to remain available until September 30, 1997.

BUILDINGS AND FACILITIES

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended, for the construction of a consolidated research facility at Research Triangle Park, North Carolina: Provided, That pursuant to the provisions of section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)), that no funds shall be made available for construction of such project prior to April 19, 1996, unless such project is approved by resolutions of the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure, respectively: Provided further, That in no case shall funds be made available for construction of such project if prior to April 19, 1996, the project has been disapproved by either the Senate Committee on Environment and Public Works or the House Committee on Transportation and Infrastructure: Provided further, That notwithstanding any other provision of this Act, the paragraph under this heading in chapter 4 of title IV of this Act shall not become effective.

STATE AND TRIBAL ASSISTANCE GRANTS

In addition to funds provided elsewhere in this Act, $200,000,000, to remain available until expended, for capitalization grants for State revolving funds to support water infrastructure financing: Provided, That of the funds made

available by this paragraph, $125,000,000 shall be for drinking water State revolving funds, but if no drinking water State revolving fund legislation is enacted by June 1, 1996, these funds shall immediately be available for making capitalization grants under title VI of the Federal Water Pollution Control Act, as amended.

HAZARDOUS SUBSTANCE SUPERFUND

In addition to funds provided elsewhere in this Act, $50,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 5001. Notwithstanding any other provision of this Act, amounts provided in title IV of this Act for the Environmental Protection Agency, with the exception of amounts appropriated under the heading "BUILDINGS AND FACILITIES", shall become available immediately upon enactment of this Act.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

NATIONAL AND COMMUNITY SERVICE PROGRAMS

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (referred to in the matter under this heading as the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (referred to in the matter under this heading as the "Act") (42 U.S.C. 12501 et seq.), $400,500,000, of which $265,000,000 shall be available for obligation from September 1, 1996, through September 30, 1997: Provided, That not more than $25,000,000 shall be available for administrative expenses authorized under section 501(a)(4) of the Act (42 U.S.C. 12671(a)(4)): Provided further, That not more than $2,500 shall be for official reception and representation expenses: Provided further, That not more than $59,000,000, to remain available without fiscal year limitation, shall be transferred to the National Service Trust account for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601 et seq.): Provided further, That not more than $215,000,000 of the amount provided under this heading shall be available for grants under the National Service Trust program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities including the Americorps program), of which not more than $40,000,000 may be used to administer, reimburse or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $5,500,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.): Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12581(b)): Provided further, That, to the maximum extent feasible, funds appropriated in the preceding proviso shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That not more than $18,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That not more than $43,000,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (41 U.S.C. 12521 et seq.): Provided further, That not more than $30,000,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That not more than $5,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639), of which up to $500,000 shall be available for a study by the National Academy of Public Administration on the structure, organization, and management of the Corporation and activities supported by the Corporation, including an assessment of the quality, innovation, replicability, and sustainability without Federal funds of such activities, and the Federal and non-Federal cost of supporting participants in community service activities: Provided further, That no funds from any other appropriation, or from funds otherwise made available to the Corporation, shall be used to pay for personnel compensation and benefits, travel, or any other administrative expense for the Board of Directors, the Office of the Chief Executive Officer, the Office of the Managing Director, the Office of the Chief Financial Officer, the Office of National and Community Service Programs, the Civilian Community Corps, or any field office or staff of the Corporation working on the National and Community Service or Civilian Community Corps programs: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, shall expand significantly the number of educational awards provided under subtitle D of title I, and shall reduce the total Federal cost per participant in all programs: Provided further, That prior to September 30, 1996, the General Accounting Office shall report to the Congress the results of a study of State commission programs which evaluates the cost per participant, the commission's ability to oversee the programs, and other relevant considerations: Provided further, That the matter under this heading in title I of this Act shall not be effective.

SENSE OF CONGRESS

It is the sense of the Congress that accounting for taxpayers' funds must be a top priority for all Federal agencies and Government corporations. The Congress is deeply concerned about the findings of the recent audit of the Corporation for National and Community Service required under the Government Corporation Control Act of 1945. The Congress urges the President to expeditiously nominate a qualified Chief Financial Officer for the Corporation. Further, to the maximum extent practicable and as quickly as possible, the Corporation should implement the recommendations of the independent auditors contracted for by the Corporation's Inspector General, as well as the Chief Financial Officer, to improve the financial management of taxpayers' funds. Should the Chief Financial Officer determine that additional resources are needed to implement these recommendations, the Corporation should submit a reprogramming proposal for up to $3,000,000 to carry out reforms of the financial management system.

FUNDING ADJUSTMENT

The total amount appropriated under the heading "Department of Housing and Urban Development, Housing Programs, Annual contribution for assisted housing", in title I of this Act is reduced by $17,000,000, and the amount otherwise made available under said heading for section 8 assistance and rehabilitation grants for property disposition is reduced to $192,000,000.

CHAPTER 2—SPENDING OFFSETS

SUBCHAPTER A—DEBT COLLECTION

SEC. 5101. SHORT TITLE.

This subchapter may be cited as the "Debt Collection Improvement Act of 1996".

SEC. 5102. EFFECTIVE DATE.

Except as otherwise provided in this subchapter, the provisions of this subchapter and the amendments made by this subchapter shall be effective on the date of enactment of this Act.

PART I—GENERAL DEBT COLLECTION INITIATIVES

Subpart A—General Offset Authority

SEC. 5201. ENHANCEMENT OF ADMINISTRATIVE OFFSET AUTHORITY.

(a) Section 3701(c) of title 31, United States Code, is amended to read as follows:

"(c) In sections 3716 and 3717 of this title, the term 'person' does not include an agency of the United States Government, or of a unit of general local government.".

(b) Section 3716 of title 31, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) Before collecting a claim by administrative offset, the head of an executive, legislative, or judicial agency must either—

"(1) adopt regulations on collecting by administrative offset promulgated by the Department of Justice, the General Accounting Office and/or the Department of the Treasury without change; or

"(2) prescribe independent regulations on collecting by administrative offset consistent with the regulations promulgated under paragraph (1).";

(2) by amending subsection (c)(2) to read as follows:

"(2) when a statute explicitly prohibits using administrative 'offset' or 'setoff' to collect the claim or type of claim involved.";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1)(A) Except as provided in subparagraph (B) or (C), a disbursing official of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any disbursing official of the United States designated by the Secretary of the Treasury, is authorized to offset the amount of a payment which a payment certifying agency has certified to the disbursing official for disbursement by an amount equal to the amount of a claim which a creditor agency has certified to the Secretary of the Treasury pursuant to this subsection.

"(B) An agency that designates disbursing officials pursuant to section 3321(c) of this title is not required to certify claims arising out of its operations to the Secretary of the Treasury before such agency's disbursing officials offset such claims.

"(C) Payments certified by the Department of Education under a program administered by the Secretary of Education under title IV of the Higher Education Act of 1965, as amended, shall not be subject to offset under this subsection.

"(2) Neither the disbursing official nor the payment certifying agency shall be liable—

"(A) for the amount of the offset on the basis that the underlying obligation, represented by the payment before the offset was taken, was not satisfied; or

"(B) for failure to provide timely notice under paragraph (8).

"(3)(A) Notwithstanding any other provision of law (including sections 207 and 1631(d)(1) of the Act of August 14, 1935 (42 U.S.C. 407 and 1383(d)(1)), section 413(b) of Public Law 91–173 (30 U.S.C. 923(b)), and section 14 of the Act of August 29, 1935 (45 U.S.C. 231m)), all payments due under the Social Security Act, Part B of the Black Lung Benefits Act, or under any law administered by the Railroad Retirement Board shall be subject to offset under this section.

"(B) An amount of $10,000 which a debtor may receive under Federal benefit programs cited under subparagraph (A) within a 12-month period shall be exempt from offset under this subsection. In applying the $10,000 exemption, the disbursing official shall—

"(i) apply a prorated amount of the exemption to each periodic benefit payment to be made to the debtor during the applicable 12-month period; and

"(ii) consider all benefit payments made during the applicable 12-month period which are exempt from offset under this subsection as part of the $10,000 exemption.

For purposes of the preceding sentence, the amount of a periodic benefit payment shall be the amount after any reduction or deduction required under the laws authorizing the program under which such payment is authorized to be made (including any reduction or deduction to recover any overpayment under such program).

"(C) The Secretary of the Treasury shall exempt means-tested programs when notified by the head of the respective agency. The Secretary may exempt other payments from offset under this subsection upon the written request of the head of a payment certifying agency. A written request for exemption of other payments must provide justification for the exemption under thestandards prescribed by the Secretary. Such standards shall give due consideration to whether offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program.

"(D) The provisions of sections 205(b)(1) and 1631(c)(1) of the Social Security Act shall not apply to any offset executed pursuant to this section against benefits authorized by either title II or title XVI of the Social Security Act.

"(4) The Secretary of the Treasury is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The fee may be collected either by the retention of a portion of amounts collected pursuant to this subsection, or by billing the agency referring or transferring the claim. Fees charged to the agencies shall be based only on actual offsets completed. Fees charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title. Fees charged under this subsection shall be deposited into the 'Account' determined by the Secretary of the Treasury in accordance with section 3711(g) of this title, and shall be collected and accounted for in accordance with the provisions of that section.

"(5) The Secretary of the Treasury may disclose to a creditor agency the current address of any payee and any data related to certifying and authorizing such payment in accordance with section 552a of title 5, United States Code, even when the payment has been exempt from offset. Where payments are made electronically, the Secretary is authorized to obtain the current address of the debtor/payee from the institution receiving the payment. Upon request by the Secretary, the institution receiving the payment shall report the current address of the debtor/payee to the Secretary.

"(6) The Secretary of the Treasury is authorized to prescribe such rules, regulations, and procedures as the Secretary of the Treasury deems necessary to carry out the purposes of this subsection. The Secretary shall consult with the heads of affected agencies in the development of such rules, regulations, and procedures.

"(7)(A) Any Federal agency that is owed by a named person a past-due legally enforceable non-tax debt that is over 180 days delinquent (other than any past-due support), including non-tax debt administered by a third party acting as an agent for the Federal Government, shall notify the Secretary of the Treasury of all such non-tax debts for purposes of offset under this subsection.

"(B) An agency may delay notification under subparagraph (A) with respect to a debt that is secured by bond or other instruments in lieu of bond, or for which there is another specific repayment source, in order to allow sufficient time to either collect the debt through normal collection processes (including collection by internal administrative offset) or render a final decision on any protest filed against the claim.

"(8) The disbursing official conducting the offset shall notify the payee in writing of—

"(A) the occurrence of an offset to satisfy a past-due legally enforceable debt, including a description of the type and amount of the payment otherwise payable to the debtor against which the offset was executed;

"(B) the identity of the creditor agency requesting the offset; and

"(C) a contact point within the creditor agency that will handle concerns regarding the offset.".

Where the payment to be offset is a periodic benefit payment, the disbursing official shall take reasonable steps, as determined by the Secretary of the Treasury, to provide the notice to the payee not later than the date on which the payee is otherwise scheduled to receive the payment, or as soon as practical thereafter, but no later than the date of the offset. Notwithstanding the preceding sentence, the failure of the debtor to receive such notice shall not impair the legality of such offset.

"(9) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

(c) Section 3701(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(8) 'non-tax claim' means any claim from any agency of the Federal Government other than a claim by the Internal Revenue Service under the Internal Revenue Code of 1986.".

SEC. 5202. HOUSE OF REPRESENTATIVES AS LEGISLATIVE AGENCY.

(a) Section 3701 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) For purposes of subchapters I and II of chapter 37 of title 31, United States Code (relating to claims of or against United States Government), the United States House of Representatives shall be considered to be a legislative agency (as defined in section 3701(a)(4) of such title), and the Clerk of the House of Representatives shall be deemed to be the head of such legislative agency.

"(f) Regulations prescribed by the Clerk of the House of Representatives pursuant to section 3716 of title 31, United States Code, shall not become effective until they are approved by the Committee on Rules of the House of Representatives.".

SEC. 5203. EXEMPTION FROM COMPUTER MATCHING REQUIREMENTS UNDER THE PRIVACY ACT OF 1974.

Section 552a(a) of title 5, United States Code, is amended in paragraph (8)(B)—

(1) by striking "or" at the end of clause (vi);

(2) by inserting "or" at the end of clause (vii); and

(3) by adding after clause (vii) the following new clause:

"(viii) matches for administrative offset or claims collection pursuant to subsection 3716(c) of title 31, section 5514 of this title, or any other payment intercept or offset program authorized by statute;".

SEC. 5204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Title 31, United States Code, is amended—

(1) in section 3322(a), by inserting "section 3716 and section 3720A of this title, section 6331 of title 26, and" after "Except as provided in";

(2) in section 3325(a)(3), by inserting "or pursuant to payment intercepts or offsets pursuant to section 3716 or 3720A, or pursuant to levies executed under section 6331 of the Internal Revenue Code of 1986 (26 U.S.C. 6331)," after "voucher"; and

(3) in sections 3711, 3716, 3717, and 3718, by striking "the head of an executive or legislative agency" each place it appears and inserting instead "the head of an executive, judicial, or legislative agency".

(b) Subsection 6103(l)(10) of title 26, United States Code, is amended—

(1) in subparagraph (A), by inserting "and to officers and employees of the Department of the Treasury in connection with such reduction" adding after "6402"; and

(2) in subparagraph (B), by adding "and to officers and employees of the Department of the Treasury in connection with such reduction" after "agency".

Subpart B—Salary Offset Authority

SEC. 5221. ENHANCEMENT OF SALARY OFFSET AUTHORITY.

Section 5514 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by adding at the end of paragraph (1) the following: "All Federal agencies to which debts are owed and are delinquent in repayment, shall participate in a computer match at least annually of their delinquent debt records with records of Federal employees to identify those employees who are delinquent in repayment of those debts. Matched Federal employee records shall include, but shall not be limited to, active Civil Service employees government-wide, military active duty personnel, military reservists, United States Postal Service employees, and records of seasonal and temporary employees. The Secretary of the Treasury shall establish and maintain an interagency consortium to implement centralized salary offset computer matching, and promulgate regulations for this program. Agencies that perform centralized salary offset computer matching services under this subsection are authorized to charge a fee sufficient to cover the full cost for such services.";

(B) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(C) by inserting after paragraph (2) the following new paragraph:

"(3) The provisions of paragraph (2) shall not apply to routine intra-agency adjustments of pay that are attributable to clerical or administrative errors or delays in processing pay documents that have occurred within the four pay periods preceding the adjustment and to any adjustment that amounts to $50 or less, provided that at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment."; and

(D) by amending paragraph (5)(B) (as redesignated) to read as follows:

"(B) For purposes of this section 'agency' includes executive departments and agencies, the United States Postal Service, the Postal Rate Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of government, and government corporations.";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) For purposes of this section, the Clerk of the House of Representatives shall be deemed to be the head of the agency. Regulations prescribed by the Clerk of the House of Representatives pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules of the House of Representatives.

"(4) For purposes of this section, the Secretary of the Senate shall be deemed to be the head of the agency. Regulations prescribed by the Secretary of the Senate pursuant to subsection (b)(1) shall be subject to the approval of the Committee on Rules and Administration of the Senate."; and

(3) by adding after subsection (c) the following new subsection:

"(d) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over requests for offset received from other agencies.".

Subpart C—Taxpayer Identifying Numbers

SEC. 5231. ACCESS TO TAXPAYER IDENTIFYING NUMBERS; BARRING DELINQUENT DEBTORS FROM CREDIT ASSISTANCE.

Section 4 of the Debt Collection Act of 1982 (Public Law 97–365, 96 Stat. 1749, 26 U.S.C. 6103 note) is amended—

(1) in subsection (b), by striking "For purposes of this section" and inserting instead "For purposes of subsection (a)"; and

(2) by adding at the end thereof the following new subsections:

"(c) FEDERAL AGENCIES.—Each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

"(1) For purposes of this subsection, a person is considered to be 'doing business' with a Federal agency if the person is—

"(A) a lender or servicer in a Federal guaranteed or insured loan program;

"(B) an applicant for, or recipient of—

"(i) a Federal guaranteed, insured, or direct loan; or

"(ii) a Federal license, permit, right-of-way, grant, benefit payment or insurance;

"(C) a contractor of the agency;

"(D) assessed a fine, fee, royalty or penalty by that agency;

"(E) in a relationship with a Federal agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan; and

"(F) is a joint holder of any account to which Federal benefit payments are transferred electronically.

"(2) Each agency shall disclose to the person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such persons's relationship with the government.

"(3) For purposes of this subsection:

"(A) The term 'taxpayer identifying number' has the meaning given such term in section 6109 of title 26, United States Code.

"(B) The term 'person' means an individual, sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association, but with the exception of debtors owing claims resulting from petroleum pricing violations does not include debtors under third party claims of the United States.

"(d) ACCESS TO SOCIAL SECURITY NUMBERS.—Notwithstanding section 552a of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with the Social Security Administration records to verify name, name control, Social Security number, address, and date of birth.".

SEC. 5232. BARRING DELINQUENT FEDERAL DEBTORS FROM OBTAINING FEDERAL LOANS OR LOAN GUARANTEES.

(a) Title 31, United States Code, is amended by adding after section 3720A the following new section:

"§3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees

"(a) Unless waived by the head of the agency, no person may obtain any Federal financial assistance in the form of a loan or a loan guarantee if such person has an outstanding Federal non-tax debt which is in a delinquent status, as determined under the standards prescribed by the Secretary of the Treasury, with a Federal agency. Any such person may obtain additional Federal financial assistance only after such delinquency is resolved, pursuant to these standards. This section shall not apply to loans or loan guarantees where a statute specifically permits extension of Federal financial assistance to borrowers in delinquent status.

"(b) The head of the agency may delegate the waiver authority described in subsection (a) to the Chief Financial Officer of the agency. The waiver authority may be redelegated only to the Deputy Chief Financial Officer of the agency.

"(c) For purposes of this section, 'person' means an individual; or sole proprietorship, partnership, corporation, non-profit organization, or any other form of business association.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720A the following new item:

"3720B. Barring delinquent Federal debtors from obtaining Federal loans or loan guarantees.".

Subpart D—Expanding Collection Authorities and Governmentwide Cross-Servicing

SEC. 5241. EXPANDING COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION ACT OF 1982.

(a) Subsection 8(e) of the Debt Collection Act of 1982 (Public Law 97–365, 31 U.S.C. 3701(d) and 5 U.S.C. 5514 note) is repealed.

(b) Section 5 of the Social Security Domestic Employment Reform Act of 1994 (Public Law 103–387) is repealed.

(c) Section 631 of the Tariff Act of 1930 (19 U.S.C. 1631), is repealed.

(d) Title 31, United States Code, is amended—

(1) in section 3701—

(A) by amending subsection (a)(4) to read as follows:

"(4) 'executive, judicial or legislative agency' means a department, military department, agency, court, court administrative office, or instrumentality in the executive, judicial or legislative branches of government, including government corporations."; and

(B) by inserting after subsection (c) the following new subsection:

"(d) Sections 3711(f) and 3716–3719 of this title do not apply to a claim or debt under, or to an amount payable under, the Internal Revenue Code of 1986.";

(2) by amending section 3711(f) to read as follows:

"(f)(1) When trying to collect a claim of the Government, the head of an executive or legislative agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if notice required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency.

"(2) The information disclosed to a consumer reporting agency shall be limited to—

"(A) information necessary to establish the identity of the individual, including name, address and taxpayer identifying number;

"(B) the amount, status, and history of the claim; and

"(C) the agency or program under which the claim arose."; and

(3) in section 3718—

(A) in subsection (a), by striking the first sentence and inserting instead the following: "Under conditions the head of an executive, legislative or judicial agency considers appropriate, the head of an agency may make a contract with a person for collection service to recover indebtedness owed, or to locate or recover assets of, the United States Government. No head of an agency may enter into a contract to locate or recover assets of the United States held by a State government or financial institution unless that agency has established procedures approved by the Secretary of the Treasury to identify and recover such assets."; and

(B) in subsection (d), by inserting ", or to locate or recover assets of," after "owed".

SEC. 5242. GOVERNMENTWIDE CROSS-SERVICING.

Section 3711 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) At the discretion of the head of an executive, judicial or legislative agency, referral of a non-tax claim may be made to any executive department or agency operating a debt collection center for servicing and collection in accordance with an agreement entered into under paragraph (2). Referral or transfer of a claim may also be made to the Secretary of the Treasury for servicing, collection, compromise, and/or suspension or termination of collection action. Non-tax claims referred or transferred under this section shall be serviced, collected, compromised, and/or collection action suspended or terminated in accordance with existing statutory requirements and authorities.

"(2) Executive departments and agencies operating debt collection centers are authorized to enter into agreements with the heads of executive, judicial, or legislative agencies to service and/or collect non-tax claims referred or transferred under this subsection. The heads of other executive departments and agencies are authorized to enter into agreements with the Secretary of the Treasury for servicing or collection of referred or transferred non-tax claims or other Federal agencies operating debt collection centers to obtain debt collection services from those agencies.

"(3) Any agency to which non-tax claims are referred or transferred under this subsection is authorized to charge a fee sufficient to cover the full cost of implementing this subsection. The agency transferring or referring the non-tax claim shall be charged the fee, and the agency charging the fee shall collect such fee by retaining the amount of the fee from amounts collected pursuant to this subsection. Agencies may agree to pay through a different method, or to fund the activity from another account or from revenue received from Section 701. Amounts charged under this subsection concerning delinquent claims may be considered as costs pursuant to section 3717(e) of this title.

"(4) Notwithstanding any other law concerning the depositing and collection of Federal payments, including section 3302(b) of this title, agencies collecting fees may retain the fees from amounts collected. Any fee charged pursuant to this subsection shall be deposited into an account to be determined by the executive department or agency operating the debt collection center charging the fee (hereafter referred to in this section as the 'Account'). Amounts deposited in the Account shall be available until expended to cover costs associated with the implementation and operation of government-wide debt collection activities. Costs properly chargeable to the Account include, but are not limited to—

"(A) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(B) personnel training and travel costs;

"(C) other personnel and administrative costs;

"(D) the costs of any contract for identification, billing, or collection services; and

"(E) reasonable costs incurred by the Secretary of the Treasury, including but not limited to, services and utilities provided by the Secretary, and administration of the Account.

"(5) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts, an amount equal to the

amount of unobligated balances remaining in the Account at the close of business on September 30 of the preceding year minus any part of such balance that the executive department or agency operating the debt collection center determines is necessary to cover or defray the costs under this subsection for the fiscal year in which the deposit is made.

"(6)(A) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims over 180 days delinquent for additional collection action and/or closeout. A taxpayer identification number shall be included with each claim provided if it is in the agency's possession.

"(B) Subparagraph (A) shall not apply—

"(i) to claims that—

"(I) are in litigation or foreclosure;

"(II) will be disposed of under the loan sales program of a Federal department or agency;

"(III) have been referred to a private collection contractor for collection;

"(IV) are being collected under internal offset procedures;

"(V) have been referred to the Department of the Treasury, the Department of Defense, the United States Postal Service, or a disbursing official of the United States designated by the Secretary of the Treasury for administrative offset;

"(VI) have been retained by an executive agency in a debt collection center; or

"(VII) have been referred to another agency for collection;

"(ii) to claims which may be collected after the 180-day period in accordance with specific statutory authority or procedural guidelines, provided that the head of an executive, legislative, or judicial agency provides notice of such claims to the Secretary of the Treasury; and

"(iii) to other specific class of claims as determined by the Secretary of the Treasury at the request of the head of an agency or otherwise.

"(C) The head of an executive, legislative, or judicial agency shall transfer to the Secretary of the Treasury all non-tax claims on which the agency has ceased collection activity. The Secretary may exempt specific classes of claims from this requirement, at the request of the head of an agency, or otherwise. The Secretary shall review transferred claims to determine if additional collection action is warranted. The Secretary may, in accordance with section 6050P of title 26, United States Code, report to the Internal Revenue Service on behalf of the creditor agency any claims that have been discharged within the meaning of such section.

"(7) At the end of each calendar year, the head of an executive, legislative, or judicial agency which, regarding a claim owed to the agency, is required to report a discharge of indebtedness as income under the 6050P of title 26, United States Code, shall either complete the appropriate form 1099 or submit to the Secretary of the Treasury such information as is necessary for the Secretary of the Treasury to complete the appropriate form 1099. The Secretary of the Treasury shall incorporate this information into the appropriate form and submit the information to the taxpayer and Internal Revenue Service.

"(8) To carry out the purposes of this subsection, the Secretary of the Treasury is authorized—

"(A) to prescribe such rules, regulations, and procedures as the Secretary deems necessary; and

"(B) to designate debt collection centers operated by other Federal agencies.".

SEC. 5243. COMPROMISE OF CLAIMS.

(a) Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe.

(b) This section shall be effective as of October 1, 1995.

Subpart E—Federal Civil Monetary Penalties

SEC. 5251. ADJUSTING FEDERAL CIVIL MONETARY PENALTIES FOR INFLATION.

(a) The Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, 104 Stat. 890; 28 U.S.C. 2461 note) is amended—

(1) by amending section 4 to read as follows:

"SEC. 4. The head of each agency shall, not later than 180 days after the date of enactment of the Debt Collection Improvement Act of 1996, and at least once every 4 years thereafter, by regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Federal agency, except for any penalty under title 26, United States Code, by the inflation adjustment described under section 5 of this Act and publish each such regulation in the Federal Register.";

(2) in section 5(a), by striking "The adjustment described under paragraphs (4) and (5)(A) of section 4" and inserting "The inflation adjustment"; and

(3) by adding at the end the following new section:

"SEC. 7. Any increase to a civil monetary penalty resulting from this Act shall apply only to violations which occur after the date any such increase takes effect.".

(b) The initial adjustment of a civil monetary penalty made pursuant to section 4 of Federal Civil Penalties Inflation Adjustment Act of 1990 (as amended by subsection (a)) may not exceed 10 percent of such penalty.

Subpart F—Gain Sharing

SEC. 5261. DEBT COLLECTION IMPROVEMENT ACCOUNT.

(a) Title 31, United States Code, is amended by inserting after section 3720B the following new section:

"§3720C. Debt Collection Improvement Account

"(a)(1) There is hereby established in the Treasury a special fund to be known as the 'Debt Collection Improvement Account' (hereinafter referred to as the 'Account').

"(2) The Account shall be maintained and managed by the Secretary of the Treasury, who shall ensure that programs are credited with the amounts described in subsection (b) and with allocations described in subsection (c).

"(b)(1) Not later than 30 days after the end of a fiscal year, an agency other than the Department of Justice is authorized to transfer to the Account a dividend not to exceed five percent of the debt collection improvement amount as described in paragraph (3).

"(2) Agency transfers to the Account may include collections from—

"(A) salary, administrative and tax referral offsets;

"(B) automated levy authority;

"(C) the Department of Justice; and

"(D) private collection agencies.

"(3) For purposes of this section, the term 'debt collection improvement amount' means the amount by which the collection of delinquent debt with respect to a particular program during a fiscal year exceeds the delinquent debt baseline for such program for such fiscal year. The Office of Management and Budget shall determine the baseline from which increased collections are measured over the prior fiscal year, taking into account the recommendations made by the Secretary of the Treasury in consultation with creditor agencies.

"(c)(1) The Secretary of the Treasury is authorized to make payments from the Account solely to reimburse agencies for qualified expenses. For agencies with franchise funds, payments may be credited to subaccounts designated for debt collection.

"(2) For purposes of this paragraph, the term 'qualified expenses' means expenditures for the improvement of tax administration and agency debt collection and debt recovery activities including, but not limited to, account servicing (including cross-servicing under section 502 of the Debt Collection Improvement Act of 1996), automatic data processing equipment acquisitions, delinquent debt collection, measures to minimize delinquent debt, asset disposition, and training of personnel involved in credit and debt management.

"(3) Payments made to agencies pursuant to paragraph (1) shall be in proportion to their contributions to the Account.

"(4)(A) Amounts in the Account shall be available to the Secretary of the Treasury to the extent and in the amounts provided in advance in appropriation Acts, for purposes of this section. Such amounts are authorized to be appropriated without fiscal year limitation.

"(B) As soon as practicable after the end of third fiscal year after which appropriations are made pursuant to this section, and every 3 years thereafter, any unappropriated balance in the account as determined by the Secretary of the Treasury in consultation with agencies, shall be transferred to the Treasury general fund as miscellaneous receipts.

"(d) For direct loan and loan guarantee programs subject to title V of the Congressional Budget Act of 1974, amounts credited in accordance with subsection (c) shall be considered administrative costs and shall not be included in the estimated payments to the Government for the purpose of calculating the cost of such programs.

"(e) The Secretary of the Treasury shall prescribe such rules, regulations, and procedures as the Secretary deems necessary or appropriate to carry out the purposes of this section.".

(b) The table of sections for subchapter II of chapter 37 of title 31, United States Code, is amended by inserting after the item relating to section 3720B the following new item:

"3720C. Debt Collection Improvement Account.".

Subpart G—Tax Refund Offset Authority

SEC. 5271. OFFSET OF TAX REFUND PAYMENT BY DISBURSING OFFICIALS.

Section 3720A(h) of title 31, United States Code, is amended to read as follows:

"(h)(1) The term 'Secretary of the Treasury' may include the disbursing official of the Department of the Treasury.

"(2) The disbursing official of the Department of the Treasury—

"(A) shall notify a taxpayer in writing of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the identity of the creditor agency requesting the offset; and

"(iii) a contact point within the creditor agency that will handle concerns regarding the offset;

"(B) shall notify the Internal Revenue Service on a weekly basis of—

"(i) the occurrence of an offset to satisfy a past-due legally enforceable non-tax debt;

"(ii) the amount of such offset; and

"(iii) any other information required by regulations; and

"(C) shall match payment records with requests for offset by using a name control, taxpayer identifying number (as defined in 26 U.S.C. 6109), and any other necessary identifiers.".

SEC. 5272. EXPANDING TAX REFUND OFFSET AUTHORITY.

(a) Section 3720A of title 31, United States Code, is amended by adding after subsection (h) the following new subsection:

"(i) An agency subject to section 9 of the Act of May 18, 1933 (16 U.S.C. 831h) may implement this section at its discretion.".

(b) Section 6402(f) of title 26, United States Code, is amended to read as follows:

"(f) FEDERAL AGENCY.—For purposes of this section, the term 'Federal agency' means a department, agency, or instrumentality of the United States, and includes a government corporation (as such term is defined in section 103 of title 5, United States Code).".

SEC. 5273. EXPANDING AUTHORITY TO COLLECT PAST-DUE SUPPORT.

(a) Section 3720A(a) of title 31, United States Code, is amended to read as follows:

"(a) Any Federal agency that is owed by a named person a past-due, legally enforceable debt (including past-due support and debt administered by a third party acting as an agent for the Federal Government) shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of such debt.".

(b) Section 464(a) of the Social Security Act (42 U.S.C. 664(a)) is amended—

(1) in paragraph (1), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code."; and

(2) in paragraph (2)(A), by adding at the end thereof the following: "This subsection may be implemented by the Secretary of the Treasury in accordance with section 3720A of title 31, United States Code.".

Subpart H—Definitions, Due Process Rights, and Severability

SEC. 5281. TECHNICAL AMENDMENTS TO DEFINITIONS.

Section 3701 of title 31, United States Code, is amended—

(1) by amending subsection (a)(1) to read as follows:

"(1) 'administrative offset' means withholding money payable by the United States (including money payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.";

(2) by amending subsection (b) to read as follows:

"(b)(1) The term 'claim' or 'debt' means any amount of money or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, organization, or entity other than another Federal agency. A claim includes, without limitation, money owed on account of loans insured or guaranteed by the Government, nonappropriated funds, over-payments, any amount the United States is authorized by statute to collect for the benefit of any person, and other amounts of money or property due the Government.

"(2) For purposes of section 3716 of this title, the term 'claim' also includes an amount of money or property owed by a person to a State, the District of Columbia, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico where there is also a Federal monetary interest or in cases of court ordered child support."; and

(3) by adding after subsection (f) (as added in section 5202(a)) the following new subsection:

"(g) In section 3716 of this title—

"(1) 'creditor agency' means any entity owed a claim that seeks to collect that claim through administrative offset; and

"(2) 'payment certifying agency' means any Federal department, agency, or instrumentality and government corporation, that has transmitted a voucher to a disbursing official for disbursement.".

SEC. 5282. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

Subpart I—Reporting

SEC. 5291. MONITORING AND REPORTING.

(a) The Secretary of the Treasury, in consultation with concerned Federal agencies, is authorized to establish guidelines, including information on outstanding debt, to assist agencies in the performance and monitoring of debt collection activities.

(b) Not later than three years after the date of enactment of this Act, the Secretary of the Treasury shall report to the Congress on collection services provided by Federal agencies or entities collecting debt on behalf of other Federal agencies under the authorities contained in section 3711(g) of title 31, United States Code.

(c) Section 3719 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by amending the first sentence to read as follows: "In consultation with the Comptroller General, the Secretary of the Treasury shall prescribe regulations requiring the head of each agency with outstanding non-tax claims to prepare and submit to the Secretary at least once a year a report summarizing the status of loans and accounts receivable managed by the head of the agency."; and

(B) in paragraph (3), by striking "Director" and inserting "Secretary"; and

(2) in subsection (b), by striking "Director" and inserting "Secretary".

(d) Notwithstanding any other provision of law, the Secretary of the Treasury is authorized to consolidate all reports concerning debt collection into one annual report.

PART II—JUSTICE DEBT MANAGEMENT

Subpart A—Private Attorneys

SEC. 5301. EXPANDED USE OF PRIVATE ATTORNEYS.

(a) Section 3718(b)(1)(A) of title 31, United States Code, is amended by striking the fourth sentence.

(b) Sections 3 and 5 of the Federal Debt Recovery Act (Public Law 99-578, 100 Stat. 3305) are hereby repealed.

Subpart B—Nonjudicial Foreclosure

SEC. 5311. NONJUDICIAL FORECLOSURE OF MORTGAGES.

Chapter 176 of title 28 of the United States Code is amended by adding at the end thereof the following:

"SUBCHAPTER E—NONJUDICIAL FORECLOSURE

"Sec.
"3401. Definitions.
"3402. Rules of construction.
"3403. Election of procedure.
"3404. Designation of foreclosure trustee.
"3405. Notice of foreclosure sale; statute of limitations.
"3406. Service of notice of foreclosure sale.
"3407. Cancellation of foreclosure sale.
"3408. Stay.
"3409. Conduct of sale; postponement.
"3410. Transfer of title and possession.
"3411. Record of foreclosure and sale.
"3412. Effect of sale.
"3413. Disposition of sale proceeds.
"3414. Deficiency judgment.

"§3401. Definitions

"As used in this subchapter—

"(1) 'agency' means—

"(A) an executive department as defined in section 101 of title 5, United States Code;

"(B) an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office);

"(C) a military department as defined in section 102 of title 5, United States Code; and

"(D) a wholly owned government corporation as defined in section 9101(3) of title 31, United States Code;

"(2) 'agency head' means the head and any assistant head of an agency, and may upon the designation by the head of an agency include the chief official of any principal division of an agency or any other employee of an agency;

"(3) 'bona fide purchaser' means a purchaser for value in good faith and without notice of any adverse claim who acquires the seller's interest free of any adverse claim;

"(4) 'debt instrument' means a note, mortgage bond, guaranty or other instrument creating a debt or other obligation, including any instrument incorporated by reference therein and any instrument or agreement amending or modifying a debt instrument;

"(5) 'file' or 'filing' means docketing, indexing, recording, or registering, or any other requirement for perfecting a mortgage or a judgment;

"(6) 'foreclosure trustee' means an individual, partnership, association, or corporation, or any employee thereof, including a successor, appointed by the agency head to conduct a foreclosure sale pursuant to this subchapter;

"(7) 'mortgage' means a deed of trust, deed to secure debt, security agreement, or any other form of instrument under which any interest in real property, including leaseholds, life estates, reversionary interests, and any other estates under applicable law is conveyed in trust, mortgaged, encumbered, pledged or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of any other obligation;

"(8) 'of record' means an interest recorded pursuant to Federal or State statutes that provide for official recording of deeds, mortgages and judgments, and that establish the effect of such records as notice to creditors, purchasers, and other interested persons;

"(9) 'owner' means any person who has an ownership interest in property and includes heirs, devisees, executors, administrators, and other personal representatives, and trustees of testamentary trusts if the owner of record is deceased;

"(10) 'sale' means a sale conducted pursuant to this subchapter, unless the context requires otherwise; and

"(11) 'security property' means real property, or any interest in real property including leaseholds, life estates, reversionary interests, and any other estates under applicable State law that secure a mortgage.

"§3402. Rules of construction

"(a) IN GENERAL.—If an agency head elects to proceed under this subchapter, this subchapter shall apply and the provisions of this subchapter shall govern in the event of a conflict with any other provision of Federal law or State law.

"(b) LIMITATION.—This subchapter shall not be construed to supersede or modify the operation of—

"(1) the lease-back/buy-back provisions under section 1985 of title 7, United States Code, or regulations promulgated thereunder; or

"(2) The Multifamily Mortgage Foreclosure Act of 1981 (chapter 38 of title 12, United States Code).

"(c) EFFECT ON OTHER LAWS.—This subchapter shall not be construed to curtail or limit the rights of the United States or any of its agencies—

"(1) to foreclose a mortgage under any other provision of Federal law or State law; or

"(2) to enforce any right under Federal law or State law in lieu of or in addition to foreclosure,

including any right to obtain a monetary judgment.

"(d) APPLICATION TO MORTGAGES.—The provisions of this subchapter may be used to foreclose any mortgage, whether executed prior or subsequent to the effective date of this subchapter.

"§3403. Election of procedure

"(a) SECURITY PROPERTY SUBJECT TO FORECLOSURE.—An agency head may foreclose a mortgage upon the breach of a covenant or condition in a debt instrument or mortgage for which acceleration or foreclosure is authorized. An agency head may not institute foreclosure proceedings on the mortgage under any other provision of law, or refer such mortgage for litigation, during the pendency of foreclosure proceedings pursuant to this subchapter.

"(b) EFFECT OF CANCELLATION OF SALE.—If a foreclosure sale is canceled pursuant to section 3407, the agency head may thereafter foreclose on the security property in any manner authorized by law.

"§3404. Designation of foreclosure trustee

"(a) IN GENERAL.—An agency head shall designate a foreclosure trustee who shall supersede any trustee designated in the mortgage. A foreclosure trustee designated under this section shall have a nonjudicial power of sale pursuant to this subchapter.

"(b) DESIGNATION OF FORECLOSURE TRUSTEE.—

"(1) An agency head may designate as foreclosure trustee—

"(A) an officer or employee of the agency;

"(B) an individual who is a resident of the State in which the security property is located; or

"(C) a partnership, association, or corporation, provided such entity is authorized to transact business under the laws of the State in which the security property is located.

"(2) The agency head is authorized to enter into personal services and other contracts not inconsistent with this subchapter.

"(c) METHOD OF DESIGNATION.—An agency head shall designate the foreclosure trustee in writing. The foreclosure trustee may be designated by name, title, or position. An agency head may designate one or more foreclosure trustees for the purpose of proceeding with multiple foreclosures or a class of foreclosures.

"(d) AVAILABILITY OF DESIGNATION.—An agency head may designate such foreclosure trustees as the agency head deems necessary to carry out the purposes of this subchapter.

"(e) MULTIPLE FORECLOSURE TRUSTEES AUTHORIZED.—An agency head may designate multiple foreclosure trustees for different tracts of a secured property.

"(f) REMOVAL OF FORECLOSURE TRUSTEES; SUCCESSOR FORECLOSURE TRUSTEES.—An agency head may, with or without cause or notice, remove a foreclosure trustee and designate a successor trustee as provided in this section. The foreclosure sale shall continue without prejudice notwithstanding the removal of the foreclosure trustee and designation of a successor foreclosure trustee. Nothing in this section shall be construed to prohibit a successor foreclosure trustee from postponing the foreclosure sale in accordance with this subchapter.

"§3405. Notice of foreclosure sale; statute of limitations

"(a) IN GENERAL.—

"(1) Not earlier than 21 days nor later than ten years after acceleration of a debt instrument or demand on a guaranty, the foreclosure trustee shall serve a notice of foreclosure sale in accordance with this subchapter.

"(2) For purposes of computing the time period under paragraph (1), there shall be excluded all periods during which there is in effect—

"(A) a judicially imposed stay of foreclosure; or

"(B) a stay imposed by section 362 of title 11, United States Code.

"(3) In the event of partial payment or written acknowledgement of the debt after acceleration of the debt instrument, the right to foreclosure shall be deemed to accrue again at the time of each such payment or acknowledgement.

"(b) NOTICE OF FORECLOSURE SALE.—The notice of foreclosure sale shall include—

"(1) the name, title, and business address of the foreclosure trustee as of the date of the notice;

"(2) the names of the original parties to the debt instrument and the mortgage, and any assignees of the mortgagor of record;

"(3) the street address or location of the security property, and a generally accepted designation used to describe the security property, or so much thereof as is to be offered for sale, sufficient to identify the property to be sold;

"(4) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(5) the default or defaults upon which foreclosure is based, and the date of the acceleration of the debt instrument;

"(6) the date, time, and place of the foreclosure sale;

"(7) a statement that the foreclosure is being conducted in accordance with this subchapter;

"(8) the types of costs, if any, to be paid by the purchaser upon transfer of title; and

"(9) the terms and conditions of sale, including the method and time of payment of the foreclosure purchase price.

"§3406. Service of notice of foreclosure sale

"(a) RECORD NOTICE.—At least 21 days prior to the date of the foreclosure sale, the notice of foreclosure sale required by section 3405 shall be filed in the manner authorized for filing a notice of an action concerning real property according to the law of the State where the security property is located or, if none, in the manner authorized by section 3201 of this chapter.

"(b) NOTICE BY MAIL.—

"(1) At least 21 days prior to the date of the foreclosure sale, the notice set forth in section 3405 shall be sent by registered or certified mail, return receipt requested—

"(A) to the current owner of record of the security property as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a);

"(B) to all debtors, including the mortgagor, assignees of the mortgagor and guarantors of the debt instrument;

"(C) to all persons having liens, interests or encumbrances of record upon the security property, as the record appears on the date that the notice of foreclosure sale is recorded pursuant to subsection (a); and

"(D) to any occupants of the security property. If the names of the occupants of the security property are not known to the agency, or the security property has more than one dwelling unit, the notice shall be posted at the security property.

"(2) The notice shall be sent to the debtor at the address, if any, set forth in the debt instrument or mortgage as the place to which notice is to be sent, and if different, to the debtor's last known address as shown in the mortgage record of the agency. The notice shall be sent to any person other than the debtor to that person's address of record or, if there is no address of record, to any address at which the agency in good faith believes the notice is likely to come to that person's attention.

"(3) Notice by mail pursuant to this subsection shall be effective upon mailing.

"(c) NOTICE BY PUBLICATION.—The notice of the foreclosure sale shall be published at least once a week for each of three successive weeks prior to the sale in at least one newspaper of general circulation in any county or counties in which the security property is located. If there is no newspaper published at least weekly that has a general circulation in at least one county in which the security property is located, copies of the notice of foreclosure sale shall instead be posted at least 21 days prior to the sale at the courthouse of any county or counties in which the property is located and the place where the sale is to be held.

"§3407. Cancellation of foreclosure sale

"(a) IN GENERAL.—At any time prior to the foreclosure sale, the foreclosure trustee shall cancel the sale—

"(1) if the debtor or the holder of any subordinate interest in the security property tenders the performance due under the debt instrument and mortgage, including any amounts due because of the exercise of the right to accelerate, and the expenses of proceeding to foreclosure incurred to the time of tender;

"(2) if the security property is a dwelling of four units or fewer, and the debtor—

"(A) pays or tenders all sums which would have been due at the time of tender in the absence of any acceleration;

"(B) performs any other obligation which would have been required in the absence of any acceleration; and

"(C) pays or tenders all costs of foreclosure incurred for which payment from the proceeds of the sale would be allowed; or

"(3) for any reason approved by the agency head.

"(b) LIMITATION.—The debtor may not, without the approval of the agency head, cure the default under subsection (a)(2) if, within the preceding 12 months, the debtor has cured a default after being served with a notice of foreclosure sale pursuant to this subchapter.

"(c) NOTICE OF CANCELLATION.—The foreclosure trustee shall file a notice of the cancellation in the same place and manner provided for the filing of the notice of foreclosure sale under section 3406(a).

"§3408. Stay

"If, prior to the time of sale, foreclosure proceedings under this subchapter are stayed in any manner, including the filing of bankruptcy, no person may thereafter cure the default under the provisions of section 3407(a)(2). If the default is not cured at the time a stay is terminated, the foreclosure trustee shall proceed to sell the security property as provided in this subchapter.

"§3409. Conduct of sale; postponement

"(a) SALE PROCEDURES.—Foreclosure sale pursuant to this subchapter shall be at public auction and shall be scheduled to begin at a time between the hours of 9:00 a.m. and 4:00 p.m. local time. The foreclosure sale shall be held at the location specified in the notice of foreclosure sale, which shall be a location where real estate foreclosure auctions are customarily held in the county or one of the counties in which the property to be sold is located or at a courthouse therein, or upon the property to be sold. Sale of security property situated in two or more counties may be held in any one of the counties in which any part of the security property is situated. The foreclosure trustee may designate the order in which multiple tracts of security property are sold.

"(b) BIDDING REQUIREMENTS.—Written one-price sealed bids shall be accepted by the foreclosure trustee, if submitted by the agency head or other persons for entry by announcement by the foreclosure trustee at the sale. The sealed bids shall be submitted in accordance with the terms set forth in the notice of foreclosure sale. The agency head or any other person may bid at

the foreclosure sale, even if the agency head or other person previously submitted a written one-price bid. The agency head may bid a credit against the debt due without the tender or payment of cash. The foreclosure trustee may serve as auctioneer, or may employ an auctioneer who may be paid from the sale proceeds. If an auctioneer is employed, the foreclosure trustee is not required to attend the sale. The foreclosure trustee or an auctioneer may bid as directed by the agency head.

"(c) POSTPONEMENT OF SALE.—The foreclosure trustee shall have discretion, prior to or at the time of sale, to postpone the foreclosure sale. The foreclosure trustee may postpone a sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale at the time and place originally scheduled for the foreclosure sale. The foreclosure trustee may instead postpone the foreclosure sale for not fewer than 9 nor more than 31 days, by serving notice that the foreclosure sale has been postponed to a specified date, and the notice may include any revisions the foreclosure trustee deems appropriate. The notice shall be served by publication, mailing, and posting in accordance with section 3406 (b) and (c), except that publication may be made on any of three separate days prior to the new date of the foreclosure sale, and mailing may be made at any time at least 7 days prior to the new date of the foreclosure sale.

"(d) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—The foreclosure trustee may require a bidder to make a cash deposit before the bid is accepted. The amount or percentage of the cash deposit shall be stated by the foreclosure trustee in the notice of foreclosure sale. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale shall forfeit the cash deposit or, at the election of the foreclosure trustee, shall be liable to the agency on a subsequent sale of the property for all net losses incurred by the agency as a result of such failure.

"(e) EFFECT OF SALE.—Any foreclosure sale held in accordance with this subchapter shall be conclusively presumed to have been conducted in a legal, fair, and commercially reasonable manner. The sale price shall be conclusively presumed to constitute the reasonably equivalent value of the security property.

"§3410. Transfer of title and possession

"(a) DEED.—After receipt of the purchase price in accordance with the terms of the sale as provided in the notice of foreclosure sale, the foreclosure trustee shall execute and deliver to the purchaser a deed conveying the security property to the purchaser that grants and conveys title to the security property without warranty or covenants to the purchaser. The execution of the foreclosure trustee's deed shall have the effect of conveying all of the right, title, and interest in the security property covered by the mortgage. Notwithstanding any other law to the contrary, the foreclosure trustee's deed shall be a conveyance of the security property and not a quitclaim. No judicial proceeding shall be required ancillary or supplementary to the procedures provided in this subchapter to establish the validity of the conveyance.

"(b) DEATH OF PURCHASER PRIOR TO CONSUMMATION OF SALE.—If a purchaser dies before execution and delivery of the deed conveying the security property to the purchaser, the foreclosure trustee shall execute and deliver the deed to the representative of the purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(c) PURCHASER CONSIDERED BONA FIDE PURCHASER WITHOUT NOTICE.—The purchaser of property under this subchapter shall be presumed to be a bona fide purchaser without notice of defects, if any, in the title conveyed to the purchaser.

"(d) POSSESSION BY PURCHASER; CONTINUING INTERESTS.—A purchaser at a foreclosure sale conducted pursuant to this subchapter shall be entitled to possession upon passage of title to the security property, subject to any interest or interests senior to that of the mortgage. The right to possession of any person without an interest senior to the mortgage who is in possession of the property shall terminate immediately upon the passage of title to the security property, and the person shall vacate the security property immediately. The purchaser shall be entitled to take any steps available under Federal law or State law to obtain possession.

"(e) RIGHT OF REDEMPTION; RIGHT OF POSSESSION.—This subchapter shall preempt all Federal and State rights of redemption, statutory, or common law. Upon conclusion of the public auction of the security property, no person shall have a right of redemption.

"(f) PROHIBITION OF IMPOSITION OF TAX ON CONVEYANCE BY THE UNITED STATES OR AGENCY THEREOF.—No tax, or fee in the nature of a tax, for the transfer of title to the security property by the foreclosure trustee's deed shall be imposed upon or collected from the foreclosure trustee or the purchaser by any State or political subdivision thereof.

"§3411. Record of foreclosure and sale

"(a) RECITAL REQUIREMENTS.—The foreclosure trustee shall recite in the deed to the purchaser, or in an addendum to the foreclosure trustee's deed, or shall prepare an affidavit stating—

"(1) the date, time, and place of sale;

"(2) the date of the mortgage, the office in which the mortgage is filed, and the location of the filing of the mortgage;

"(3) the persons served with the notice of foreclosure sale;

"(4) the date and place of filing of the notice of foreclosure sale under section 3406(a);

"(5) that the foreclosure was conducted in accordance with the provisions of this subchapter; and

"(6) the sale amount.

"(b) EFFECT OF RECITALS.—The recitals set forth in subsection (a) shall be prima facie evidence of the truth of such recitals. Compliance with the requirements of subsection (a) shall create a conclusive presumption of the validity of the sale in favor of bona fide purchasers and encumbrancers for value without notice.

"(c) DEED TO BE ACCEPTED FOR FILING.—The register of deeds or other appropriate official of the county or counties where real estate deeds are regularly filed shall accept for filing and shall file the foreclosure trustee's deed and affidavit, if any, and any other instruments submitted for filing in relation to the foreclosure of the security property under this subchapter.

"§3412. Effect of sale

"A sale conducted under this subchapter to a bona fide purchaser shall bar all claims upon the security property by—

"(1) any person to whom the notice of foreclosure sale was mailed as provided in this subchapter who claims an interest in the property subordinate to that of the mortgage, and the heir, devisee, executor, administrator, successor, or assignee claiming under any such person;

"(2) any person claiming any interest in the property subordinate to that of the mortgage, if such person had actual knowledge of the sale;

"(3) any person so claiming, whose assignment, mortgage, or other conveyance was not filed in the proper place for filing, or whose judgment or decree was not filed in the proper place for filing, prior to the date of filing of the notice of foreclosure sale as required by section 3406(a), and the heir, devisee, executor, administrator, successor, or assignee of such a person; or

"(4) any other person claiming under a statutory lien or encumbrance not required to be filed and attaching to the title or interest of any person designated in any of the foregoing subsections of this section.

"§3413. Disposition of sale proceeds

"(a) DISTRIBUTION OF SALE PROCEEDS.—The foreclosure trustee shall distribute the proceeds of the foreclosure sale in the following order—

"(1)(A) to pay the commission of the foreclosure trustee, other than an agency employee, the greater of—

"(i) the sum of—

"(I) 3 percent of the first $1,000 collected, plus

"(II) 1.5 percent on the excess of any sum collected over $1,000; or

"(ii) $250; and

"(B) the amounts described in subparagraph (A)(i) shall be computed on the gross proceeds of all security property sold at a single sale;

"(2) to pay the expense of any auctioneer employed by the foreclosure trustee, if any, except that the commission payable to the foreclosure trustee pursuant to paragraph (1) shall be reduced by the amount paid to an auctioneer, unless the agency head determines that such reduction would adversely affect the ability of the agency head to retain qualified foreclosure trustees or auctioneers;

"(3) to pay for the costs of foreclosure, including—

"(A) reasonable and necessary advertising costs and postage incurred in giving notice pursuant to section 3406;

"(B) mileage for posting notices and for the foreclosure trustee's or auctioneer's attendance at the sale at the rate provided in section 1921 of title 28, United States Code, for mileage by the most reasonable road distance;

"(C) reasonable and necessary costs actually incurred in connection with any search of title and lien records; and

"(D) necessary costs incurred by the foreclosure trustee to file documents;

"(4) to pay valid real property tax liens or assessments, if required by the notice of foreclosure sale;

"(5) to pay any liens senior to the mortgage, if required by the notice of foreclosure sale;

"(6) to pay service charges and advancements for taxes, assessments, and property insurance premiums; and

"(7) to pay late charges and other administrative costs and the principal and interest balances secured by the mortgage, including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the debt instrument or mortgage and interest thereon if provided for in the debt instrument or mortgage, pursuant to the agency's procedure.

"(b) INSUFFICIENT PROCEEDS.—In the event there are no proceeds of sale or the proceeds are insufficient to pay the costs and expenses set forth in subsection (a), the agency head shall pay such costs and expenses as authorized by applicable law.

"(c) SURPLUS MONIES.—

"(1) After making the payments required by subsection (a), the foreclosure trustee shall—

"(A) distribute any surplus to pay liens in the order of priority under Federal law or the law of the State where the security property is located; and

"(B) pay to the person who was the owner of record on the date the notice of foreclosure sale was filed the balance, if any, after any payments made pursuant to paragraph (1).

"(2) If the person to whom such surplus is to be paid cannot be located, or if the surplus

available is insufficient to pay all claimants and the claimants cannot agree on the distribution of the surplus, that portion of the sale proceeds may be deposited by the foreclosure trustee with an appropriate official authorized under law to receive funds under such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure trustee files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure trustee's necessary costs in taking or defending such action shall be deducted first from the disputed funds.

"§3414. Deficiency judgment

"(a) IN GENERAL.—If after deducting the disbursements described in section 3413, the price at which the security property is sold at a foreclosure sale is insufficient to pay the unpaid balance of the debt secured by the security property, counsel for the United States may commence an action or actions against any or all debtors to recover the deficiency, unless specifically prohibited by the mortgage. The United States is also entitled to recover any amount authorized by section 3011 and costs of the action.

"(b) LIMITATION.—Any action commenced to recover the deficiency shall be brought within 6 years of the last sale of security property.

"(c) CREDITS.—The amount payable by a private mortgage guaranty insurer shall be credited to the account of the debtor prior to the commencement of an action for any deficiency owed by the debtor. Nothing in this subsection shall curtail or limit the subrogation rights of a private mortgage guaranty insurer.".

SUBCHAPTER B—FAA GRANTS-IN-AID FOR AIRPORTS

FEDERAL AVIATION ADMINISTRATION GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION OF CONTRACT AUTHORITY)

Of the available contract authority balances under this account, $48,000,000 are hereby rescinded, in addition to any such sums otherwise rescinded by this Act.

TITLE VI—FOOD AND DRUG EXPORT REFORM

SEC. 6001. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "FDA Export Reform and Enhancement Act of 1996".

(b) REFERENCE.—Wherever in this title (other than in section 6004) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act. (21 U.S.C. 321 et seq.)

SEC. 6002. EXPORT OF DRUGS AND DEVICES.

(a) EXPORT AND IMPORTS.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (d), by adding at the end thereof the following new paragraphs:

"(3) No component, part, or accessory of a drug, biological product, or device, including a drug in bulk inform, shall be excluded from importation into the United States under subsection (a) if—

"(A) the importer affirms at the time of initial importation that such component, part, or accessory is intended to be incorporated by the initial owner or consignee into a drug, biological product, or device that will be exported by such owner or consignee from the United States in accordance with subsection 801(e) or section 802 of this Act or section 351(h) of the Public Health Service Act;

"(B) the initial owner or consignee responsible for such imported articles maintains records that identify the use of such imported articles and upon request of the Secretary submits a report that provides an accounting of the exportation or the disposition of the imported articles, including portions that have been destroyed, and the manner in which such person complied with the requirements of this paragraph; and

"(C) any imported component, part or accessory not so incorporated is destroyed or exported by the owner or consignee."

"(4) The importation into the United States of blood, blood components, source plasma, and source leukocytes, is not permitted pursuant to paragraph (3) unless the importation complies with section 351(a) of the Public Health Service Act. The importation of tissue is not permitted pursuant to paragraph (3) unless the importation complies with section 361 of the Public Health Service Act.";

(2) in subsection (e)(1), by striking the second sentence;

(3) in subsection (e)(2)—

(A) by striking "the Secretary" and inserting "either (i) the Secretary"; and

(B) by inserting before the period at the end thereof the following: "or (ii) the device is eligible for export under section 802"; and

(4) in subsection (e), by adding at the end thereof the following new paragraph:;

"(3) A new animal drug that requires approval under section 512 shall not be exported pursuant to paragraph (1) if such drug has been banned in the United States.".

(b) EXPORT OF CERTAIN UNAPPROVED DRUGS AND DEVICES.—Section 802 (21 U.S.C. 382) is amended to read as follows:

"EXPORTS OF CERTAIN UNAPPROVED PRODUCTS

"SEC. 802. (a) A drug (including a biological product) intended for human use or a device for human use—

"(1) which, in the case of a drug—

"(A)(i) requires approval by the Secretary under section 505 before such drug may be introduced or delivered for introduction into interstate commerce; or

"(ii) requires licensing by the Secretary under section 351 of the Public Health Service Act or by the Secretary of Agriculture under the Act of March 4, 1913 (known as the Virus-Serum Toxin Act) before it may be introduced or delivered for introduction into interstate commerce; and

"(B) does not have such approval or license, is not exempt from such sections or Act, and is introduced or delivered for introduction into interstate commerce; or

"(2) which, in the case of a device—

"(A) does not comply with an applicable requirement under section 514 or 515;

"(B) under section 520(g) is exempt from either such section; or

"(C) is a banned device under section 516,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug or device is authorized under subsection (b), (c), (d), or (e), or under section 801(e)(2). If a drug (including a biological product) or device described in paragraphs (1) and (2) may be exported under subsection (b) and if an application for such drug or device under section 505 or 514 or section 351 of the Public Health Service Act was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug will be exported of such disapproval.

"(b)(1) Except as otherwise provided in this section, a drug (including a biological product) or device may be exported to any country, if the drug or device complies with the laws of that country and has valid marketing authorization by the appropriate approval authority—

"(A) in Australia, Canada, Israel, Japan, New Zealand, Switzerland, or South Africa; or

"(B) in the European Union or a country in the European Economic Area (the countries in the European Union and the European Free Trade Association) if the drug or device is marketed in that country or the drug or device is authorized for general marketing in the European Economic Area.

"(2) The Secretary may designate an additional country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1). The Secretary shall not delegate the authority granted under this paragraph.

"(3) An appropriate country official, manufacturer, or exporter may request the Secretary to designate an additional country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1) by submitting documentation to the Secretary in support of such designation. Any person other than a country requesting such designation shall include along with the request a letter from the country indicating the desire of such country to be designated.

"(4) The Secretary shall designate a country or countries to be included in the list of countries described in subparagraphs (A) and (B) of paragraph (1) if the Secretary finds that the valid marketing authorization system in such country or countries is equivalent to the systems in the countries described in subparagraphs (A) and (B) of paragraph (1).

"(c) A drug or device intended for investigational use in any country described in subsection (b) may be exported in accordance with the laws of that country and shall be exempt from regulation under section 505(i) or 520(g).

"(d) A drug or device intended for formulation, filling, packaging, labeling, or further processing in anticipation of market authorization in any country described in paragraph (1)(A) or (B) of subsection (b) may be exported to those countries for use in accordance with the laws of that country.

"(e)(1) A drug (including a biological product) or device which is to be used in the prevention or treatment of a tropical disease or other disease not prevalent in the United States and which does not otherwise qualify for export under this section may, upon approval of an application submitted under paragraph (2), be exported if—

"(A) the Secretary finds, based on credible scientific evidence, including clinical investigations, that the drug or device is safe and effective in the country to which the drug or device is to be exported in the prevention or treatment of a tropical disease or other disease not prevalent in the United States in such country;

"(B) the drug or device is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and is not adulterated under subsection (a)(1), (a)(2)(A), (a)(3), (c), or (d) of section 501;

"(C) the outside of the shipping package is labeled with the following statement: 'This drug or device may be sold or offered for sale only in the following countries: _____', the blank space being filled with a list of the countries to which export of the drug or device is authorized under this subsection;

"(D) the drug or device is not the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the manufacture of the drug or device in the United States for export to a country is contrary to the public health and safety of the United States; and

"(E) the requirements of subparagraphs (A) through (D) of section 801(e)(1) have been met.

"(2) Any person may apply to have a drug or device exported under paragraph (1). The application shall—

"(A) describe the drug or device to be exported;

"(B) list each country to which the drug or device is to be exported;

"(C) contain a certification by the applicant that the drug or device will not be exported to a country for which the Secretary cannot make a finding described in paragraph (1)(A);

"(D) identify the establishments in which the drug or device is manufactured; and

"(E) demonstrate to the Secretary that the drug or device meets the requirements of paragraph (1).

"(3) The holder of an approved application for the export of a drug or device under this subsection shall report to the Secretary—

"(A) the receipt of any information indicating that the drug or device is being or may have been exported from a country for which the Secretary made a finding under paragraph (1)(A) to a country for which the Secretary cannot make such a finding; and

"(B) the receipt of any information indicating any adverse reactions to such drug.

"(4)(A) If the Secretary determines that—

"(i) a drug or device for which an application is approved under paragraph (2) does not continue to meet the requirements of paragraph (1);

"(ii) the holder of such application has not made the report required by paragraph (3); or

"(iii) the manufacture of such drug or device in the United States for export is contrary to the public health and safety of the United States and an application for the export of such drug or device has been approved under paragraph (2),

then before taking action against the holder of an application for which a determination was made under clause (i), (ii), or (iii), the Secretary shall notify the holder in writing of the determination and provide the holder 30 days to take such action as may be required to prevent the Secretary from taking action against the holder under this subparagraph. If the Secretary takes action against such holder because of such a determination, the Secretary shall provide the holder a written statement specifying the reasons for such determination and provide the holder, on request, an opportunity for an informal hearing with respect to such determination.

"(B) If at any time the Secretary, or in the absence of the Secretary, the official designated to act on behalf of the Secretary, determines that—

"(i) the holder of an approved application under paragraph (2) is exporting a drug or device from the United States to an importer;

"(ii) such importer is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A); and

"(iii) such export presents an imminent hazard to the public health in such country,

the Secretary shall immediately prohibit the export of the drug or device to such importer, provide the person exporting the drug or device from the United States prompt notice of the determination, and afford such person an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(C) If the Secretary, or in the absence of the Secretary, the official designated to act on behalf of the Secretary, determines that the holder of an approved application under paragraph (2) is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), and that the export of the drug or device presents an imminent hazard, the Secretary shall immediately prohibit the export of the drug or device to such country, give the holder prompt notice of the determination, and afford the holder an opportunity for an expedited hearing. A determination by the Secretary under this subparagraph may not be stayed pending final action by a reviewing court. The authority conferred by this subparagraph shall not be delegated by the Secretary.

"(D) If the Secretary receives credible evidence that the holder of an application approved under paragraph (2) is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall give the holder 60 days to provide information to the Secretary respecting such evidence and shall provide the holder an opportunity for an informal hearing on such evidence. Upon the expiration of such 60 days, the Secretary shall prohibit the export of such drug or device to such country if the Secretary determines the holder is exporting the drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A).

"(E) If the Secretary receives credible evidence that an importer is exporting a drug or device to a country for which the Secretary cannot make a finding under paragraph (1)(A), the Secretary shall notify the holder of the application authorizing the export of such drug or device of such evidence and shall require the holder to investigate the export by such importer and to report to the Secretary within 14 days of the receipt of such notice the findings of the holder. If the Secretary determines that the importer has exported a drug or device to such a country, the Secretary shall prohibit such holder from exporting such drug or device to the importer unless the Secretary determines that the export by the importer was unintentional.

"(f) A drug or device may not be exported under this section if—

"(1) the drug or device is not manufactured, processed, packaged, and held in conformity with current good manufacturing practice or is adulterated under paragraph (1), (2)(A), or (3) of section 501(a) or subsection (c) or (d) of section 501;

"(2) the requirements of subparagraphs (A) through (D) of section 801(e)(1) have not been met;

"(3)(A) the drug or device is the subject of a notice by the Secretary or the Secretary of Agriculture of a determination that the possibility of reimportation of the exported drug or device would present an imminent hazard to the public health and safety of the United States and the only means of limiting the hazard is to prohibit the export of the drug or device;

"(B) the drug or device presents an imminent hazard to the public health of the country to which the drug or device would be exported; or

"(4) the drug or device is not labeled or promoted—

"(A) in accordance with the requirements and conditions for use in—

"(i) the country in which the drug or device received a valid marketing authorization under subsection (b)(2); and

"(ii) the country to which the drug or device would be exported; and

"(B) in the language of the country or designated by the country to which the drug or device would be exported.

"In making a finding under paragraph (3)(B), the Secretary shall, to the maximum extent possible, consult with the appropriate public health official in the affected country.

"(g) The exporter of a drug or device exported under this section shall provide a simple notification to the Secretary when the exporter first begins to export such drug or device to a country and shall maintain records of all products exported pursuant to this section.

"(h) For purposes of this section—

(1) a reference to the Secretary shall in the case of a biological product which is required to be licensed under the Act of March 4, 1913 (37 Stat. 832-833) (commonly known as the Virus-Serum Toxin Act) be considered to be a reference to the Secretary of Agriculture, and

(2) the term "drug" includes drugs for human use as well as biologicals under section 351 of the Public Health Service Act or the Act of March 4, 1913 (37 Stat. 832-833) (commonly known as the Virus-Serum Toxin Act)."

SEC. 6003. PROHIBITED ACT.

Section 301 (21 U.S.C. 331) is amended—

(1) by redesignating the second subsection (u) as subsection (v); and

(2) by adding at the end thereof the following new subsection:

"(w)(1) The failure to maintain records as required by section 801(d)(3), the making of a knowing false statement in any record or report required or requested under section 801(d)(3), the release into interstate commerce of any article imported into the United States under section 801(d)(3) or any finished product made from such article (except for export in accordance with subsection 801(e) or section 802 of the Act or section 351(h) of the Public Health Service Act), or the failure to export or destroy any component, part or accessory not incorporated into a drug, biological product or device that will be exported in accordance with subsection 801(e) or section 802 of this Act or section 351(h) of the Public Health Service Act."

SEC. 6004. PARTIALLY PROCESSED BIOLOGICAL PRODUCTS.

Subsection (h) of section 351 of the Public Health Service Act (42 U.S.C. 262) is amended to read as follows:

"(h) A partially processed biological product which—

"(1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;

"(2) is not intended for sale in the United States; and

"(3) is intended for further manufacture into final dosage form outside the United States,

shall be subject to no restriction on the export of the product under this Act or the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.) if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice and meets the requirements in section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(e)).".

This Act may be cited as the "Omnibus Consolidated Rescissions and Appropriations Act of 1996".

NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 260, S. 956, regarding the ninth circuit.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 956) to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ninth Circuit Court of Appeals Reorganization Act of 1995".

SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.

Section 41 of title 28, United States Code, is amended—

(1) in the matter before the table, by striking out "thirteen" and inserting in lieu thereof "fourteen";

(2) in the table, by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth ..... California, Hawaii, Guam, Northern Mariana Islands.";

and

(3) between the last 2 items of the table, by inserting the following new item:

"Twelfth ..... Alaska, Arizona, Idaho, Montana, Nevada, Oregon, Washington."

SEC. 3. NUMBER OF CIRCUIT JUDGES.

The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth ..... 15";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth ..... 13".

SEC. 4. PLACES OF CIRCUIT COURT.

The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the ninth circuit and inserting in lieu thereof the following new item:

"Ninth ..... San Francisco, Los Angeles.";

and

(2) by inserting between the last 2 items at the end thereof the following new item:

"Twelfth ..... Portland, Seattle, Phoenix.".

SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES AND CLERK OF THE COURT.

(a) CIRCUIT JUDGES.—No later than 60 days after the date of the enactment of this Act, the judicial council for the former ninth circuit shall make assignments of the circuit judges of the former ninth circuit to the new ninth circuit and the twelfth circuit, consistent with the provisions of this Act.

(b) CLERK OF THE COURT.—The Clerk of the Court for the Twelfth Circuit United States Court of Appeals shall be located in Phoenix, Arizona.

SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

Each judge who is a senior judge of the former ninth circuit on the day before the effective date of this Act may elect to be assigned to the new ninth circuit or to the twelfth circuit and shall notify the Director of the Administrative Office of the United States Courts of such election.

SEC. 7. SENIORITY OF JUDGES.

The seniority of each judge—

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act;

shall run from the date of commission of such judge as a judge of the former ninth circuit.

SEC. 8. APPLICATION TO CASES.

The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

SEC. 9. DEFINITIONS.

For purposes of this Act, the term—

(1) "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

SEC. 10. ADMINISTRATION.

The court of appeals for the ninth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1997.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

AMENDMENT NO. 3558

(Purpose: To establish a Commission on Structural Alternatives for the Federal Courts of Appeals)

Mr. MURKOWSKI. Mr. President, on behalf of Senators FEINSTEIN, REID, BURNS, and others, I send a substitute amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mrs. FEINSTEIN, for herself, Mr. REID, Mr. BURNS, Mr. BIDEN, Mr. KENNEDY, and Mr. AKAKA, proposes an amendment numbered 3558.

The text of the amendment follows:

Strike all after the enacting clause and insert;

COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS

SECTION 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal courts of appeals with particular reference to the Ninth Circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeals, consistent with fundamental concepts of fairness and due process.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of eleven members appointed as follows:

(1) Two members appointed by the President of the United States.

(2) Three members appointed by the Majority Leader, in consultation with the Minority Leader of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

SEC. 3. COMPENSATION.

(a) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services; but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 per diem for each day (including travel-time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC. 4. PERSONNEL.

(a) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The Executive Director, with approval of the Commission, may appoint and fix the compensation of such additional personnel as he determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission

on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

SEC. 5. INFORMATION.

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it determines necessary to carry out its functions under this title and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

SEC. 6. REPORT.

The Commission shall transmit its report to the President and the Congress no later than February 28, 1997. The Commission shall terminate ninety days after the date of the submission of its report.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums, not to exceed $500,000, as may be necessary to carry out the purposes of this title. Such sums as are appropriated shall remain available until expended.

SEC. 8. CONGRESSIONAL CONSIDERATION.

Within sixty days of the transmission of the report, the Committee on the Judiciary of the Senate shall act on the report.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 3558) was agreed to.

Mr. MURKOWSKI. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

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

The bill was ordered to engrossed for a third reading, was read the third time, and passed, as follows:

S. 956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

COMMISSION ON STRUCTURAL ALTERNATIVES FOR THE FEDERAL COURTS OF APPEALS

SECTION. 1. ESTABLISHMENT AND FUNCTIONS OF COMMISSION.

(a) ESTABLISHMENT.—There is established a Commission on Structural Alternatives for the Federal Courts of Appeals (hereinafter referred to as the "Commission").

(b) FUNCTIONS.—The function of the Commission shall be to—

(1) study the present division of the United States into the several judicial circuits;

(2) study the structure and alignment of the Federal courts of appeals with particular reference to the ninth circuit; and

(3) report to the President and the Congress its recommendations for such changes in circuit boundaries or structure as may be appropriate for the expeditious and effective disposition of the caseload of the Federal Courts of Appeal, consistent with fundamental concepts of fairness and due process.

SEC. 2. MEMBERSHIP.

(a) COMPOSITION.—The Commission shall be composed of eleven members appointed as follows:

(1) Two members appointed by the President of the United States.

(2) Three members appointed by the Majority Leader of the Senate, in consultation with the Minority Leader of the Senate.

(3) Three members appointed by the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(4) Three members appointed by the Chief Justice of the United States.

(b) VACANCY.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) CHAIR.—The Commission shall elect a Chair and Vice Chair from among its members.

(d) QUORUM.—Six members of the Commission shall constitute a quorum, but three may conduct hearings.

SEC. 3. COMPENSATION.

(a) IN GENERAL.—Members of the Commission who are officers, or full-time employees, of the United States shall receive no additional compensation for their services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission, but not exceeding the maximum amounts authorized under section 456 of title 28, United States Code.

(b) PRIVATE MEMBERS.—Members of the Commission from private life shall receive $200 per diem for each day (including travel-time) during which the member is engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, but not in excess of the maximum amounts authorized under section 456 of title 28, United States Code.

SEC. 4. PERSONNEL.

(a) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director who shall receive compensation at a rate not exceeding the rate prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) STAFF.—The Executive Director, with approval of the Commission, may appoint and fix the compensation of such additional personnel as he determines necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service or the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Compensation under this subsection shall not exceed the annual maximum rate of basic pay for a position above GS–15 of the General Schedule under section 5108 of title 5, United States Code.

(c) EXPERTS AND CONSULTANTS.—The Director may procure personal services of experts and consultants as authorized by section 3109 of title 5, United States Code, at rates not to exceed the highest level payable under the General Schedule pay rates under section 5332 of title 5, United States Code.

(d) SERVICES.—The Administrative Office of the United States Courts shall provide administrative services, including financial and budgeting services, for the Commission on a reimbursable basis. The Federal Judicial Center shall provide necessary research services on a reimbursable basis.

SEC. 5. INFORMATION.

The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it determines necessary to carry out its functions under this title and each such department, agency, and independent instrumentality is authorized to provide such information and assistance to the extent permitted by law when requested by the Chair of the Commission.

SEC. 6. REPORT.

The Commission shall transmit its report to the President and the Congress no later than February 28, 1997. The Commission shall terminate ninety days after the date of the submission of its report.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums, not to exceed $500,000, as may be necessary to carry out the purposes of this title. Such sums as are appropriated shall remain available until expended.

SEC. 8. CONGRESSIONAL CONSIDERATION.

Within sixty days of the transmission of the report, the Committee on the Judiciary of the Senate shall act on the report.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the title be amended to read: "A bill to Establish a Commission on Structural Alternatives for the Federal Courts of Appeals."

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

The title was amended so as to read: "A bill to establish a Commission on Structural Alternatives for the Federal Courts of Appeals."

PROVISION FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

AUTHORIZING THE USE OF THE ROTUNDA OF THE U.S. CAPITOL ON JANUARY 20, 1997

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 47 and Senate Concurrent Resolution 48, en bloc, resolutions submitted earlier by Senators WARNER and FORD. I further ask unanimous consent that the resolutions be considered and agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating to those resolutions appear at the appropriate place in the RECORD.

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

So the concurrent resolutions (S. Con. Res. 47 and S. Con. Res. 48) were agreed to, as follows:

S. CON. RES. 47

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of 3 Senators and 3 Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-

elect and Vice President-elect of the United States on the 20th day of January 1997.

S. CON. RES. 48

Resolved by the Senate (the House of Representatives concurring), That (a) the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1997, by the Joint Congressional Committee on Inaugural Ceremonies (the "Joint Committee") in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and Vice President-elect of the United States.

(b) The Joint Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies. The Joint Committee may accept gifts and donations of goods and services to carry out its responsibilities.

ORDERS FOR THURSDAY, MARCH 21, 1996

Mr. MURKOWSKI. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Thursday, March 21; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be dispensed with, 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 then proceed to the consideration of the conference report to accompanying H.R. 956, the product liability bill, as under the previous order.

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

Mr. MURKOWSKI. I ask unanimous consent that the cloture vote with respect to the Special Committee to Investigate Whitewater occur immediately following the vote on adoption of the product liability conference report.

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

PROGRAM

Mr. MURKOWSKI. Mr. President, for the information of all Senators, the Senate will debate the product liability conference report at 9 a.m. until 12 noon on Thursday. At 12 noon, a vote will occur on adoption of the product liability conference report.

Mr. President, following the two back-to-back votes, the Senate will resume the grazing fee bill, S. 1459, under a previous order. There will be 75 minutes of debate on the pending Bumpers amendment regarding increased fees with a vote occurring at approximately 2 p.m. on Thursday. Additional votes could therefore occur during Thursday's session of the Senate. Also, the Senate could be asked to consider a short-term continuing resolution if approved in the House of Representatives.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. MURKOWSKI. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:44 p.m., adjourned until Thursday, March 21, 1996, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 20, 1996:

SMALL BUSINESS ADMINISTRATION

GINGER ELN LEW, OF CALIFORNIA, TO BE DEPUTY DIRECTOR OF THE SMALL BUSINESS ADMINISTRATION, VICE CASSANDRA M. PULLEY, RESIGNED.

NATIONAL COUNCIL ON DISABILITY

GINA MCDONALD, OF KANSAS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1998, VICE LARRY BROWN, JR., TERM EXPIRED.

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE NAVY OF THE UNITED STATES TO THE GRADE INDICATED UNDER TITLE 10 UNITED STATES CODE, SECTION 624:

SUPPLY CORPS

To be rear admiral

REAR ADM. (LH) EDWARD R. CHAMBERLIN [redacted]

SENIOR HEALTH CARE EXECUTIVE

To be rear admiral

REAR ADM. (LH) NOEL K. DYSART, JR. [redacted]
REAR ADM. (LH) DENNIS I. WRIGHT [redacted]

IN THE AIR FORCE

THE FOLLOWING MIDSHIPMEN, U.S. NAVAL ACADEMY FOR APPOINTMENT AS SECOND LIEUTENANT IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 531 AND 541, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

BRIAN H. BENEDICT [redacted]
SEAN P. BOLES [redacted]
FRANCHESCA J. MALZAHN [redacted]
DANIEL K. ROBERTS [redacted]

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE

To be lieutenant colonel

MICHAEL G. COLANGELO [redacted]
GAYLORD G. H. DOWSON, [redacted]
KATHLEEN L. EASTBURN [redacted]
KEVIN J. FISCHER [redacted]
FRANCISCO A. FERNANDEZ [redacted]
ELDRIDGE J. JOHNSON, JR. [redacted]
RICKY A. MANTEL [redacted]
JAMES A. MCGOVERN [redacted]
THOMAS G. MURGATROYD [redacted]
DAVID B. MUZZY [redacted]
DONALD W. PITTS [redacted]
THOMAS F. ROUNDTREE [redacted]
HURLEY R. TAYLOR [redacted]

JUDGE ADVOCATE GENERALS DEPARTMENT

CARLOS E. RODRIGUEZ [redacted]

CHAPLAIN CORPS

DENNIS E. YOCUM [redacted]

MEDICAL SERVICE CORPS

JAMES R. SANDMAN [redacted]
GERRY D. STOVER [redacted]

BIO-MEDICAL SCIENCE CORPS

JOHN J. BARLETTANO [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 OF TITLE 10, U.S.C. THE OFFICERS MARKED BY AN ASTERISK (*) ARE ALSO NOMINATED FOR REGULAR APPOINTMENT IN ACCORDANCE WITH SECTION 531 OF TITLE 10, U.S.C.

To be lieutenant colonel

DANIEL F. ABAHAZY [redacted]
CATHERINE E. ABBOTT [redacted]
CHRISTIAN A. ABBOTT [redacted]
DALE M. ABERNATHY [redacted]
MARK H. ABERNATHY [redacted]
JAMES C. ABNEY [redacted]
DAVID J. ABRAMOWITZ [redacted]
STEVEN D. ACENBRAK [redacted]
DOUGLASS S. ADAMS [redacted]
KAREN S. ADAMS [redacted]
JOHN F. AGOGLIA [redacted]
KENNETH B. AGOSTA [redacted]
DEWAYNE AHNER [redacted]
MARK W. AKIN [redacted]
GEORGE AKINS, JR. [redacted]
*JOSE R. ALBINO [redacted]
RICHARD A. ALBRECHT [redacted]
ELI T. ALFORD [redacted]
ROBERT ALGERMISSEN [redacted]
KERRY C. ALLEN [redacted]
BRADLEY G. ANDERSON [redacted]
DAVID S. ANDERSON [redacted]
JOEL D. ANDERSON [redacted]
MARK C. ANDERSON [redacted]
JEFFREY R. ANDREWS [redacted]
JOHN L. ARATA [redacted]
THOMAS M. ARIDELLY [redacted]
JOHN S. ARNOLD [redacted]
ROGER A. ARNZEN [redacted]
JOHN M. ATKINS, [redacted]
MARK F. AVERILL [redacted]
MARK W. AVERY [redacted]
STEPHEN BACHINSKI [redacted]
JOE T. BACK, JR. [redacted]
MARK D. BAEHRE [redacted]
MICHAEL D. BAEHRE [redacted]
JAMES D. BAGWELL [redacted]
DON W. BAILEY [redacted]
DAVID B. BAKER [redacted]
JOHN P. BAKER, II [redacted]
THOMAS M. BAKER [redacted]
DANIEL L. BANKSTON [redacted]
GARY A. BARBER [redacted]
CARLOS E. BARBOSA [redacted]
WALTER R. BARFIELD [redacted]
ROBERT D. BARGERON [redacted]
CAROL A. BARKALOW [redacted]
PETER R. BARNES [redacted]
THOMAS E. BARNES [redacted]
MICHEAL A. BARNETT [redacted]
MARK A. BAROWSKI [redacted]
GERALD G. BARRETT [redacted]
MICHAEL J. BARRON [redacted]
ROBERT F. BARRY [redacted]
RONALD F. BARRY [redacted]
FRANK L. BARTH [redacted]
DONALD BARTHOLOMEW [redacted]
JEFFREY BASILOTTA [redacted]
CHARLES A. BASS [redacted]
DEBBIE V. BAZEMORE [redacted]
GREGORY E. BEACH [redacted]
STEVEN F. BEAL [redacted]
MICHAEL K. BEANS, [redacted]
YVONNE A. BEATTY [redacted]
REGINALD B. BEATY [redacted]
GREGORY T. BECK [redacted]
ROBERT C. BECKINGER [redacted]
ROGER A. BEHRINGER [redacted]
ANTHONY B. BELL [redacted]
DAVID K. BELL [redacted]
DAVID J. BENDER [redacted]
WILLIAM E. BENNER [redacted]
KATHLEEN R. BENNETT [redacted]
GUY C. BEOUGHER [redacted]
JAMES L. BERG [redacted]
JON K. BERLIN [redacted]
JANICE M. BERRY [redacted]
CAROLE N. BEST [redacted]
JODY L. BEVILLE [redacted]
LEON A. BICKFORD [redacted]
GEORGE M. BILAFER [redacted]
VICTOR M. BIRD, [redacted]
MICHAEL J. BIZER [redacted]
GARY L. BLACK [redacted]
JERZELL L. BLACK [redacted]
ROBERT J. BLACK [redacted]
FREDDIE N. BLAKELY [redacted]
JOHN D. BLASSER [redacted]
GARY L. BLISS [redacted]
JAMES A. BLISS [redacted]
KEITH C. BLOWE [redacted]
JAMES W. BOARDMAN [redacted]
JILL L. BOARDMAN [redacted]
HAROLD J. BOCHSLER [redacted]
JIM D. BODENHEIMER [redacted]
EDWARD F. BODLING [redacted]
KENNETH L. BOEGLEN [redacted]
ALAN F. BOHNWAGNER [redacted]
ROBERT W. BOISVERT [redacted]
CHRISTOPHER BOLAN [redacted]
JAMES L. BOLING [redacted]
CLIFF F. BOLTZ [redacted]
DONNA G. BOLTZ [redacted]
GWEND BONEYJOHNSON [redacted]
DAVID J. BONGI [redacted]
LEWIS M. BOONE [redacted]

FELIX V. BOUGHTON xxx-xx-x...
STEVE G. BOUKEDES xxx-xx-x...
MARK A. BOUNDS xxx-xx-x...
REGINALD BOURGEOIS xxx-xx-x...
GEORGE E. BOWEN xxx-xx-x...
EDWARD L. BOWIE xxx-xx-x...
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MICHAEL M. BOWMAN xxx-xx-x...
*ROBERT J. BOYD xxx-xx-x...
MARK A. BOYLE xxx-xx-x...
THOMAS J. BOYLE xxx-xx-x...
THOMAS G. BRADBEER xxx-xx-x...
WOODROW BRADLEY, JR. xxx-xx-x...
DONALD H. BRANNON xxx-xx-x...
JEFFREY L. BRANT xxx-xx-x...
LINDA K. BRATCHER xxx-xx-x...
LEAMON C. BRATTON xxx-xx-x...
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MICHAEL L. BRUHN xxx-xx-x...
IRBY W. BRYAN, JR. xxx-xx-x...
JACKIE J. BRYANT xxx-xx-x...
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SCOTT H. CRIZER xxx-xx-x...
JOEL C. CROMWELL xxx-xx-x...
JAMES B. CRONIN xxx-xx-x...
FREDERICK A. CROSS xxx-xx-x...
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CRAIG A. DEARE xxx-xx-x...
FRANK L. DECKER xxx-xx-x...
JOSEPH DELLASILVA xxx-xx-x...
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JOHN P. DEUTSCH xxx-xx-x...
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DAVID L. DEVRIES xxx-xx-x...
LETA S. DEYERLE xxx-xx-x...
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VICTOR DIEGOALLARD xxx-xx-x...
MAX J. DIETRICH xxx-xx-x...
GARY F. DIGESU xxx-xx-x...
ROLAND M. DIXON xxx-xx-x...
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ALEX C. DORNSTAUDER xxx-xx-x...
DOROTHY S. DOYLE xxx-xx-x...
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SAM D. DOYLE xxx-xx-x...
GORDON C. DRAKE xxx-xx-x...
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EMMETT H. DUBOSE xxx-xx-x...
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KENT B. DUFFY xxx-xx-x...
SUSAN R. DUFFY xxx-xx-x...
RONALD M. DUCAN xxx-xx-x...
KIMBERLY K. DURR xxx-xx-x...
STEPHEN R. DWYER xxx-xx-x...
KAREN E. DYSON xxx-xx-x...
ELIZABETH A. EARLY xxx-xx-x...
JOHN A. ECONOM xxx-xx-x...
ARVEL J. EDENS, JR. xxx-xx-x...
BRANT D. EDMISTER xxx-xx-x...
MICHAEL EDRINGTON xxx-xx-x...
FRANK M. EDWARDS xxx-xx-x...
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ELY E. ELEFANTE xxx-xx-x...
PETER R. ELIASON xxx-xx-x...
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TRACY L. ELLIS xxx-xx-x...
KEITH D. EMBERTON xxx-xx-x...
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DONALD W. ENGEN xxx-xx-x...
MICHAEL D. ENNEKING xxx-xx-x...
CLINTON D. ESAREY xxx-xx-x...
BETTIE J. EVANS xxx-xx-x...
GEORGE D. EVELAND xxx-xx-x...
WILLIAM S. EWELL xxx-xx-x...
LARRY D. FALLEN xxx-xx-x...
THOMAS N. FALLIN xxx-xx-x...
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MICHAEL W. FEIL xxx-xx-x...
JOHN G. FINLEY xxx-xx-x...
EDWARD J. FISHER xxx-xx-x...
MARSHALL P. FITE xxx-xx-x...
DANIEL FITZGERALD xxx-xx-x...
TIMOTHY FITZGERALD xxx-xx-x...
KELLY FITZPATRICK xxx-xx-x...
ERIC A. FLAGG xxx-xx-x...
RICKIE G. FLEMING xxx-xx-x...
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*HARVEST A. FLOYD xxx-xx-x...
MICHAEL J. FLYNN xxx-xx-x...
MICHAEL D. FORMICA xxx-xx-x...
ALLEN N. FORTE xxx-xx-x...
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MARY A. LEGERE xxx-xx-x...
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EUGEN MAGGIONCALDA xxx-xx-x...
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JOSE R. MALDONADO xxx-xx-x...
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CHERYL D. MANN xxx-xx-...
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PRESCOTT MARSHALL xxx-xx-x...
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GEO MASTROMICHALIS xxx-xx-x...
SHAWN M. MATERR xxx-xx-x...
JACOB P. MATTHEWS xxx-xx-x...
MARY E. MATTHEWS xxx-xx-x...
WILLIAM T. MAUGHN xxx-xx-x...
IRENE G. MAUSS xxx-xx-x...
BRADLEY W. MAY xxx-xx-x...
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ROBERT D. MAYR xxx-xx-x...
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MARK A. MCALISTER xxx-xx-x...
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PATRICK G. MCCARTHY xxx-xx-x...
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COLLEEN L. MCGUIRE xxx-xx-x...
DONALD V. MCGUIRE xxx-xx-x...
DAVID J. MCKENNA xxx-xx-x...
MARSHALL MCKINNEY xxx-xx-xxxx
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LAWRENCE MCLAUGHLIN xxx-xx-x...
MICHAEL J. MCMAHON xxx-xx-...
KENNETH M. MCMILLIN xxx-xx-x...
ROBERT C. MCMULLIN xxx-xx-x...
WILLIAM R. MCNEILL xxx-xx-x...
JAMES W. MCNULTY xxx-xx-x...
TIMOTHY K. MCNULTY xxx-xx-x...
ROBERT L. MCPEEK xxx-xx-x...
SCOTT K. MCPHEETERS xxx-xx-x...
PAUL M. MCQUAIN xxx-xx-x...
DAVID R. MCWILLIAMS xxx-xx-x...
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ROBIN L. MEALER xxx-xx-x...
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EARL C. MYERS xxx-xx-x...
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SUSAN R. MYERS xxx-xx-x...
EDWARD P. NAESSENS xxx-xx-x...
JOYCE P. NAPIER xxx-xx-x...
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MARKUS R. NEUMANN xxx-xx-x...
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ROBERT ORTIZABREU xxx-xx-x...
PETER R. OSTROM xxx-xx-x...
MARTINEZ OUTLANE xxx-xx-x...
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RICHARD A. PARADISO xxx-xx-x...
JOEL R. PARKER, JR xxx-xx-xx...
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DONALD G. REININGER xxx-xx-x...
KURT C. REITINGER xxx-xx-x...
JAMES D. RENBARGER xxx-xx-x...
CHRISTOPHE REORDAN xxx-xx-x...
PAUL J. REOYO xxx-xx-x...

MICHAEL S. REPASS xxx-xx-x...
MICHAEL RESTY, JR xxx-xx-x...
DANE K. REVES xxx-xx-x...
JAMES B. RHOADS xxx-xx-x...
MICHAEL A. RHODEN xxx-xx-x...
MICHAEL RICHARDSON xxx-xx-x...
ROSS E. RIDGE xxx-xx-x...
AMY L. RIDGEWAY xxx-xx-x...
WILLIAM R. RIEGER xxx-xx-x...
WILLIAM A. RIGBY xxx-xx-x...
WILLIAN E. RIKER xxx-xx-x...
FRANK L. RINDONE xxx-xx-x...
RHETT A. RISHER xxx-xx-x...
JOHN P. RITCHEY xxx-xx-x...
ROBERT J. RIVAS xxx-xx-x...
PETER J. ROBERTS xxx-xx-xx...
PATRICK M. ROBEY xxx-xx-x...
HUGH G. ROBINSON xxx-xx-x...
WILLIAM G. ROBINSON xxx-xx-x...
SUSAN M. ROCHA xxx-xx-xx...
RUSSELL C. ROCHTE xxx-xx-x...
MICHAEL R. ROCQUE xxx-xx-x...
STEVE C. RODIS xxx-xx-x...
*GILBERTO RODRIGUEZ xxx-xx-x...
MICHAEL J. ROESNER xxx-xx-x...
DAVID J. ROHRER xxx-xx-x...
CHRISTOPHER ROMIG xxx-xx-x...
*PEDRO J. ROSARIO xxx-xx-x...
JAMES G. ROSE xxx-xx-x...
MARK D. ROSENGARD xxx-xx-x...
HAROLD S. ROSENTHAL xxx-xx-x...
ROBERT N. ROSSI xxx-xx-x...
GREGORY A. ROSTEN xxx-xx-x...
MICHAEL E. ROUNDS xxx-xx-x...
JOHN S. ROVEGNO xxx-xx-x...
JOHN L. ROVERO xxx-xx-x...
GEORGE R. RUFF xxx-xx-x...
*RICHARD J. RUFFIN xxx-xx-x...
VAL L. RUFFO xxx-xx-x...
THOMAS R. RUHL xxx-xx-x...
BENIGNO B. RUIZ xxx-xx-x...
JAMES C. RUNYAN xxx-xx-x...
ANTHONY S. RUOCCO xxx-xx-x...
REX A. RUSSELL xxx-xx-x...
JOHN T. RUSSO xxx-xx-x...
STEPHEN L. RUST xxx-xx-x...
MICHAEL D. RYAN xxx-xx-x...
DANIEL SACKS xxx-xx-x...
JOHN K. SAJEVIC xxx-xx-x...
JAMES R. SAJO xxx-xx-x...
VICTOR M. SALAZAR xxx-xx-x...
BETH A. SANFORD xxx-xx-x...
RUSSEL D. SANTALA xxx-xx-x...
FEL SANTIAGOTORRES xxx-xx-x...
BENJAMIN B. SANTOS xxx-xx-x...
WILLIAM R. SARVAY xxx-xx-x...
LAURIE F. SATTLER xxx-xx-x...
CALVIN R. SAYLES xxx-xx-x...
DAVID A. SCARBALIS xxx-xx-x...
CHRISTOPH SCHIEFER xxx-xx-x...
MARK E. SCHILLER xxx-xx-x...
GREGORY J. SCHLEYER xxx-xx-x...
DAVID A. SCHNEIDER xxx-xx-x...
MICHAEL SCHNEIDER xxx-xx-x...
JOHN B. SCHOFFSTALL xxx-xx-x...
SIEGLINDE SCHOLLE xxx-xx-x...
STEVEN SCHOWALTER xxx-xx-x...
WARREN R. SCHULTZ xxx-xx-x...
CHRISTOPH SCHUSTER xxx-xx-x...
PAUL SCHWANENBERG xxx-xx-x...
JERRY D. SCOTT xxx-xx-x...
MICHAEL R. SCOTT xxx-xx-x...
ROBERT F. SCRUGGS xxx-xx-x...
SAMUEL SCRUGGS xxx-xx-x...
MARK R. SEASTROM xxx-xx-x...
KATHLEE SEITHFAGAN xxx-xx-x...
EDWARD M. SEKERAK xxx-xx-x...
ROBERT M. SERINO xxx-xx-...
JAY D. SERRANO xxx-xx-x...
RONALD L. SETTLE xxx-xx-x...
MELVIN E. SHAFER xxx-xx-x...
DANIEL J. SHANAHAN xxx-xx-x...
KENT R. SHAW xxx-xx-x...
JOHN M. SHAY xxx-xx-x...
TIMOTHY C. SHEA xxx-xx-x...
THOMAS R. SHELTON xxx-xx-x...
RICHARD J. SHERLOCK xxx-xx-x...
RODNEY D. SHERMAN xxx-xx-x...
FRANKLIN SHEWBERT xxx-xx-x...
MIRIAM D. SHIELDS xxx-xx-x...
BARRY L. SHOOP xxx-xx-x...
JAMES W. SHUFELT xxx-xx-x...
RICHARD C. SHUMARD xxx-xx-x...
WILLIAM F. SHURTZ xxx-xx-x...
FRANCI SIENKIEWICZ xxx-xx-x...
JACK D. SILVERS xxx-xx-x...
JACQUELIN SIMCHICK xxx-xx-x...
RICHARD L. SIMIS xxx-xx-x...
MARK P. SIMMS xxx-xx-x...
PATRICK V. SIMON xxx-xx-x...
*PETER O. SIMON xxx-xx-x...
RICHARD P. SIRNEY xxx-xx-x...
JAMES R. SKELTON xxx-xx-x...
*RICHARD A. SMART xxx-xx-x...
ANDRE L. SMITH xxx-xx-x...
CAROLYN S. SMITH xxx-xx-x...
DAVID SMITH, xxx-xx-x...
KEVIN W. SMITH xxx-xx-x...
MICHAEL F. SMITH xxx-xx-x...
MICHAEL J. SMITH xxx-xx-x...
MICHAEL N. SMITH xxx-xx-x...
NATHANIEL SMITH xxx-xx-x...

PAUL D. SMITH xxx-xx-x...
PHILIP J. SMITH xxx-xx-xx...
THOMAS J. SMITH xxx-xx-x...
WILLIAM H. SMITH xxx-xx-x...
EDWARD W. SNEAD xxx-xx-x...
WILLIAM A. SNEAD xxx-xx-x...
AUDY R. SNODGRASS xxx-xx-x...
CHARLES R. SNYDER xxx-xx-x...
ARTHUR A. SOBERS xxx-xx-x...
JOSEPH A. SOKOL xxx-xx-x...
MICHAEL T. SOLOMON xxx-xx-x...
MICHAEL E. SOUDER xxx-xx-x...
RICHARD D. SPEARMAN xxx-xx-x...
PATRICIA M. SPENCER xxx-xx-x...
MICHAEL G. SPIGHT xxx-xx-x...
CHARLES D. SQUIRES xxx-xx-x...
THOMAS H. STANTON xxx-xx-x...
BRIAN P. STAPLETON xxx-xx-x...
JAMES J. STARSHAK xxx-xx-xx...
JAMES A. STAUFFER xxx-xx-...
TERENCE L. STEED xxx-xx-x...
MARK A. STEENBERG xxx-xx-x...
KURT J. STEIN xxx-xx-x...
BARNEY J. STENKAMP xxx-xx-x...
EDDIE A. STEPHENS xxx-xx-x...
BRIAN P. STEPHENSON xxx-xx-x...
EDWARD STEPHENSON xxx-xx-x...
MICHAEL STEPHENSON xxx-xx-x...
MARK R. STEVENS xxx-xx-x...
CARLTON STEVENSON xxx-xx-x...
BEVERLY M. STIPE xxx-xx-x...
STEPHEN C. STOCKMAN xxx-xx-x...
GEORGE F. STONE xxx-xx-x...
JAMES A. STONE xxx-xx-x...
JESSE M. STONE xxx-xx-x...
JANN E. STOVALL xxx-xx-x...
KEVIN P. STRAMARA xxx-xx-x...
ARTHUR A. STRANGE xxx-xx-x...
JOHN C. STRATIS xxx-xx-x...
ANDA L. STRAUSS xxx-xx-x...
MARK R. STRICKER xxx-xx-x...
JEFFER STRINGFIELD xxx-xx-xx...
STEVEN M. STUBAN xxx-xx-x...
DAVID J. STYLES xxx-xx-x...
CARL L. SUBLETT xxx-xx-x...
RICKI L. SULLIVAN xxx-xx-x...
BARRY L. SWAIN xxx-xx-x...
WAYNE L. SWAN xxx-xx-x...
WILMER A. SWEDISER xxx-xx-x...
RICHARD W. SWENGROS xxx-xx-x...
JOEL V. SWISHER xxx-xx-x...
CAROL J. SZARENSKI xxx-xx-x...
WILLIAM J. TAIT xxx-xx-x...
MICHAEL C. TALBOTT xxx-xx-x...
DEAN P. TANNER xxx-xx-x...
BARRY P. TAYLOR xxx-xx-x...
CHARLES L. TAYLOR xxx-xx-x...
DEBRA O. TAYLOR xxx-xx-x...
JEFFREY A. TAYLOR xxx-xx-x...
LEE F. TAYLOR xxx-xx-x...
WENDELL L. TAYLOR xxx-xx-x...
BRYAN E. TEAGUE xxx-xx-x...
PETER J. TEDFORD xxx-xx-xx...
PHILLIP D. TELANDER xxx-xx-x...
MARK W. TERRY xxx-xx-x...
DWAYNE L. THOMAS xxx-xx-x...
HERMAN THOMAS xxx-xx-x...
PAUL C. THOMAS xxx-xx-x...
RAYMOND A. THOMAS xxx-xx-x...
SCOTT G. THOMAS xxx-xx-x...
DENNIS H. THOMPSON xxx-xx-x...
THOMAS A. THOMPSON xxx-xx-x...
DENNIS A. THORNTON xxx-xx-x...
STEVEN J. THORSON xxx-xx-x...
DAVID S. THURLOW xxx-xx-x...
JEFFREY J. TIERNEY xxx-xx-xx...
JOHN W. TINDALL xxx-xx-x...
JOHN M. TISSON xxx-xx-x...
DANIEL TODOROWSKI xxx-xx-x...
ROBERT M. TOGUCHI xxx-xx-x...
MICHAEL A. TONER xxx-xx-x...
CHARLES J. TOOMEY xxx-xx-x...
CHRISTOPHER TOOMEY xxx-xx-x...
MICHAEL R. TOOMEY xxx-xx-x...
ROBERT E. TOPPING xxx-xx-x...
ANDRES A. TORO xxx-xx-x...
STEVEN M. TORRANCE xxx-xx-x...
PED TORRESCHAMORRO xxx-xx-x...
KARLA C. TORREZ xxx-xx-x...
RICHARD A. TOTLEBEN xxx-xx-x...
SCOTT W. TOUSLEY xxx-xx-x...
TIMOTHY TOUZINSKY xxx-xx-x...
JOHN W. TOWERS xxx-xx-x...
LINDELL B. TOWNSEL xxx-xx-x...
BARBARA L. TREHARNE xxx-xx-x...
ERBIN L. TROUTMAN xxx-xx-x...
THOMAS G. TROBRIDGE xxx-xx-x...
ALBERT J. TURGEON xxx-xx-x...
HENRY C. TURNER xxx-xx-x...
RODERICK G. TURNER xxx-xx-x...
MICHAEL G. URBAN xxx-xx-x...
PETER D. UTLEY xxx-xx-x...
PETER J. UZELAC xxx-xx-x...
THOMAS D. VAIL xxx-xx-x...
OSCAR B. VALENT xxx-xx-x...
THOMAS S. VANDAL xxx-xx-x...
NEVILLE VANDERBURG xxx-xx-x...
MARION H. VANFOSSON xxx-xx-x...
MARK D. VANUS xxx-xx-x...
REY A. VELEZ xxx-xx-x...
STEVEN D. VOLKMAN xxx-xx-x...
CHRISTIA VONJACOBI xxx-xx-...

JEFFREY D. WADDELL xxx-xx-x...
CHRISTOPHER WAGNER xxx-xx-x...
KENNETH S. WAGNER xxx-xx-x...
RICHARD A. WAGNER xxx-xx-x...
ROBERT J. WAGNER xxx-xx-x...
PAUL S. WALCZAK xxx-xx-x...
JOSEPH A. WALDRON xxx-xx-x...
CAREY W. WALKER xxx-xx-x...
MICHAEL T. WALKER xxx-xx-x...
HENRY H. WALLER xxx-xx-x...
GUY J. WALSH xxx-xx-xx...
LESLIE B. WALSH xxx-xx-x...
RICHARD K. WALTERS xxx-xx-x...
WALLY Z. WALTERS xxx-xx-x...
BRAD M. WARD xxx-xx-x...
HARALD H. WARD xxx-xx-x...
JOHN R. WARD xxx-xx-x...
MARION M. WARD xxx-xx-x...
DAVID E. WARDLAW xxx-xx-x...
EUGENE C. WARDYNSKI xxx-xx-x...
*KEVIN W. WARTHON xxx-xx-x...
BETTE R. WASHINGTON xxx-xx-x...
GEORGE WASHINGTON xxx-xx-x...
BRIAN F. WATERS xxx-xx-x...
ALAN G. WATSON xxx-xx-x...
CHARLOTTE L. WATSON xxx-xx-x...
MICHAEL WAWRZYNIAK xxx-xx-x...
JEFFREY M. WEART xxx-xx-x...
JOHN W. WEATHERFORD xxx-xx-x...
CHARLES M. WEBB xxx-xx-x...
EDWARD L. WEINBERG xxx-xx-x...
IVAN B. WELCH II xxx-xx-...
PAUL L. WENTZ xxx-xx-x...
DENNIS A. WESTBERG xxx-xx-x...
JOHN P. WESTBROOK xxx-xx-x...
STEVEN D. WESTPHAL xxx-xx-x...
JOHN F. WHARTON xxx-xx-x...
WILLIAM A. WHATLEY xxx-xx-x...
WILLIAM M. WHEATLEY xxx-xx-x...
FRANK E. WHEELER xxx-xx-x...
BRENDA Y. WHITE xxx-xx-x...
DON M. WHITECOTTON xxx-xx-x...
STUART A. WHITEHEAD xxx-xx-x...
CRAIG M. WHITEHILL xxx-xx-x...
STUART A. WHITFIELD xxx-xx-x...
GREGORY J. WICK xxx-xx-x...
MARK R. WILCOX xxx-xx-x...
RICHARD I. WILES xxx-xx-x...
THOMAS P. WILHELM xxx-xx-x...
MARK S. WILKINS xxx-xx-x...
STEPHEN M. WILKINS xxx-xx-x...
DOUGLAS W. WILLARD xxx-xx-x...
JEFFREY D. WILLEY xxx-xx-x...
AARON J. WILLIAMS xxx-xx-x...
GARLAND H. WILLIAMS xxx-xx-x...
JEFFREY N. WILLIAMS xxx-xx-x...
MICHAEL S. WILLIAMS xxx-xx-x...
JENNIE WILLIAMSON xxx-xx-x...
CHARLES A. WILSON xxx-xx-x...
WILLIAM D. WILSON xxx-xx-x...
JUAN J. WINTELS xxx-xx-x...
JAYME WINTERS xxx-xx-x...
DOUGLAS WISNIOSKI xxx-xx-x...
WILLIAM G. WITHERS xxx-xx-x...
LEONARD WONG xxx-xx-x...
BENNY E. WOODARD xxx-xx-x...
ANDRE G. WOODS xxx-xx-x...
EDWIN P. WOODS xxx-xx-x...
GEORGE J. WOODS xxx-xx-x...
ROBERTA A. WOODS xxx-xx-x...
WILLIS A. WOODS xxx-xx-x...
ARTHUR W. WOOLFREY xxx-xx-x...
JAMES C. WORKMAN xxx-xx-x...
BRIAN A. WRIGHT xxx-xx-x...
PAUL E. WRIGHT xxx-xx-x...
JIMMY R. WYRICK xxx-xx-x...
LOWELL S. YARBROUGH xxx-xx-...
LEON N. YATES xxx-xx-x...
MARK A. YESHNIK xxx-xx-x...
CHET C. YOUNG xxx-xx-x...
LAVERM YOUNG JR. xxx-xx-x...
RICHARD A. YOUNG xxx-xx-x...
SAMUEL R. YOUNG xxx-xx-x...
LOUIS G. YUENGERT xxx-xx-x...
STEPHEN V. ZAAT xxx-xx-x...
DANIEL L. ZAJAC xxx-xx-x...
STEPHEN J. ZAPPALLA xxx-xx-xx...
JERRY D. ZAYAS xxx-xx-x...
JACK C. ZEIGLER xxx-xx-x...
DONALD A. ZIMMER xxx-xx-x...
MARTIN T. ZIOBRO xxx-xx-x...
JOHN T. ZOCCOLA xxx-xx-x...
WILLIAM C. ZOLP xxx-xx-x...
x...
x...
x...

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF COLONEL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

To be colonel

MICHAEL C. ALBANO xxx-xx-x...
JAMES C. APLIN xxx-xx-x...
HENRY ATTANASIO xxx-xx-x...
RANDY B. BELL xxx-xx-x...
THOMAS A. BENDS xxx-xx-x...
MICHAEL D. BOYD xxx-xx-x...
RANDY W. BRICKELL xxx-xx-x...
PAMELA A. BRILLS xxx-xx-x...
STEPHEN A. CARNES xxx-xx-x...
LYNN M. CHAMPAGNE xxx-xx-x...
ROCKY J. CHAVEZ xxx-xx-x...
JOHN T. COGGIN xxx-xx-x...
MARK E. CONDRA xxx-xx-x...
CHARLES E. COOKE xxx-xx-x...
DONALD K. COOPER xxx-xx-x...
MICHAEL L. COOPER xxx-xx-x...
CHRISTIAN B. COWDREY xxx-xx-x...
GLENN K. CUNNINGHAM xxx-xx-x...
CHARLES K. CURCIO xxx-xx-x...
JAMES W. DAVIS, JR. xxx-xx-x...
ROBERT K. DOBSON, JR. xxx-xx-x...
KENNETH D. DUNN xxx-xx-x...
RICHARD C. DUNN xxx-xx-x...
GEORGE P. FENTON xxx-xx-x...
FLETCHER W. FERGUSON, JR. xxx-xx-x...
DONALD E. FLEMING, JR. xxx-xx-x...
JAMES F. FLOCK xxx-xx-x...
GEORGE J. FLYNN xxx-xx-x...
MARC E. FREITAS xxx-xx-x...
JOHN M. GARNER xxx-xx-x...
WALTER E. GASKIN, SR. xxx-xx-x...
ROBERT E. GERLAUGH xxx-xx-x...
KENNETH J. GLUECK, JR. xxx-xx-x...
HENRY T. GOBAR xxx-xx-x...
BARNEY A. GRIMES, III xxx-xx-x...
JOHN L. GRIMMETT xxx-xx-x...
EDWARD J. HAMILTON xxx-xx-x...
ROBERT L. HAYES, III xxx-xx-x...
ELLEN B. HEALEY xxx-xx-x...
ALAN P. HEIM xxx-xx-x...
DENNIS J. HEJLIK xxx-xx-x...
MICHAEL K. HICKS xxx-xx-x...
RICHARD J. INGOLD xxx-xx-x...
CARL B. JENSEN xxx-xx-x...
MICHAEL J. JINNETT xxx-xx-x...
WILLIAM D. JOHNSON xxx-xx-x...
THOMAS R. KELLY xxx-xx-x...
DAVID B. KIRKWOOD xxx-xx-x...
KENT D. KOEBKE xxx-xx-x...
RICHARD W. KOKKO xxx-xx-x...
ANDREW KOWALSKI xxx-xx-x...
JOHN D. LEHOCKEY xxx-xx-x...
SCOTT E. LEITCH xxx-xx-x...
EDWARD J. LESNOWICZ, JR. xxx-xx-x...
GARRY W. LEWIS xxx-xx-x...
DAVID R. MALTBY xxx-xx-x...
JOSEPH J. MCMENAMIN xxx-xx-x...
MARK S. MCTAGUE xxx-xx-x...
TIMOTHY P. MINIHAN xxx-xx-x...
THOMAS E. MINOR xxx-xx-x...
RICHARD MONREAL xxx-xx-x...
WILLIAM J. NIEMASIK xxx-xx-x...
THOMAS M. O'LEARY xxx-xx-x...
JOHN M. PAXTON, JR. xxx-xx-x...
EARL W. POWERS xxx-xx-x...
JOHN R. PRIDDY xxx-xx-x...
DOUGLAS C. RAPP xxx-xx-x...
ROLAND G. RICHARDELLA xxx-xx-x...
JAMES D. RIEMER xxx-xx-x...
RONALD P. ROOK xxx-xx-x...
RICHARD C. ROTEN xxx-xx-x...
GLEN R. SACHTLEBEN xxx-xx-x...
RICHARD F. SCHALK xxx-xx-x...
PHILIP F. SHUTLER II xxx-xx-xx...
LUCIANO S. SILVA xxx-xx-x...
WILLIAM L. SMITH xxx-xx-x...
HARRY C. SPIES xxx-xx-x...
RICHARD E. ST PIERRE xxx-xx-x...
JOHN F. SWEET xxx-xx-x...
DUANE D. THIESSEN xxx-xx-x...
JAMES E. THIGPEN xxx-xx-x...
RALPH F. TICE xxx-xx-x...
STEVEN J. TOMISEK xxx-xx-x...
GEORGE J. TRAUTMAN III xxx-xx-x...
PAUL A. TULLY xxx-xx-x...
WILLIAM D. TYRA III xxx-xx-x...
ROBERT M. WELTER xxx-xx-x...
PHILIP R. WESTCOTT III xxx-xx-xx...
WILLIE J. WILLIAMS xxx-xx-x...
ROBERT O. WORK xxx-xx-x...
RICHARD H. ZALES xxx-xx-x...
RICHARD C. ZILMER xxx-xx-x...

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE-DUTY LIST, FOR PROMOTION TO THE GRADE OF LIEUTENANT COLONEL IN THE U.S. MARINE CORPS IN ACCORDANCE WITH SECTION 624 OF TITLE 10, UNITED STATES CODE.

To be lieutenant colonel

WILLIAM S. AITKEN xxx-xx-x...
GREGORY S. AKERS xxx-xx-x...
LARRY D. ALEXANDER xxx-xx-x...
JOHN M. ALLISON xxx-xx-x...
TERRY D. AMYX xxx-xx-x...
PHILIP ANDERSON xxx-xx-x...
SCOTT M. ANDERSON xxx-xx-x...
WILLIAM J. ANDERSON xxx-xx-x...
JUAN G. AYALA xxx-xx-x...
ROBERT J. BADER xxx-xx-x...
GREGORY A. BALLARD xxx-xx-x...
MARK H. BAMBERGER xxx-xx-x...
BRUCE K. BANCROFT xxx-xx-x...
RICHARD A. BARFIELD xxx-xx-x...
THOMAS G. BARTON xxx-xx-x...
PATRICK L. BEEKMAN xxx-xx-x...
LORINE E. BERGERON III xxx-xx-x...
BRENT D. BIELENBERG xxx-xx-x...
DEBRA M BIELY xxx-xx-x...
PAUL R. BLESS xxx-xx-x...
ROBERT J. BLEWIS xxx-xx-x...
ELVIS E. BLUMENSTOCK xxx-xx-x...
ROBERT BOLAND III xxx-xx-...
THOMAS G. BOODRY xxx-xx-x...
RICHARD A. BOWEN xxx-xx-x...
FRANK R. BOYNTON xxx-xx-x...
TERRANCE C. BRADY xxx-xx-x...
THOMAS BRANDL xxx-xx-x...
JOHN M. BRANUM xxx-xx-x...
ROBERT J. BRENNAN xxx-xx-x...
RAYMOND T. BRIGHT xxx-xx-x...
WILLIE J. BROWN xxx-xx-x...
JOSEPH A. BRUDER III xxx-xx-x...
PAUL A. BRYGIDER xxx-xx-x...
KENNETH R. BUNNING xxx-xx-x...
BERNARD T. BURCHELL JR xxx-xx-x...
CATKIN M. BURTON xxx-xx-x...
DANIEL T. BUTTON xxx-xx-x...
BARETT R. BYRD xxx-xx-x...
JOHN M. BYZEWSKI xxx-xx-x...
CARLOS J. CAMARENA xxx-xx-x...
JOHN J. CANHAM, JR. xxx-xx-x...
MICHAEL G. CANTERBURY xxx-xx-x...
BRADLEY E. CANTRELL xxx-xx-x...
THOMAS L. CARIKER xxx-xx-x...
GARY L. CARTER xxx-xx-x...
JEFFREY L. CASPERS xxx-xx-xx...
EDWIN B. CASSADY xxx-xx-x...
JOSEPH D. CASSEL, JR. xxx-xx-xx...
RONALD E. CHEZEM, JR. xxx-xx-x...
WILLIAM M. CIASTON xxx-xx-x...
GUY M. CLOSE xxx-xx-x...
NORMAN R. COBB xxx-xx-x...
WILLIAM C. COLLEY xxx-xx-x...
MICHAEL J. CONKLIN xxx-xx-x...
THOMAS M. CONNERS xxx-xx-x...
JAMES M. CONNOLLY, JR. xxx-xx-x...
LAWRENCE P. CORBETT xxx-xx-x...
GARY A. CORREIA xxx-xx-x...
STEPHEN R. COTE xxx-xx-x...
ROBERT E. CRANK xxx-xx-x...
CARL M. CRIBBS xxx-xx-x...
RICHARD J. CRUSH xxx-xx-x...
RICHARD C. DANIELS xxx-xx-x...
MATTHEW A. DAPSON xxx-xx-x...
DIANNE S. DAVIS xxx-xx-x...
KEVIN J. DELMOUR xxx-xx-x...
JAMES R. DERDA xxx-xx-x...
RICHARD L. DETRIQUET xxx-xx-x...
DOUGLAS J. DIEHL xxx-xx-x...
CALVIN R. DIXON xxx-xx-x...
JAMES G. DIXON, JR. xxx-xx-x...
MARK C. DOBBS xxx-xx-x...
JOHN D. DONAHUE xxx-xx-x...
JOE D. DOWDY xxx-xx-x...
ERIK N. DOYLE xxx-xx-x...
WARREN I. DRIGGERS xxx-xx-x...
GREGORY R. DUNLAP xxx-xx-x...
JOHN J. DUPRAS xxx-xx-x...
PAUL K. DURKIN xxx-xx-x...
MICHAEL A. DYER xxx-xx-x...
LAURIN P. ECK xxx-xx-x...
GREGORY J. EHRMANN xxx-xx-x...
PAUL A. EVANS xxx-xx-x...
JEFFREY D. EVEREST xxx-xx-xx...
WILLIAM L. EZELL xxx-xx-x...
HARRY W. FARMER, JR. xxx-xx-x...
ROBERT W. FERGUSON, JR. xxx-xx-x...
KEITH B. FERRELL xxx-xx-x...
JUAN A. FIGUEROA xxx-xx-x...
MICHAEL E. FINNIE xxx-xx-x...
CHRISTOPHER M. FLECK xxx-xx-x...
GEORGE E. FLEMING III xxx-xx-x...
EDMUND F. FLORES xxx-xx-x...
WARREN J. FOERSCH xxx-xx-x...
GARY P. FONTAINE xxx-xx-x...
WILLIAM A. FRANCHI xxx-xx-x...
ADRIENNE F. FRASERDARLING xxx-xx-x...
KEVIN M. FRENCH xxx-xx-x...
LAWRENCE W. FRYER, JR. xxx-xx-x...
RAYMOND P. GANAS xxx-xx-x...
DAVID C. GARZA xxx-xx-x...
ROBERT A. GEARHART, JR. xxx-xx-x...
THOMAS D. GEHRKE xxx-xx-x...
PAUL C. GIBBONS xxx-xx-x...
HAROLD R. GIELOW xxx-xx-x...
EDWARD T. GILHOOLEY xxx-xx-x...
PAUL F. GILLIS xxx-xx-x...
THOMAS E. GLAZER xxx-xx-x...
TERRANCE A. GOULD xxx-xx-x...
ROBERT S. GRAHAM xxx-xx-x...
WILLIAM W. GRIFFEN, JR. xxx-xx-x...
JAMES M. GRIFFIN, JR. xxx-xx-xx...
GREGORY L. HARBAC xxx-xx-x...
MARY M. HARBAC xxx-xx-x...
WILLIAM J. HARTIG xxx-xx-x...
MARK L. HASKETT xxx-xx-x...
MICHAEL L. HAWKINS xxx-xx-x...
DAVID E. HEILAND xxx-xx-x...
RICHARD B. HENSEL xxx-xx-x...
EUGENE A. HERRERA xxx-xx-x...
KEVIN G. HERRMANN xxx-xx-x...
JOSEPH F. HIGGINS xxx-xx-x...
DONALD H. HILDEBRAND, JR. xxx-xx-x...
LLOYD C. HOLBERT xxx-xx-x...
JOHN P. HOLDEN xxx-xx-x...
DARRELL A. HONEA xxx-xx-x...
TIMOTHY W. HOONAN xxx-xx-x...
GLENN M. HOPPE xxx-xx-x...
GREGG H. HORSTMAN xxx-xx-x...
JAMES R. HOWCROFT xxx-xx-x...
STEPHEN P. HUBBLE xxx-xx-x...

WILLIAM D. HUGHES III xxx-xx-x...
TIMOTHY L. HUNTER xxx-xx-x...
PETER J. HURAI xxx-xx-x...
RICHARD F. INGLETT xxx-xx-x...
DANIEL T. JACKSON xxx-xx-x...
JOHN J. JACKSON xxx-xx-x...
RODNEY J. JARVIS xxx-xx-x...
LEONARD A. JASCZAK xxx-xx-x...
CARL J. JENKINS xxx-xx-x...
DOUGLAS J. JEROTHE xxx-xx-x...
RONALD J. JOHNSON xxx-xx-x...
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MICHAEL A. JONES xxx-xx-x...
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WILLIE C. JONES xxx-xx-x...
RAYMOND B. JOSEPH xxx-xx-x...
ROBERT E. JOSLIN xxx-xx-x...
TIMOTHY E. JUNMETTE xxx-xx-x...
KEVIN M. KACHMAR xxx-xx-x...
STEPHEN R. KACZMAR xxx-xx-x...
STEVEN M. KEIM xxx-xx-x...
RUSSELL A. KELLER xxx-xx-x...
KENNETH W. KEVERLINE xxx-xx-x...
LAWRENCE M. KING, JR. xxx-xx-x...
JOHN W. KIRKLAND III xxx-xx-x...
CHAD E. KIRKLEY xxx-xx-x...
LAWRENCE D. KNOSP xxx-xx-x...
JOHN G. KORAN III xxx-xx-x...
THOMAS R. KOVACH, JR. xxx-xx-x...
BRUCE T. KOWALSKI xxx-xx-x...
ROBERT A. KUHNERT xxx-xx-x...
MICHAEL D. KUSZEWSKI xxx-xx-x...
JOSEPH M. LANCE III xxx-xx-x...
JAMES B. LASTER xxx-xx-x...
KEITH A. LAWLESS xxx-xx-x...
KEVIN M. LEAHY xxx-xx-x...
TIMOTHY G. LEARN xxx-xx-x...
BEVELY G. LEE xxx-xx-x...
ALAN R. LEWIS xxx-xx-x...
MARC C. LIEBER xxx-xx-xxxx
CHAD LIENAU xxx-xx-x...
ERIC T. LITAKER xxx-xx-x...
DANIEL M. LIZZUL xxx-xx-x...
ROBERT G. LONGINO xxx-xx-x...
ROBERT M. LOTTIE xxx-xx-x...
MICHAEL E. LOVE xxx-xx-x...
JEFFREY G. LUCAS xxx-xx-x...
STEPHEN P. LYNCH xxx-xx-x...
JOHN F. LYNN xxx-xx-x...
WILLIAM P. MACECEVIC, JR. xxx-xx-x...
JEAN T. MALONE xxx-xx-x...
THOMAS F. MANLEY II xxx-xx-x...
JEFFERY L. MARSHALL xxx-xx-x...
EDDIE D. MARTIN xxx-xx-x...
LYNETTE M. MARTIN xxx-xx-x...
CARL D. MATTER xxx-xx-x...
FRANK D. MAZUR xxx-xx-x...
SCOTT E. MCCLAY xxx-xx-x...
EDWARD M. MCCUE, II xxx-xx-x...
LAWRENCE J. MCENROE, JR. xxx-xx-x...
RICK T. MCFADDEN xxx-xx-x...
BERNARD W. MCGOWAN, JR. xxx-xx-x...
KENNETH F. MCKENZIE, JR. xxx-xx-x...
DENNIS M. MCNULTY xxx-xx-x...
CRAIG M. MCVAY xxx-xx-x...
JERRY G. MENGELKOCH xxx-xx-x...
LEO A. MERCADO, JR. xxx-xx-x...
JONATHAN G. MICLOT xxx-xx-x...
GEORGE F. MILBURN III xxx-xx-x...
WALTER L. MILLER xxx-xx-x...
GREGORY E. MINKS xxx-xx-x...
DAVID J. MOLLAHAN xxx-xx-x...
JOHN E. MONTEMAYOR xxx-xx-x...
MEDIO MONTI xxx-xx-x...
GARRETT W. MOORE xxx-xx-x...
JOHN A. MORROW xxx-xx-x...
THOMAS M. MURRAY xxx-xx-x...
CHARLES R. MYERS xxx-xx-x...
GORDON F. MYERS xxx-xx-x...
CHAD F. NELSON xxx-xx-x...
JAMES L. NELSON, JR. xxx-xx-x...
SCOTT D. NELSON xxx-xx-x...
PAUL J. NUNEZ xxx-xx-x...
ROBERT E. NUNLEY xxx-xx-x...
CHRISTOPHER E. O'CONNOR xxx-xx-x...
KEITH A. OLIVER xxx-xx-x...
ROGER J. OLTMAN xxx-xx-x...
BERNARD E. O'NEIL xxx-xx-x...
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MICHAEL E. OSTAPIK xxx-xx-x...
CHARLES E. OWENS xxx-xx-x...
ANTHONY B. PAIS xxx-xx-x...
LEON M. PAPPAS xxx-xx-x...
JON E. PARIS xxx-xx-x...
WILLIAM E. PARRISH xxx-xx-x...
DARRYL B. PATTON xxx-xx-x...
MICHAEL J. PAULOVICH xxx-xx-x...
ROBERT L. PELON xxx-xx-x...
CURTIS A. PERRY xxx-xx-x...
DANIEL J. PETERS xxx-xx-xxx...
RICHARD J. PETROFF xxx-xx-x...
TIMOTHY A. PHILLIPS xxx-xx-x...
ALLAN C. POLLEY xxx-xx-x...
BRIAN L. POOLER xxx-xx-x...
LYNN A. PRICE xxx-xx-x...
KAREN S. PROKOP xxx-xx-x...
JOHN C. PROSS xxx-xx-x...
THOMAS F. QUALLS, JR. xxx-xx-x...
WILLIAM A. REED, JR. xxx-xx-x...
PATRICK C. REGAN xxx-xx-x...
RICHARD C. REINECKE xxx-xx-x...
BRUCE A. REXROAD xxx-xx-x...
JACKIE L. RICKMAN xxx-xx-x...
VICKI A. RILEY xxx-xx-x...
WILLIAM H. RITCHIE III xxx-xx-x...
JOSE E. RIVERA xxx-xx-x...
WILLIAM E. RIZZIO, JR. xxx-xx-x...
GRADY H. ROBY, JR. xxx-xx-x...
DAVID L. ROGERS xxx-xx-x...
THOMAS L. ROLLANDINI xxx-xx-x...
GLENN W. ROSENBERGER xxx-xx-x...
MICHAEL O. ROWELL xxx-xx-x...
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MICHAEL L. SAUNDERS xxx-xx-x...
MICHAEL L. SAWYERS xxx-xx-x...
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HUBERT J. SCALLON xxx-xx-x...
SHEILA M. SCANLON xxx-xx-x...
STEVEN J. SCHAD xxx-xx-x...
MICHAEL H. SCHMITT xxx-xx-x...
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JOEL G. SCHWANKL xxx-xx-x...
KEITH A. SEIWELL xxx-xx-x...
DAVID L. SEMPLE xxx-xx-x...
MARK S. SHAFER xxx-xx-x...
JAMES K. SHANNON xxx-xx-x...
THOMAS R. SHAW xxx-xx-x...
STEPHEN M. SHEEHAN xxx-xx-x...
ROLF A. SIEGEL xxx-xx-x...
BRANTLEY O. SMITH III xxx-xx-x...
ROBERT L. SMITH xxx-xx-x...
JERRY W. SNEED xxx-xx-x...
CHRISTOPHER H. SONNTAG xxx-xx-x...
COSMAS R. SPOFFORD xxx-xx-x...
ESTA L. STAPLES xxx-xx-x...
LAWRENCE P. STAWICKI xxx-xx-x...
BYRON F. STEBBINS xxx-xx-x...
WILLIAM T. STOOKSBURY xxx-xx-x...
JAMES D. STOREY xxx-xx-x...
THOMAS K. SUDBECK xxx-xx-x...
MARTIN J. SULLIVAN xxx-xx-x...
SUSAN G. SWEATT xxx-xx-x...
PETER J. TALLER xxx-xx-xx...
WILLIAM E. TAYLOR xxx-xx-x...
DAVID G. THOMPSON xxx-xx-x...
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DONALD J. THORNLEY xxx-xx-x...
DAVID H. TIERNEY xxx-xx-x...
CHRISTOPHER M. TILTON xxx-xx-x...
DWIGHT E. TRAFTON xxx-xx-x...
RAYMOND R. TROMBADORE JR. xxx-xx-x...
ROBERT S. TROUT xxx-xx-x...
PETER T. UNDERWOOD xxx-xx-x...
HENRY G. VANWINKLE II xxx-xx-x...
GREGORY J. VAUGHAN xxx-xx-x...
STEVEN E. VEYNA xxx-xx-x...
BRIAN J. VINCENT xxx-xx-x...
RONALD E. VONLEMBKE xxx-xx-x...
RODERICK K. VONLIPSEY xxx-xx-x...
GLENN L. WAGNER xxx-xx-x...
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ALAN W. WALLACE xxx-xx-x...
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GARY A. WARNER xxx-xx-x...
PATRICIA F. WARREN xxx-xx-x...
KENNETH L. WARTICK xxx-xx-x...
STEPHEN L. WATTERS xxx-xx-x...
MICHAEL M. WEBER xxx-xx-x...
LESLIE S. WEINHARDT xxx-xx-x...
STUART D. WEINSTEIN xxx-xx-x...
JAMES L. WELSH xxx-xx-x...
ANTHONY J. WENDEL III xxx-xx-x...
MARTIN M. WESTPHAL xxx-xx-x...
DERMOT C. WHELEHAN xxx-xx-x...
GLEN WHITE xxx-xx-x...
BRUCE A. WHITEHOUSE II xxx-xx-x...
WILLIAM W. WIGGINS xxx-xx-x...
ROBERT A. WILKINS xxx-xx-...
GREGORY K. WILKINSON xxx-xx-x...
JEFFREY R. WILLIS xxx-xx-xx...
GARY L. WILLISON xxx-xx-x...
DAVID L. WILSON xxx-xx-x...
SANDRA L. WILSON xxx-xx-x...
TIMOTHY B. WILSON xxx-xx-x...
ALEC F. YASINSAC xxx-xx-x...
DOUGLAS P. YUROVICH xxx-xx-x...