United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

Vol. 146 WASHINGTON, THURSDAY, SEPTEMBER 21, 2000 No. 113

Senate

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

The PRESIDENT pro tempore. The Chaplain will now deliver the opening prayer.

PRAYER

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

Gracious Lord, Your unfailing love and mercy continue, fresh as the new morning, as sure as the sunrise. You are our strength and again we put our hope in You.

Lord, a packed agenda awaits Senators today. May their minds be power-packed with Your wisdom. Grant them physical stamina for the strain of busy schedules, the demands of decisions, the sapping strain of conflict, and the personal problems they think they must carry alone. Help them to claim Your promise, ''As the day so shall Your strength be.'' Pour Your spirit into the wells of their souls and give them supernatural resiliency and resourcefulness. May the Senators and all of us who work with and for them accept this new day as Your gift, entering into its challenges with eagerness and into its possibilities with a positive attitude. As we grow in Your joy help us to remind our faces to radiate it. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable PAT ROBERTS, a Senator from the State of Kansas, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MURKOWSKI. Mr. President, on behalf of the leader, I have been asked to announce that the Senate will be in a period of morning business until 11:30 a.m., with the time in control of the majority leader and the Democratic leader or their designees. Following morning business, the Senate will resume postcloture debate on the motion to proceed to the H–1B visa bill. However, if an agreement regarding the Water Resources Development Act can be reached, the Senate may begin consideration of that measure during today's session.

Senators should be aware that votes are expected during this afternoon's session. I thank my colleagues for their attention.

MEASURE PLACED ON CALENDAR—H.R. 5203

Mr. MURKOWSKI. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 5203) to provide for reconciliation pursuant to sections 103(a)(2), 103(b)(2) and 213(b)(2)(C) of the concurrent resolution of the budget for fiscal year 2001, and to reduce the public debt and to decrease the statutory limit on the public debt, and to amend the Internal Revenue Code of 1986 to provide for retirement security.

Mr. MURKOWSKI. I object to further proceedings on this bill at this time.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the assistant minority leader be recognized in general conformance with our procedure and, after that, I may be recognized in morning business for about 15 minutes, followed by Senator SPECTER, followed by Senator BIDEN.

The PRESIDENT pro tempore. Is there objection?

Mr. SPECTER. Reserving the right to object, with that statement, as the Senator from Alaska is taking 15 minutes, I ask unanimous consent that 15 minutes be allocated to me and 15 minutes to Senator BIDEN.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, Senator MURKOWSKI has graciously consented that the Senator from Kansas and I be allowed to speak for a few minutes prior to their unanimous consent request taking effect. I ask the Chair to recognize the chairman of the Ethics Committee, Senator PAT ROBERTS.

The PRESIDENT pro tempore. The Senator from Kansas is recognized.

HONORARIA FOR FEDERAL JUDGES

Mr. ROBERTS. Mr. President, Senator REID and I would like to offer a few observations at this point. I thank my colleagues for allowing us to proceed before them regarding the general order.

We want to offer a few observations with respect to what I understand is a proposal to remove Federal Judges and Justices from the prohibition on honoraria, a proposal that would also remove the honoraria from the limitation on outside earned income. I strongly oppose that effort.

This seems manifestly a very wrong approach to what may be a very real problem. The alternative offered in this proposal of having the Nation's most esteemed jurists turn to the lecture circuit to supplement their salary, I believe, is simply unacceptable. The cost, it seems to me, would be too high. It would be measured in the further loss of confidence in the integrity of this Government's officials. Congress took an important step in trying to restore public confidence in the institutions of Government when it enacted

the honoraria ban as part of the ethics reform package way back in 1989. I remember the discussion of it and the debate well in the House of Representatives, as I served in the House at that time. We should not backtrack on that effort. If our Federal Judges and Justices need a pay raise, then by all means let's provide for one, but let's not retreat to the discredited practices of the past.

Mr. REID. Mr. President, I thank Chairman ROBERTS for his comments and also for the work he does on a daily basis for the Ethics Committee. He works tirelessly, without complaint, and does an outstanding job for the Senate and the people of this country. Again, I thank the chairman for his comments regarding this matter. I have the greatest respect for Chief Justice Rehnquist. He has rendered great service to the country. I think he has been a good Justice. For example, almost 2 years ago now, he was the Presiding Officer in this body in one of the most difficult situations we have had in this country, dealing with the impeachment of the President. He did an exemplary job. I thought he was outstanding. But I believe on this issue he is wrong. He spoke out that the Judges should have honoraria. They don't need honoraria. I believe there is a great deal of truth in the observation that there was little honor in the honoraria practices of years ago.

Although a portion of the honoraria ban was declared unconstitutional by the Supreme Court, after which the Department of Justice Office of Legal Counsel indicated that they would not enforce the ban in any part of government, notwithstanding these actions, the honoraria ban has continued in force by rule of the Senate, and for Members and highly paid staff in the House as well. It also appears that the judicial branch has continued to recognize and abide by the ban. I think it is wonderful that they have done so. So there is much to be preserved here, and let's not undo what has already set a pattern for good government.

Mr. ROBERTS. Mr. President, I thank the distinguished Senator, my good friend, for his very kind remarks in reference to my service on the Ethics Committee. I repeat the same basic substance of what he said on his behalf as well. It is a thankless and tireless but a very important job. I thank him for his comments.

As chairman and vice chairman of the Senate Ethics Committee, we obviously and naturally have discussed this. So I know the strength of his views on this matter as well. Not only do I think this would be a very dramatic step backwards for us in terms of the public's perception of integrity of its Government, but I think it would be terribly unfair to the most conscientious Judges and Justices. Because a Judge's income from honoraria would depend on how often appearances and speeches were made, those who dedicate the most time and attention to their job as a judge would end up benefiting the least.

As I have indicated before, if we have a problem—and I think we do—regarding salaries for Judges, we ought to address the problem in that way.

I yield to my friend.

Mr. REID. I will only add, Mr. President, because the proposal allows for but does not guarantee limits—for example, there are no limitations on the amount of the honoraria or the number of honoraria received—there is always the potential for many other problems. The Senator from Kansas and I agree that the problem with this proposal is not that it needs to be tinkered with or fine-tuned; the problem is that it takes us in the wrong direction. If the Judges need more compensation, we should address that in Congress and pay them more money.

Mr. ROBERTS. Mr. President, we do agree. As a proposed cure for lagging judicial salaries, my colleague and friend, the vice chairman of the committee, and I believe that this is not the proper step. It would set a dangerous precedent in regards to the Congress of the United States.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

THE PRICE OF ENERGY

Mr. MURKOWSKI. Mr. President, yesterday I took the floor and discussed the problems associated with the price of oil and our increased dependence on imports from Iraq and the regime of Saddam Hussein.

Yesterday, I told this body that oil had peaked at its highest price in 10 years. I am here today to tell you that oil has peaked for the second time in 2 days with the highest point in 10 years—$37.86 a barrel.

There is a reaction occurring. It is rather interesting. I am going to discuss it briefly because my intention today was to talk about natural gas.

Natural gas, as many of us will remember, 9 months ago was about $2.16. Deliveries in October are in the area of $5.40, a 44-percent increase in a relatively short period of time. The administration is reacting.

The news today tells us that there is going to be a recommendation from the Vice President to open up the Strategic Petroleum Reserve to set up a heating oil reserve. There are a couple of things that are pending. One is the reauthorization of SPR in the EPCA bill, which is currently being held by a Member on the other side of the aisle. The administration is asking us to release the authority by passing EPCA. We are going to have to take care of that little matter first. But let's talk a little bit about the Strategic Petroleum Reserve because it is probably the most misunderstood issue on the burner today.

SPR was created back in 1973 during the era of the Arab oil embargo at a time when this Nation was 35-percent dependent on imported oil. Today we are 56-percent—nearly 58-percent dependent on imported oil. We swore back in 1973 we would never be held hostage and would never have such exposure to the national energy security of this country. So we created the salt caverns in the gulf for storage.

The question of the conceptual purpose behind this was the Mideast cartel was holding us hostage and, by having a reserve, it would act as a protection if our supplies were cut off. Congress dictated that we have a 90-day supply of oil in the reserve to offset the amount of oil we might import should it be needed if the supply were to be disrupted from the Mideast.

It is kind of interesting to go back and look at the arithmetic.

When the Clinton administration came in, in 1992, we had an 86-day supply in the Strategic Petroleum Reserve. Today, we have a 50-day supply. What has the Clinton administration done with that difference? They sold some of the SPR to meet their budget requirements. I think this is a dangerous level—50 days. I think it is inadequate to respond to any severe disruption that might occur.

The Mideast has always been a hot spot with the possibility of a conflict at any time and cutting off supplies. We are seeing Saddam Hussein now threaten the U.N. as the U.N. attempts to hold Saddam Hussein financially responsible for damages associated with the Kuwaiti invasion. They are asking for compensation. But yesterday Saddam Hussein told the U.N. where to go. He said: No, I am not paying retribution. If you make me pay retribution, I will cut my supply and my production. Then what are you going to do? We know what the U.N. did. They backed off and said: We will take it up later. He is dictating the crucial supply of oil.

As the administration talks about the merits of opening up the Strategic Petroleum Reserve, I think we have to reflect on what it was designed to do. It was to be used to give us the timeframe of ensuring that if the supply were cut off, we would have a buffer by having a supply on which we could call.

But make no mistake about it. The media completely misses this point. SPR does not contain refined product. It contains crude oil. You have to take it out of the reserve. You have to move it to a refinery and then refine it. Our refineries are virtually at full capacity now. If you take the oil out of SPR and take it to a refinery, you are going to offset other oil that that refinery would cut. As a consequence, how much more refined product have you put on the market? I think the administration owes us an explanation as they contemplate, if you will, taking oil out of SPR.

Mind you, the emergency we have is supply and demand. We are producing much less than we used to produce. Our demand is up 14 percent. Our product

has fallen 17 percent. We are in a supply and demand crunch. As a consequence of that, we have a third factor many people overlook, and that is, we haven't built a new refinery in this country in 25 years. Nobody wants to build them. The reason is the permitting time, the complexity, and the Superfund exposure. And the industry simply isn't building them. We are almost up to our maximum capacity of refining. Now we are going to take oil out of SPR. We are going to displace other oil. We don't have any significant unused refining capacity.

There is another factor in this consideration. What kind of signal does this send to Saddam Hussein? What kind of signal does it send to OPEC? It sends a signal that we are now dipping into our emergency supply. As we do, what does that do to our vulnerability? The Senator from Alaska believes it increases our vulnerability. It gives them more leverage. What are we going to fall back on then? What happens if we pull oil out of SPR and Iraq reduces production? We have a calamity.

This isn't just something that is happening in the United States. If there is any question about the severity, ask Tony Blair. The Government of Great Britain is teetering on the issue of oil. Germany, Poland, and many areas of Europe are coming to the United States. There is absolutely no question about it.

High oil prices have caused many Members, therefore, of this body to call for the release of SPR in a way to manipulate the price of crude. Some suggest as much as 30,000 barrels. One Senator was saying this action would bring OPEC to its knees. I think it will bring OPEC to its feet. They will say: Hey, there goes the United States; they are dipping into their reserve; now we've got them; we've have got the leverage.

I think it is highly unlikely that this action is well thought out. This is not what the reserve was intended for. It is not what the reserve is to be used for. I hope the administration will not weaken our national security by releasing oil to drive down prices because it won't necessarily drive down prices.

You are saying, well, the Senator from Alaska is from an oil-producing State, and he is just one man's opinion.

Let me for the record submit an article from the Wall Street Journal of September 21. I ask unanimous consent that it be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 21, 2000]

SUMMERS SLAMS PLAN TO SELL OIL IN U.S. RESERVE

(By Bob Davis and Jacob M. Schlesinger)

WASHINGTON.—Treasury Secretary Lawrence Summers advised President Clinton in a harshly worded memo that an administration proposal to drive down energy prices by opening the government's emergency oil reserve ''would be a major and substantial policy mistake.''

Mr. Summers' vehement objection—which, he wrote, is shared by influential Federal Reserve Chairman Alan Greenspan—doesn't mean the prospect of using the Strategic Petroleum Reserve is dead, as the White House scrambles to contain the economic and political fallout from oil prices that yesterday neared $38 a barrel for the first time in a decade.

Indeed, today Vice President Al Gore—in his role as Democratic presidential candidate—plans to call on the administration to conduct ''test sales'' from the SPR as part of what he called ''a major policy speech . . . outlining a specific course of action'' to address what could become a serious threat to his campaign.

Yesterday, a week after the Summers memo was dated, White House spokesman Joe Lockhart told reporters ''all options remain on the table'' to address energy prices, the SPR ''being one of them.''

SIGNAL TO MARKETS

In continuing White House deliberations on the matter, two of Mr. Gore's top aides have backed serious consideration of test sales as a way to signal markets that the government is willing to act, one administration official said.

Along with Mr. Summers, the official said, other economic and diplomatic cabinet members were reluctant to tap the SPR, a buffer created after the 1973 oil embargo that has been used only once during the Gulf War in 1991. But this official added that many of those advisers, including Mr. Summers, have grown more sympathetic to that option during the past week as oil prices have continued to climb.

Mr. Summers' Sept. 13 memo did leave open the possibility of accepting a limited test sale, which could involve selling as much as five million barrels from the 570 million-barrel supply—far less than the 60 million barrels the memo said the Department of Energy advocated. ''There are alternatives available involving the SPR that are focused and targeted,'' he conceded.

Neither Mr. Summers nor his office would cooperate for this story or discuss his memo.

CANDIDATES' SCAPEGOATS

Yesterday, Candidate Gore gave several interviews to the major television networks to preview today's address, blasting the Organization of Petroleum Exporting Countries and what he called the profiteering of ''big oil''—the latter a not-so-subtle swipe at the Republican ticket of George W. Bush and Dick Cheney, both of whom have ties to the oil industry.

Mr. Bush yesterday tried to turn the tables on his rival, saying the Clinton-Gore administration ''needs to be held accountable for a failed energy policy.'' In an interview with MSNBC, Mr. Bush also said he would do more to encourage domestic oil exploration, and he chided the White House for failing to use American ''diplomatic leverage'' more effectively to get Persian Gulf allies to increase production.

Yet there is no clear, quick answer to the problem, as Mr. Summers's two-page memo argued. He wrote that using the SPR would have, at best, ''a modest effect'' on prices, and would have ''downsides . . . that would outweigh the limited benefits.''

''DANGEROUS PRECEDENT''

He warned that the DOE's 60 million-barrel proposal would ''set a dangerous precedent'' by using the SPR to ''manipulate prices'' rather than adhering to its original purpose of responding to a supply disruption, and added that the move ''would expose us to valid charges of naivete'' for using ''a very blunt tool'' to address heating-oil prices.

Noting the potential sale's ''proximity to both [an upcoming] OPEC meeting and the November election,'' the Treasury Secretary also said it ''would simply not be credible'' to claim, as some proponents have, that an oil sale could be portrayed as a technical inventory management of the reserve.

Such a move, Mr. Summers argued, also would hurt the tool's effectiveness in the event of a real oil-supply crisis, diminish the ''psychological value'' of using the SPR again if Iraq makes good on implied threats to cut oil output, and undercut Saudi Arabian cooperation with the U.S.

GREENSPAN'S CLOUT

And he took the unusual step of invoking Mr. Greenspan, whose prestige has increasingly been used to influence economic-policy issues far beyond his purview of monetary policy. The letter begins: ''Chairman Greenspan and I believe that using the Strategic Petroleum Reserve at this time, as proposed by DOE, would be a major and substantial policy mistake.''

Energy Secretary Bill Richardson has staked out the opposite side of the debate from Mr. Summers, and prepared his own two-page memo urging use of the SPR. Both letters were presented to Mr. Clinton along with a brief summarizing the pros and cons of the issue prepared by Gene Sperling, head of the National Economic Council.

Spokespersons for Messrs. Greenspan, Richardson, and Sperling declined to comment on the memos.

Mr. MURKOWSKI. Mr. President, this article is entitled ''Summers Slams Plan to Sell Oil In U.S. Reserve.'' ''Treasury Secretary's Memo Says Greenspan Agrees It Would Be a Mistake.''

The Washington by-line of the Wall Street Journal:

Treasury Secretary Lawrence Summers advised President Clinton in a harshly worded memo that an administration proposal to drive down energy prices by opening the government's emergency oil reserve ''would be a major and substantial policy mistake.''

This isn't the Senator from Alaska. This is our Treasury Secretary.

Mr. Summers's vehement objection—which, he wrote, is shared by influential Federal Reserve Chairman Alan Greenspan . . .

Indeed, today Vice President Al Gore—in his role as Democratic presidential candidate—plans to call on the administration to conduct ''test sales'' from the SPR as part of what he called ''a major policy speech . . .''

We have had a tradition of test sales from SPR under this administration.

In 1991, we offered 32 million barrels; in 1996, decommissioning Weeks Island, 5 million; 1996, the recession bill, 12 million. We had swaps, appropriations in 1997. What we did is we bought high and sold low. We lost hundreds of millions of dollars on our sale. I only assume the government figured they would make up the difference on the volume.

Our experience hasn't been very good. Let me get back to the other sale. Summers says it is a dangerous precedent.

He warned that the DOE's 60 million-barrel proposal would ''set a dangerous precedent'' by using the SPR to ''manipulate prices'' rather than adhering to its original purpose of responding to a supply disruption, and added that the move ''would expose us to valid charges of naivete'' for using ''a very blunt tool'' to address heating-oil prices.

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event of a real oil-supply crisis, diminishing the ''psychological value'' of using the SPR again if Iraq makes good on implied threats to cut oil output, and undercut Saudi Arabia's cooperation with the U.S.

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I ask Members to consider the mechanical function of what has to take place. There are some people in this body who just assume you pull it out of SPR and, bang, it is there for the heating oil requirements of the Northeast Corridor, or it is there to relieve our pricing. It isn't. It is not a refined product. It has to be refined. It has to go to refineries. The refineries are operating at nearly full capacity, and when you pull it out of your reserve, it is like taking it out of your savings account. What do you do for an encore when the savings account is gone? We are certainly not going to replace SPR during this timeframe when oil prices are at an all-time high. We increase the vulnerability of the United States; we increase the potential for further increases in the price of oil.

There is one other point I want to make. The idea of a government-operated heating oil reserve, we don't really know what it means. But if I am in the business of storing heating oil, if I am a jobber in the Northeast and I know the government is going to store, I am not going to build up my reserve. Why should I? The government is going to take care of that. What does that do to the incentive of the private sector to build up reserves?

We have to think this thing through. I hope that the press will question the Vice President a little bit on the mechanics of what the net gain is. What does it do to our national security? Does it make us more vulnerable to OPEC? I also request the media to check on whether we have the authority or not—because the administration is begging us to pass EPCA, which gives us the authority, allegedly, to reauthorize the Strategic Petroleum Reserve. We have a lot of bits and pieces that we haven't taken care of.

It will be interesting to see what kind of explanation the American public is given because so often it is very easy to spin the story that the answer is SPR. Do you know what the administration is doing? They are buying more time, hopefully, to get through this election because that is the bottom line. We are heading for a train wreck on energy.

I will throw a little bit more water in my remaining 2 minutes, not on SPR but on the realization of what is coming in the second show. The second show is natural gas; $5.35 per thousand cubic feet, October, next month. It was $2.16 6 months ago. Inventories are 15 percent below last winter's level. We will not have any new supply this winter. Fifty percent of American homes rely on natural gas and nearly 18 percent of the Nation's electric power.

There we have it. The administration doesn't have a plan. We have introduced legislation to get this matter back on course, the bottom line, as Senator LOTT and a number of us have joined together in coming down with what we think is a responsible energy plan that would increase the domestic supply. It would increase certain tax benefits that would ensure that we have the incentive in order to relieve the supplies associated with the realization that the next crash is coming on natural gas.

I wanted to identify the specific mechanics associated with the issue of opening up the Strategic Petroleum Reserve and remind my colleagues that gas is right behind us in the crisis area, and the American taxpayer will bear the brunt of this. I hope the administration will rise to the occasion with some real relief.

I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Pennsylvania is recognized.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3086 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Texas.

Mr. GRAMM. Mr. President, it is my understanding that Senator BIDEN has time reserved to speak. He is not here. I ask unanimous consent that the Senator from Maine and the Senator from Kansas be recognized for 20 minutes; that if Senator BIDEN is here at that point, he then be recognized; and that I be recognized for 20 minutes when Senator BIDEN has completed his remarks.

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

Mr. SPECTER. Mr. President, I have been advised that Senator BIDEN's schedule will not permit his arrival at this time, so I suggest holding his time in abeyance. I have no objection to the request by the Senator from Texas.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. I thank the Chair, and I thank the Senator from Texas for arranging the time this morning.

HOME HEALTH CARE SERVICES

Ms. COLLINS. Mr. President, Senate Republicans are committed to enacting legislation to preserve, strengthen, and save Medicare for current and future generations. It is also critical that Congress take action this year to address some of the unintended consequences of the Balanced Budget Act of 1997 which has been exacerbated by a host of ill-conceived regulatory requirements imposed by the Clinton administration. The combination of regulatory overkill and budget cuts is jeopardizing access to critical home health care services for millions of our Nation's seniors.

If one thinks about it, health care has really come full circle. Patients are spending less time in the hospital, more and more procedures are being done on an outpatient basis, and recovery and care for patients with chronic diseases and conditions increasingly takes place at home. Moreover, the number of older Americans who are chronically ill or disabled in some way continues to grow each year.

As a consequence, home health care has been an increasingly important part of our health care system, and I know the Senator from Kansas has been a very strong supporter of ensuring that these vital services are provided for our senior citizens. The kind of highly skilled and often technically complex services our Nation's home health care agencies provide have enabled millions of our most frail and vulnerable older citizens to avoid hospitals and nursing homes and receive care right where they want to be—in the comfort and security of their own homes.

In 1996, however, home health care was the fastest growing component of Medicare spending. This understandably prompted consideration of some changes as part of the Balanced Budget Act that were intended to slow the growth in spending to make the program more cost-effective and efficient.

Mr. ROBERTS. Mr. President, will the distinguished Senator from Maine yield for a question?

Ms. COLLINS. I will be happy to yield.

Mr. ROBERTS. First off, I thank the Senator so much for taking this time to draw attention to a very serious problem. I know the Senator from Maine is experiencing the same thing I am experiencing in Kansas and all Senators are experiencing when they go back home. Every hospital board—beleagured hospital boards—every hospital administrator, all of the rural health care delivery system—it is not only applicable to rural areas but all over—have been questioning me and our colleagues about when are we going to do something with regard to the Medicare reimbursement.

The Senator has indicated—I underlined it in the Senator's remarks:

> It is also critical that Congress take action this year to address some of the unintended consequences of the Balanced Budget Act of 1997. . . .

We should have done it this spring. The Senator from Maine and I talked about it. We should have done it last year. We did certainly provide that assistance. I wish we could have done that earlier. We are going to do that.

Then the Senator also said:

> . . . [and also some problems] which have been exacerbated by a host of ill-conceived regulatory requirements imposed by the Clinton administration—

And the folks at HCFA.

That is a marvelous acronym, HCFA. I will tell you what, if that is not a four-letter word in the minds and eyes of people who have to provide health care services throughout our country, I do not know what is. Asking HCFA for help, if you are a hospital board or a hospital administrator, is like asking the Boston strangler for a neck massage. It just does not work.

My question is this: as I recall, there was strong bipartisan support for these provisions, but haven't they produced cuts in home health care spending far beyond what Congress ever intended? It is my understanding—and I want people to understand this—home health care spending dropped $9.7 billion in fiscal year 1999, just about half of the 1997 amount; is that correct?

Ms. COLLINS. The Senator, as always, is entirely correct. I know how concerned he has been that inadequate reimbursements under Medicare, plus regulatory overkill by HCFA, are really jeopardizing the provision of care in our rural hospitals and our home health care agencies.

In fact, we know the Balanced Budget Act is already producing—or expected to produce—four times the savings that we intended when the 1997 Balanced Budget Act was passed. Moreover—and I know the Senator from Kansas shares my deep concern about this—looming on the horizon, believe it or not, is an additional 15-percent cutback in home health care reimbursements. That will put our already struggling home health agencies at risk. I know the Senator from Kansas shares my belief that it would, if allowed to go into effect, seriously jeopardize access to care for millions of our Nation's seniors.

The effects of these home health care cuts have been particularly devastating to the State of Maine. In Maine, I would inform my colleague from Kansas, nearly 7,500 Maine seniors have lost access to home health care due to the cutbacks and the regulatory overkill by HCFA.

Those 7,500 seniors did not get well. That is not why they lost their access to home health care. In fact, what has happened is some of them have been forced prematurely into nursing homes or they are at risk of increased hospitalization, which ironically costs the Medicare trust fund more money than if they were still receiving home health care. Some of them—and this is most tragic of all—are going without care altogether.

Cuts of this magnitude, particularly for the home health agencies in your section of the country and mine, which were historically low cost to begin with, cannot be sustained without ultimately adversely affecting patient care.

Mr. ROBERTS. Mr. President, will the Senator yield?

Ms. COLLINS. I am happy to yield.

Mr. ROBERTS. The same complaints are made in Kansas. The same complaints are made throughout the country. The home health care agencies in my State—in fact, since January of about 2 years ago, 68 Medicare-certified agencies in Kansas have closed their doors, more than a 25-percent drop, more than a quarter drop.

These were not the ''fly-by-night'' agencies that some in the Federal Government and others in regards to various inspections—and you have talked about that we have heard about so much—many of these agencies had been in existence for 20 years.

The latest numbers from HCFA show that the total home health care visits are down by over 45 percent—almost half. The losers of this situation are not just numbers. It is just not accounting in regards to, say, HCFA. These are our Nation's seniors; in particular, those who are really sick. We are talking about the Medicare patients who are suffering through complex and chronic care needs who are already experiencing a lot of difficulty in the home care services they need.

So the same thing is true in Kansas as the Senator has pointed out in Maine. I, obviously, think it is true in every State.

Ms. COLLINS. The Senator has, as always, summarized the situation exactly right. The real losers are the sickest seniors because what is happening is, because they are more expensive to treat, our home health agencies are turning away some of the more expensive patients because they simply cannot afford to provide them care.

I met recently with a group of very dedicated and highly skilled, compassionate home health nurses from the Visiting Nurse Service in Saco, ME. That is southern Maine's largest independent, not-for-profit home health agency. It performs more than 250,000 home visits per year.

During my discussions with these nurses, I heard absolutely hard-breaking stories of how recent cutbacks and regulatory restrictions have affected both the quality and the availability of home health services.

Let me tell my colleague of just one example the nurses related to me. Consider this case. It involves an elderly Maine woman who suffered from advanced Alzheimer's disease, pneumonia, and hypertension, among many other illnesses. She was bedbound, verbally nonresponsive, and had a series of serious health issues, including serious infections.

This woman had been receiving home health care for approximately 2 years, and that had allowed her condition to stabilize through the care and coordination of a skilled nurse. Unfortunately, the care provided to this patient abruptly came to an end when HCFA'S intermediary sent out a notice denying further home health care for this woman.

That is an example of the kinds of regulatory problems that the Senator was talking about.

Let's look at what happened in this case.

The fact is, it produced a tragedy. Less than 3 months later, this woman died. She died as a result of a wound on her foot that went untreated. Undoubtedly, the home health nurse would have caught that problem before it got out of control.

That is just one of the heart-wrenching stories that I have heard not only during that visit but in discussions with patients and health care providers throughout my State.

Mr. ROBERTS. Will the Senator yield?

Ms. COLLINS. I am happy to yield.

Mr. ROBERTS. The home health care agencies in my State, as I have indicated, also complain about their exacerbating financial problems. That is a very fancy word to say it has been made a whole lot worse by a host of the new regulatory requirements imposed by HCFA, including the implementation of another marvelous acronym called OASIS. The thought occurs to me, if there is an ''oasis'' that is proposed by HCFA—we all remember the ''Survivor'' show that was so popular—there would be no survivors in regards to this OASIS, I can tell you.

OASIS stands for the new outcome and assessment information data set—new outcome and assessment information data set—new requirements for surety bonds, new requirements for sequential billing, new requirements for overpayment recoupment, new requirements on a 15-minute reporting requirement. And all of this adds up.

I just concluded a 40-county tour in my State. I will go on another 65-county tour. At every stop was a hospital administrator. They said: I don't know who reads this stuff. I think they must weigh it somewhere in Kansas City—which is the regional center.

I am not trying to deprive from the purpose and the intent and responsibility that HHS and HCFA and OASIS have here, but it just seems to me that just about the time you have one requirement promulgated—there is another fancy word—then it is changed, and it is changed overnight. This is the kind of thing that a small rural hospital, or any hospital, just cannot put up with, with that very tight margin. We are down to the morrow of the bone.

Naturally, we are going to put in some money in regards to Medicare reimbursement, but this regulatory overkill is something that just has to stop.

Ms. COLLINS. The Senator is entirely correct. I could not agree with his point more.

What I heard from the home health nurses is not only do all these excessive regulatory requirements and paperwork cost a lot of money to the agency, but they detract from the time that otherwise would be spent caring for patients. Instead of focusing on patients, they have to complete paperwork. Indeed, at that visit in Saco, ME, that I mentioned, the nurses—to illustrate the OASIS paperwork which the distinguished Senator from Kansas has

just talked about—put it up all over the room. It covered the walls of the entire room. That was just one OASIS questionnaire.

Last year, I chaired a subcommittee hearing of the Permanent Subcommittee on Investigations. We heard about the problems that excessive regulation was imposing. We heard about the cash-flow problems that agencies across the country are experiencing.

One nurse from Maine, who runs a home health agency, terms HCFA's approach as being one of ''implement and suspend.'' In other words, HCFA requires these agencies to go through all these regulatory hoops to fill out all this paperwork and then says: Never mind. This really isn't what we meant.

Meanwhile, tremendous cost and energy has gone into complying with these burdensome regulations.

Mr. ROBERTS. Will the Senator yield again, please?

Ms. COLLINS. I am happy to yield.

Mr. ROBERTS. This OASIS business, in regard to all the complaints we have heard, as I have indicated—I think I ought to go into that a little bit more than explaining what the acronym is. OASIS is a system of records containing data on the physical, mental, and functional status of Medicare and Medicaid patients receiving care from home health agencies.

HCFA tried to implement OASIS as a tool to help the agency improve the quality of care and form the basis for a new home health care prospective payment system. The problem is—and my colleague chaired the subcommittee and asked all the very pertinent questions—the collection of data is so burdensome and expensive for agencies, it invades the personal privacy of the patients. It must be collected for non-Medicare patients as well as those served by Medicare.

Just yesterday, I learned that the whole OASIS information system in Kansas is not working; the computer system has failed. Agencies across the State are having a lot of difficulty in transmitting any kind of data. This burden is being felt by agencies all over the country. The question I have for the Senator is, Does she have any idea how long it takes? She has already spoken about this to some degree. Can we put a timeframe on it? Can we get more specific as to how long it takes for nurses to collect this information for HCFA? What does it cost in terms of nurse time?

Ms. COLLINS. I inform the Senator from Kansas that the testimony at my hearing indicated that it generally takes a nurse as long as 2 hours to complete these forms with one patient. The patients do not welcome this intrusive questionnaire in any way.

Mr. ROBERTS. I certainly agree with that. Will the Senator yield for another question?

Ms. COLLINS. I am happy to yield.

Mr. ROBERTS. The OASIS document includes an 18-page initial assessment that must be completed by a registered nurse and a 13-page followup assessment that is required every 60 days. This reminds me of a situation quite a few years ago, when the Department came out with a requirement that all Medicare patients would have to be reviewed by a doctor every 24 hours. At the time I said I was for that, stunning all of the health care folks in my district. I was in the House of Representatives then. I said: Surely, if they are going to require a 24-hour reporting requirement by a doctor, they will furnish us the doctor. There was sort of a method to the madness.

At any rate, as I have indicated, there is an 18-page initial assessment that must be completed by a registered nurse. A 13-page followup assessment is required every 60 days. This is on top of assessments already required by the State. That is very important. It isn't as if there is no regulatory function to safeguard the interests of the patients and the taxpayer. The paperwork burden is immense. I am curious about what is included in this assessment. Is the Senator aware of the nature of the questions?

Ms. COLLINS. Mr. President, this is one of the problems. The Senator from Kansas has put his finger right on it. OASIS collects information not only about the patient's medical condition or history, but about living arrangements, medications, sensory status—I am not even sure what that means—and emotional status as well. That raises a host of problems.

Mr. ROBERTS. Emotional status? I see that patients must answer questions about their feelings. Have they ever been depressed? Have they ever had trouble sleeping? Have they ever attempted suicide? In some cases, that might be necessary, but do we really think we need a nurse to bother a physical therapy patient for this information so that he or she can send the answers over computer to someplace in Baltimore—hopefully Kansas City, but probably in Baltimore?

Does the Senator from Maine have any idea how patients have reacted to this survey? Talk about emotional distress, if somebody were to ask me in a hospital what I felt or how would I feel, do I feel depressed, I think they would learn pretty doggone quick.

Ms. COLLINS. That has been the experience of the nurses in Maine, that the patients believe this is unnecessarily intrusive. We are not talking about patients, in these cases, who are receiving home health because of emotional problems. Obviously, those questions might be appropriate in some cases, but they are clearly not in these cases.

What the nurses explained to me is that the patients say: What does this have to do with what you are treating me for? The nurses expressed concern that this ''exercise of Olympian endurance'' inevitably elicits a negative response from their patients. That is a problem because that patient-nurse relationship is very important. It is a relationship that respects the confidentiality and the privacy of patients, or it should.

Unfortunately, the OASIS information mandated by HCFA immediately erects a barrier that is often difficult to overcome. There is one example I want to share with my colleague from Kansas, one 76-year-old Medicare patient about whom I was told was being treated for a wound to his left shoulder. The wound care and teaching provided by the home health nurse took approximately 30 minutes. Completing the OASIS form took an hour and a half. The patient understandably asked: What does all this have to do with my shoulder? A very common response.

Mr. ROBERTS. Will the Senator yield for another question?

Ms. COLLINS. I am happy to yield.

Mr. ROBERTS. I agree with my colleague. That is too much to ask. That is ridiculous. I also point out that the time filling out the forms would be much better used actually caring for the patients. There is an hour and a half that the nurse could have been doing that.

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

Mr. ROBERTS. Mr. President, I ask unanimous consent for an additional 10 minutes.

Mr. WELLSTONE. Mr. President, I will not object, but with the indulgence of my colleagues, I ask unanimous consent to then be allowed to speak for 15 minutes of the Democrats' time?

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

Mr. ROBERTS. I thank my colleague from Minnesota. I will try to keep my remarks certainly more brief and more pertinent.

The point I was trying to make—I know that the same is true with regard to Texas—the Senator from Texas is here—and also Minnesota and Maine—is the time to travel great distances, many miles. Our health care providers spend an awful lot of time traveling from one patient's home to another. What happens is that the first patient may be located many miles away from the next patient. It requires the home health care nurse to work virtually nonstop to meet the deadlines required for the submission of the data to HCFA, which interferes with the personal care and the travel time. This is like 24-hour duty that is exacerbated by all of the data requirements.

Ms. COLLINS. Will the Senator yield on that point?

Mr. ROBERTS. Yes.

Ms. COLLINS. The Senator has spent a lot of time understanding OASIS. One of the complaints I have heard is that OASIS even requires, in some cases, the collection of data for non-Medicare patients; is that correct?

Mr. ROBERTS. I tell my distinguished friend that unfortunately that is correct. Any Medicare-approved home health agency must comply with all Medicare conditions of participation, including the collection of

OASIS. This means that patients who do not participate in Medicare are still subject to the Medicare assessment. That is exactly correct.

Last year, HCFA amended this regulation to say that these agencies don't have to transmit the data on non-Medicare patients for the time being. However, the agency still must spend the time making the assessment. So it is sort of a Catch-22. I am certainly sympathetic to the concerns raised by my constituents that these new regulations and spending cuts will harm, again, the senior. But aren't these policy changes necessary to achieve the Medicare saving goals established by the Balanced Budget Act, I ask my colleague?

Ms. COLLINS. As the Senator's rhetorical question implies, these are not necessary. The fact is that it now appears the savings goals set for home health have not only been met but far exceeded.

According to CBO, spending for home health care fell by 35 percent in 1999, and CBO cites the larger-than-anticipated drop in the use of home health services as the primary reason that total Medicare spending actually dropped, overall Medicare spending, by 1 percent last year. The CBO now projects that the post Balanced Budget Act reductions in home health care will be approximately $69 billion. That is over four times the $16 billion Congress expected to save. It is a clear indication that the cutbacks have been far deeper and far more wide reaching than Congress ever intended.

Mr. ROBERTS. Will my distinguished colleague yield for another question?

Ms. COLLINS. I am happy to yield.

Mr. ROBERTS. My colleague referred to—and I referred to it in my opening comments—the additional 15-percent cut across the board in these payments to go into effect on October 1, 2001. With regard to what she has just related to the Senate, given the savings that have already been achieved, the question is obvious, is this additional cut necessary?

I tell my colleagues and all those interested in this particular issue that last year we had to come up with an emergency bill. Nobody likes to do that.

We would prefer it to go through authorization and appropriations. Nobody likes to be faced with an emergency bill. This year is the same way. We are wrestling with that in terms of the budget caps we should live with. We are trying to figure that out. Here we are willing to provide more emergency money and we turn around and go through another 15-percent cut. It seems to me that is not conducive to what we are about with regard to consistency. What effect would that have with regard to home health care agencies?

Ms. COLLINS. A further 15-percent cut would be devastating. It would sound the death knell for those low-cost, nonprofit agencies in our States, which are currently struggling to hang on. It would further reduce our seniors' access to critical home care services. As we have discussed, we don't need to do it. We already have more than achieved the savings goals that were put forth in 1997.

Mr. ROBERTS. If the Senator will yield for an additional question, what are we going to do to help remedy this serious problem? I know the Senator has legislation, but would she summarize what she thinks is the answer to that.

Ms. COLLINS. The Senator from Kansas has been a strong supporter along with my colleagues, Senators BOND and ASHCROFT from Missouri, as well as many colleagues, in cosponsoring legislation introduced to eliminate the automatic 15-percent reduction in Medicare payments that would otherwise occur. It would provide a measure of financial relief for those home health agencies that already are cost-efficient and doing a good job. That is what we need to do—to pass that legislation before we adjourn.

Mr. ROBERTS. If I may ask one additional question, what kind of support do we have in the Senate? I think the magic number is 55. I would like for the Senator to tell our colleagues.

Ms. COLLINS. I am pleased to confirm to the Senator from Kansas that my legislation has strong support not only from the Senator from Kansas but many of our colleagues. It has 55 Senate cosponsors, including 32 Republicans and 23 Democrats, showing that this is a nationwide problem. It also has strong backing of many consumer and patient groups, including the American Diabetes Association, American Nurses Association, National Council on Aging, and the American Hospital Association. All of these groups have come together because they know that an additional 15-percent cutback would be absolutely devastating to American seniors and people with disabilities.

So if we allow this to go into effect, any of our other efforts to strengthen Medicare and home health, to help improve that benefit will really be meaningless.

Mr. ROBERTS. I have one final question. First, I thank the Senator from Maine for all her leadership and her hard work in this effort, for tapping not so gently on the shoulders of the leadership and, in a bipartisan way, attracting all sorts of support for this bill. I believe it is possible for Congress to bring this much needed relief to the home health care industry, as well as to the small rural hospitals and the teaching hospitals that are feeling the pinch of all these regulatory and legislative changes made in the last few years—with every good intent.

But this is the law of unintended consequences personified. We must work quickly. Time is of the essence for many of our home health agencies and hospitals, especially the small rural providers. I don't want to have to go out again on a 105-county listening tour in Kansas and have people come and say; Senator ROBERTS, thank you so much for your past help on a whole litany of things we have gone through regarding the home health care delivery system, only to find out that their doors may close.

I will continue to work with my colleague from Maine to pass legislation before Congress adjourns this year. We have a good team and we have good support. We cannot go home without providing help. I thank the distinguished Senator for her leadership in heading up a home health care posse for fairness and justice.

Ms. COLLINS. I thank the Senator from Kansas for his kind comments and his strong support and leadership. He clearly understands the issues involved. Time is of the essence. I appreciate the opportunity to discuss this issue this morning.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that after my 5 minutes of remarks Senator WELLSTONE and Senator HARKIN be recognized.

Mr. GRAMM. Mr. President, does that reserve my 20 minutes?

The PRESIDING OFFICER. The Senator's 20 minutes is not affected by this request.

Ms. LANDRIEU. Is it the understanding of the Senator from Texas that after I speak Senator HARKIN and Senator WELLSTONE will speak immediately after me? I am under the impression that we have about 20 or 30 minutes on our side.

The PRESIDING OFFICER. The total is 25 minutes.

Mr. GRAMM. As I understand the schedule of the Senate, I think there would be no problem, as long as it didn't exceed 30 minutes.

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

Ms. LANDRIEU. Mr. President, I thank the Senator from Texas. I will be very brief, and then Senator WELLSTONE will need about 10 minutes.

I thank my colleagues from Maine and Kansas for taking time to speak on the floor about such an important issue as health care. As we wrap up this session, I am very hopeful, in a bipartisan way, we can address specifically many of the questions that were raised in terms of the tough situation facing our home health care agencies and hospitals, our rural health clinics. It is something this Congress must address in the last few weeks. I thank them for their leadership.

CONSERVATION AND REINVESTMENT ACT

Ms. LANDRIEU. Mr. President, I come to the floor to say a brief word about an extraordinary and very positive statement that the President of the United States made in the last 45

minutes as he gathered on the south lawn of the White House with a group of supporters of another very important bill—an issue we have actually debated for many hours and helped to usher through called the Conservation and Reinvestment Act.

The President, just this morning, called on us, in a bipartisan fashion, not to miss the opportunity to push forward on this very important piece of legislation—one which his administration has supported and helped to design. The Conservation and Reinvestment Act is really Congress's way of responding to a need that the American people have and have expressed themselves clearly on over and over, from the South to the North, from the East to the West, in meetings, through polling information that we have, through calls made to this Congress, through letters written, through e-mails sent—to say to us that now is the time to set aside a small but significant portion of the surplus that we have to invest—not for 1 year, or 6 months, not occasionally when we can, but to invest permanently a stream of revenue for conservation programs in our Nation.

I guess I can speak so passionately about this issue because the money we are speaking about investing is coming from offshore oil and gas revenues, 85 percent of which are produced off of the coast of Louisiana. We are proud of that production. We are doing it in a much more environmentally sensitive way and have been doing it for 50 years. But all of the revenue generated off of that oil and gas production has gone to the Federal Treasury. It is hard to account for how they have been spent, and they have not been spent for environmental investments for our Nation—a promise that was made 30 years ago but not kept.

So the Conservation and Reinvestment Act, which the President spoke about and continues to urge us to move forward on, is a way for us to redirect appropriately and in a very fiscally responsible way some of those revenues back to our States and local governments to help with the expansion of our parks and recreation areas in both rural and urban areas, for the preservation and restoration of our coastlines.

We in Louisiana feel strongly about getting some help from Washington to restore an eroding coastline, helping us to invest in wildlife conservation and preservation and, in many ways, including historic preservation. I will give to the staff a list of the 63 Senators, Republicans and Democrats, who are supporting this legislation, to acknowledge again in the RECORD the great work that the House leadership did—Congressman DON YOUNG, Congressman JOHN DINGELL, and Congressman GEORGE MILLER, leaders in the House.

It has truly been a bipartisan-bicameral effort.

I will submit for the RECORD the names of 63 Senators who the President mentioned in his remarks this morning, thanking us for our support and joining with him in this effort, and finally shaping this bill in such a way that both parties can be proud, for which we in Louisiana can be grateful, and that Governors and mayors and elected officials and leaders all across our Nation can be happy to work on in partnership with the Federal Government to make a significant, meaningful, reliable investment now as we begin this century—something our children and our grandchildren can count on for a more beautiful nation in 2025 or 2050. We can't wait. This is the year to make it a reality.

I thank the Chair. Again, I thank Senator LOTT and Senator DASCHLE for their excellent leadership.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. I thank the Senator from Louisiana for her excellent work. I just had three members of the department of natural resources of Minnesota in my office today encouraging me to support this measure. It is very important legislation.

NATIONAL HISTORICAL BLACK COLLEGE AND UNIVERSITY WEEK

Ms. LANDRIEU. Mr. President, this week is a week that we take out to celebrate, to honor, and to acknowledge the great contributions that 105 Historically Black Colleges and Universities have made to our Nation.

In Louisiana, I am very proud to represent four of the greatest of these institutions—Grambling State University, Southern University System, Xavier University, and Dillard University—and to recognize their great contributions in making our Nation stronger, and as we enter the new century to reassert my commitment and to acknowledge their great and significant place in the educational framework of our Nation.

On September 14, 2000, President Clinton proclaimed this week as National Historical Black Colleges Week and asked the country to join him in honoring the tremendous contributions these institutions have made not only to the lives of the students they serve but also to the history of this country. As a Senator from Louisiana, I am proud to have four HBCUs in the State of Louisiana: Dillard University, Grambling State University, Southern University System, and Xavier University.

For too many years in our Nation's history—HBCUs were the sole source of higher education for African Americans. Today, HBCUs confer the majority of the bachelor's and advanced degrees awarded to African American students in physical science, mathematics, computer science, engineering, and education. There are now 105 HBCUs in existence, providing an array of disciplines at both public and private medical schools, four-year institutions, community and junior colleges. Without their courage and commitment, this country would have been deprived of generations of African American educators, physicians, lawyers, scientists, and other professionals. In fact, a few of this country's cabinet members are alumni of HBCUs: Secretary of Labor, Alexis Herman—Xavier University; Secretary of Veterans Affairs, Togo West—Howard University; Former Secretary of Energy, Hazel O'Leary—Fisk University; and Former Secretary of Agriculture, Mike Espy—Howard University.

Like the President, I am proud to say that several members of my staff are graduates of historically black colleges and universities. Alicia Williams, Grambling State University; Tari Bradford, Southern University; Tony Eason, Grambling State University; Former Legislative Director, Ben Cannon, Xavier University and Southern University Law School; Kaira Stelly, Southern University at New Orleans; and Roderick Scott, Southern University.

In addition to educating many of our Nation's most distinguished African American professionals, HBCUs have remained steadfast to their commitment to improving the communities in which they reside and preserving America's history. Through countless forms of community service, including tutoring programs, head start, senior citizen programs, they teach their students to use their education to be men and women for others. Their libraries and colleges continue to serve as living repositories for the writings, artifacts, and photographs representing generations of African American history.

If one wants to estimate the effect that the Historically Black Colleges and Universities have had on the history of America, ask yourself what would the field of education be without the contributions of Booker T. Washington, or science without George Washington Carver, or Mathematics without Dr. Nan P. Manuel, or Engineering without Dr. Lonnie Sharp. This list is endless. Each year hundreds and thousands of students graduate from these vital institutions and are helping to shape the new century.

HBCUs have accomplished this enviable record of achievement despite numerous challenges. Even with limited financial resources and serving a relatively high number of disadvantaged students, they have kept their fees low so that no student is prohibited from accessing a quality education. For years, the faculty and staff have worked hard to provide a nurturing and accepting environment for their students, encouraging them to grow challenging them to meet the highest of academic standards.

Mr. President, I ask my colleagues to join me in taking this opportunity to salute the founders, faculty, staff, and students of America's Historically Black Colleges and Universities.

Former President Lyndon B. Johnson once said, ''Until justice is blind to

color, until education is unaware of race, until opportunity is unconcerned with the color of men's skins . . . emancipation will be a proclamation but not a fact.'' For well over a century, Historically Black Colleges and Universities have led the way, opened the doors and provided the tools for a quality education for all.

I yield any time I might have remaining. Thank you, Mr. President.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

Mr. WELLSTONE. Mr. President, I wish to announce on the floor of the Senator that 34 colleagues—Democrats and Republicans alike—join me in a letter to the White House today.

We are talking about what is going on with oil prices and what is going on with home heating costs. The projections are very frightening.

We see home heating oil costs up 30 percent and natural gas costs up 40 percent. For many of us in cold-weather States, this is a crisis issue. Specifically, we are talking about the Low-Income Energy Assistance Program.

My colleague, Senator HARKIN, has been a leader in this fight for a long, long time.

The point is that the President has about $500 million right now in LIHEAP emergency funding that we could get back to the cold-weather States. LIHEAP is a terribly important addition to the negotiations on the appropriations bill this year. Also, for funding next year, we are saying add an additional $500 million. Otherwise, I think probably maybe 15 percent of the people who are eligible for LIHEAP funding will not get any.

In the State of Minnesota, you are talking about, roughly speaking, 90,000 households. About a third of them are elderly. This is a lifeline program. It is not a lot—maybe $350 a year. But it helps people with their heating costs.

What is going on now means that the heating costs are going to go way up. If we don't add some funding to this program, we are going to have people who are cold, or they will not buy prescription drugs, or they will not have food on the table. This is a huge issue.

I urge the President and the White House in negotiations to be strong on funding for LIHEAP. We need the additional $500 million now and an additional $500 million next year. We have to make sure this important lifeline program is funded.

I visited a lot of people in their homes. Many of them are elderly people. This makes a huge difference to them. I am really worried about what is going to happen.

By the way, for the information of colleagues, it is interesting to me that we have focused on OPEC countries. An interesting story came out in the past couple of days that the non-OPEC oil countries, that collectively produce more than half the world's crude oil, rather than producing more to meet the additional demands, are producing less.

Exxon-Mobil—we have these mergers, acquisitions. We have monopolies and a cartel. I think they are in a position to fix prices. If there ever was a case to be made for antitrust action, this is a pretty decisive area in the economy where we ought to be looking at these conglomerates and holding them accountable for putting more competition into this industry.

APPROPRIATIONS AND HEALTH CARE

Mr. WELLSTONE. Mr. President, Senator MOYNIHAN, Senator DASCHLE, and others have introduced a bill of which I am a cosponsor. It is really important. I didn't support the Balanced Budget Act of 1997. I thought it was a mistake. I didn't understand how this projected $116 billion in Medicare cuts was actually going to work on the ground with our hospitals, HMOs, and nursing homes—you name it. The projected cost is actually $200 million less by way of funding.

Last year, we did a ''fix.'' We restored approximately an additional $16 billion or $17 billion. It did not solve the problem. We now have a bill and a request of $8 billion over the next 10 years. This is critically important. In Minnesota, in 1999, 54 of our 139 hospitals operated with less than a 2-percent margin, and 27 percent of them are in the red.

Whether it is an inner-city hospital, such as Hennepin County General, or rural hospitals, I tell Senators—Democrats and Republicans alike—that we made a huge mistake. We should have never voted for these draconian cuts in Medicare reimbursements. I don't know what is in the world we were thinking. I didn't vote for it. But I say ''we'' because I am a Member of the Senate, and proud to be a Member of the Senate.

But we have to restore a significant amount of this funding because both in the inner city and in the rural areas where there is a disproportionate number of elderly and low-income people, these providers are not making it. Rural hospitals will shut down. This is not just a crisis for rural communities. Employers lack health care for people. And Hennepin County General, which is, I think, a sacred place, is such an important hospital. They are struggling because of what we did in 1997.

This piece of legislation we have introduced will call for $80 billion to be restored for this funding. It is critically important if we care about the care for the elderly, low-income, rural, and inner-city communities.

I hope Democrats and Republicans alike in this final week of negotiations will come together and support not only our providers but also support the people in our State who really count on this care.

As long as we are talking about the last couple of weeks, I want to ask Senator HARKIN to share with me his reaction.

We had a vote yesterday. We had two appropriations bills, Postal-Treasury and legislative branch appropriations, which were merged together. Legislative branch got through and Postal-Treasury never came to the floor of the Senate. It was put into the conference report. Part of the idea was that you could have a salary increase, which may be fine, but of course we don't raise the minimum wage for people. The idea would be then we would have an opportunity to have up-or-down amendments and a vote on the minimum wage. If we can raise the salaries above $140,000, we ought to be able to vote for the minimum wage for the working poor people of the country. Senators voted against that bill.

Now I hear that the majority leader is talking about a lame duck session. Am I correct? I ask my colleague from Iowa. I would like to go back and forth in some discussion with my colleague from Iowa about this.

Mr. HARKIN. Mr. President, I thank my friend from Minnesota for bringing this up, and for his earlier statement on the plight of our small rural hospitals and relief for them. He was talking about the smaller hospitals, but it is really the people in our small towns and communities who need the relief. I thank him for bringing that up.

I serve on the Appropriations Committee. I have been on it now for 15 years. I am ranking member on the Labor, Health and Human Services, and Education Subcommittee I also serve on a number of others—Agriculture, Foreign Operations, and others.

I was disturbed, I say to my friend, to read in Congress Daily this morning that Senate Majority Leader LOTT said our failure to pass these two bills yesterday ''increases the possibility of a lame duck session after the November elections.'' He told reporters: I always thought that was a possibility anyway. Senate Appropriations Committee Chairman STEVENS told reporters: In my opinion, now we are ready for a postelection session. We just don't have time to get 11 bills through in 9 days.

I say to my friend from Minnesota, we have been here for 9 months, haven't we? What have we been doing? What has happened to the 9 months? We've done nothing. Eleven out of thirteen appropriations bills have not been passed—11. Here is what's going on: The Republicans in charge don't want to vote on a Patients' Bill of Rights. They don't want to vote on it. They don't want to vote on prescription drugs for the elderly. They don't want to vote on increasing the minimum wage. What do they want to do? Put it off until after the election, have a lame duck session.

I don't understand how this complies with what our responsibilities are, what the people elected us for, what we get paid to do around here. That is, to

enact legislation, to take the tough votes.

They don't want to do that. They want to put it off until after the election, for a lame duck session. What kind of sense does that make? What kind of a statement does that make to the people of this country? Nine months we have been here. This morning we are doing nothing. The Chamber is empty. Yet we could be bringing these bills on the floor right now. We are doing nothing around here.

I ask my friend from Minnesota, who gains the most from the lame duck session? Who gains the most by not having the votes now, but putting them off until after the election? HMOs, the gun lobby, the big drug companies. I bet they are just as happy as they can be after reading this morning that a lame duck session is likely because they know they can come in and control a lame duck.

I meant to engage in a colloquy with my friend from Minnesota, but I am so disturbed by this, I think this needs a complete airing.

Mr. WELLSTONE. Mr. President, I hope other Senators will come to the floor and speak on this question, including members of the majority party, the majority leader included.

The way I look at it, you cannot help but smile with a twinkle in your eye. We have had plenty of time to do the work of the people, and now to say we can't get this done. Part of the proposal is that maybe a few appropriators would stay here with the White House and the rest of us would go home and campaign. I have heard that being discussed, which means we are not here doing the work. Then the other part of it is the lame duck session.

I think this is a breakdown of representative democracy. Basically, I think the majority party is trying to have it a couple of different ways. On the one hand, as a special favor to the insurance industry, they block sensible patient protection legislation. As a special favor to some of the bottom dwellers of commerce, they block raising the minimum wage from $5.15 to $6.15 over 2 years. And as a special favor to the pharmaceutical industry, they don't want to extend prescription drug benefits as a part of the Medicare program for elderly people. And as a special favor to some of the big packers and conglomerates, they pass Freedom to Farm, which we call the ''freedom to fail'' bill. But at the same time, they don't want to be held accountable for any of this. They don't want to have amendments on the floor. They don't want to have any votes. They don't want any accountability.

What they would like to do—I think the actual meaning of this proposal, which we are going to raise some Cain about because we are here to work, about coming back for a lame duck session is that our Republican colleagues want to vote on prescription drug costs after the election. They want to vote on patient protection after the election. They want to vote on minimum wage after the election. They want to vote on whether we should have more teachers in schools and smaller class size, and something you have been working on, some funding for rebuilding crumbling schools, after the election.

I don't think people in the country are going to go for that. I say to my colleagues on the other side of the aisle, that is not the way representative democracy works.

Mr. HARKIN. And we had the juvenile justice bill that included the school safety provision, the child safety gun locks and included a fix to close the gunshow loophole. Why are they only willing to vote on this important legislation after the election?

We have been denied—I don't want to say the Senator from Minnesota and I have been denied; the people of this country have been denied the right to have their Senators come on this floor and vote on these issues, denied because the majority leader won't bring it up. That is why they keep putting these conference committee bills together. They now want to put together the Commerce-State-Justice bill. I wanted to offer an amendment to restore funding to the Byrne grants for local law enforcement. The Byrne grant is $100 million short from last year's funding level. But I'm not allowed to do that because they want to skip the process and attach to another bill.

The VA–HUD and Transportation—again, we haven't voted on VA and HUD. Do you want to know why? Because we want to do something about veterans' health benefits. They want to vote on that after the election, too. They don't want the veterans of this country to know exactly how they vote on veterans' health benefits, I say to my friend.

Mr. WELLSTONE. If I may interrupt my colleague, the Senator is absolutely right. This is just an extension of what has been going on. The Senate is an institution where we should have the debate, the deliberation. That is what this is about. By filing cloture on bills, by not allowing debate, by putting unrelated provisions into a conference report, the majority party has decided they will not allow debate. The logical extension of this is, let's get out of town; let's not be held accountable.

Regarding veterans, the veterans organizations, many of them put together what they call an independent budget. Senator JOHNSON of South Dakota and I have had amendments where we get a 99–0 vote that we definitely want to add an additional $500 million because we know veterans have fallen between the cracks. Every time, in some conference committee or now in some omnibus appropriations bill, they never actually vote to put the appropriations into veterans' health care.

I think the Senator is right. Whether it is veterans, farmers, people in the country caring about education—this is all the people.

Mr. HARKIN. And child safety locks on guns.

Mr. WELLSTONE. Absolutely. And prescription drugs.

So am I correct that the lame duck proposal basically adds up to this: What some Republicans seem to be suggesting is, let's get out of here; let's not have to vote on any of this; let's come back after the election and then we will vote?

Mr. HARKIN. That's it. That's what they're saying. Speaker Hastert, Speaker of the House of Representatives, at the beginning of this year promised we would have all of the appropriations bills to the President before the August recess. We are at the end of September and we have only 2 out of 13 through.

I say to my friend from Minnesota, this is the first time—and I know how much he cares about education—this is the first time since 1965, when we passed the Elementary and Secondary Education Act, that we have failed to reauthorize. Because of time? No, we had plenty of time. Look at the Chamber this morning. The Senator from Minnesota, the Senator from Iowa are here. We are doing nothing out here.

Mr. WELLSTONE. Don't say that. We are speaking. Don't say that. We are speaking.

Mr. HARKIN. What I am saying is we are not doing anything to get the bills through.

Mr. WELLSTONE. I'm kidding.

Mr. HARKIN. I point out to my friend from Minnesota, in contrast, Senator DASCHLE from South Dakota, the Democrat leader, said:

> Let's take them up. Let's have a debate. Don't let anybody say with a straight face or with any credibility that it's the Democrats holding things up. Let's get to the bills. Let's get them done. Let's offer the amendments and move it along.

We are ready to debate. We are ready to offer amendments. We are ready to move the process—but we are denied. And again I say, the people of this country are denied the opportunity to have us vote on these measures.

Mr. WELLSTONE. If I can say to my colleague, some of what I said—everything I said I meant, and it is meant to challenge the majority party and the majority leader. But in a very serious way—the Senator mentioned education; it really breaks your heart, too, if you want to try to the best of your ability to represent people—on the Elementary and Secondary Act, between myself and staff, we were in 100 schools just meeting with people, getting their ideas about how we could best help them. We took all their ideas. Then we worked on amendments. I was so excited to come on the floor and have amendments representing what people said. The whole idea was to try to do good for people.

You cannot represent the people in your State; you cannot do good for people; you cannot be a good Senator unless the Senate becomes the Senate again. I think it is just outrageous that

the majority party just does not want to have the discussion, does not want to have the debate, does not want to vote—apparently doesn't want to vote. I just think that is not the way the Senate should operate, and it makes it very difficult to do good for people.

Mr. HARKIN. I say to my friend, it seems to me what we are facing is that the majority party, in charge of the Senate, in charge of the House, they want to replace the tough votes we have to take around here, that we should be taking around here—they want to replace the tough votes with slick 30-second TV ads to try to get through this election. That is breaking down, I think, the people's respect for the Senate.

How can you have respect for an institution when we don't get anything done around here? When we say the only time we want to take up the tough issues is after the election, when there will be people here voting on these issues who may have been defeated or maybe not running again, what kind of responsibility, I ask the Senator from Minnesota, is that? We are shirking our responsibility. I hear more and more people saying they are getting dismayed with how the Congress is operating. People ought to be dismayed with the way this place is running right now. We are shirking our responsibilities around here in this regard.

As I said, I have been on this Appropriations Committee for 15 years. I have been in the Senate for 15 years. I say to my friend from Minnesota, this is the most do-nothing Congress, the most do-nothing Senate I have seen in 15 years. It is really sad.

The Senator talked about visiting schools. I spent all my summer going around visiting elderly people in the State of Iowa and getting story after story about their costs of prescription drugs.

Mr. WELLSTONE. Yes.

Mr. HARKIN. It is not something they need help with 10 years from now. They need it now. That is why we need to bring that legislation out here and vote on prescription drugs, helping those people out. But we are precluded from doing so. I am hopeful perhaps—maybe we ought to start, I say to my friend from Minnesota, maybe we ought to start asking unanimous consent to bring some of these bills out here. Let's bring them up. Let's see if the majority party will object to bringing up the bills on prescription drugs, on the juvenile justice bill, on minimum wage, Patients' Bill of Rights, Elementary and Secondary Education Act. Let's spend the next 9 days or whatever we have working on some of this legislation.

Mr. WELLSTONE. Mr. President, I say to my colleague from Iowa, that may very well be what we do. I hope this suggestion of a possible lame duck session is an idea that will last about 1 hour and that will be the end of it. And I hope our discussion on the floor will be part of putting an end to it. But I am pleased to join with my colleague. I am pleased to start asking unanimous consent to bring up this legislation.

Mr. HARKIN. We ought to think about some way. Thinking about ''lame duck,'' I don't know where that term ever came from. I have to look it up. I am sure there is some history around here about what a lame duck session means, where that name came from. But it seems to me that a lame duck is a sick duck by definition. We don't need a sick duck around here doing the people's business. We don't need a lame duck session around here to be taking these tough votes. We ought to be standing up and doing it right now, not waiting for a sick duck to do it.

Mr. WELLSTONE. I thank my colleague. I think we will be back on the floor and we may very well be trying our level best to put these issues back on the floor. I will be proud to do it with my colleague from Iowa.

Mr. HARKIN. I thank my friend from Minnesota.

Mr. WELLSTONE. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

JUDICIARY COMMITTEE ACTIONS

Mr. HARKIN. Mr. President, I understand another disturbing event has happened this morning. I am informed that the Senate Judiciary Committee has met this morning and has refused to report out any more judges—refused to do so; just stopped. Again, this flies in the face of what our responsibilities are supposed to be around here. If someone doesn't like a person, or they don't think they are qualified—I should not say ''doesn't like''—if they don't think they are qualified to assume a judgeship, let them vote against that person. But that doesn't give them a reason to hold someone up in committee.

I am speaking specifically of my Iowa constituent, Bonnie Campbell, former attorney general with the State of Iowa who is now pending in the Judiciary Committee for a vacancy on the Court of Appeals for the Eighth Circuit.

Mr. WELLSTONE. Will the Senator yield for just a second? I just want to make sure, I just want to ask the Senator, Bonnie Campbell has directed all of the work against violence against women; is that correct? My wife Sheila works closely with her. She has done phenomenal work, has just a great reputation; am I correct?

Mr. HARKIN. Exactly; the Senator is exactly correct. Bonnie Campbell has, for the last 4 years, directed the Office of Violence Against Women in the Department of Justice. I can't find one person on either side of the aisle who says she hasn't done a superb job.

She has received accolades from all over this country about guiding and directing that office. She is widely supported by the American Bar Association, by people on both sides of the aisle, the party in her home State of Iowa who know the kind of outstanding person she is, how bright she is, how capable she is, what a great job she did as attorney general in the State of Iowa, and now in the Violence Against Women Office in the Department of Justice.

People on both sides of the aisle support her nomination, and yet the Senate Judiciary Committee refuses to report her out of committee. She has had her hearing. That has all been taken care of. All the paperwork is done. She has answered all the questions.

I say to the Judiciary Committee: Report her nomination out. If for some reason you think she is unqualified—I cannot imagine why—then you can cast your vote, but at least let's bring the nominee to the floor.

There are 22 vacancies on the appeals court. That is nearly half the emergency vacancies in the Federal court system. With the growing number of vacancies in the Federal courts, these positions should be filled as soon as possible with qualified people. Yet the Judiciary Committee refuses to move.

Ms. Campbell received a hearing this summer. She would serve this position on the Eighth Circuit with honor, fairness, and distinction. She has the solid support from me and my Iowa colleague, Senator GRASSLEY. Her nomination should be sent to the Senate floor.

Bonnie Campbell has had a long history in law, starting in 1984 with her private practice in Des Moines where she worked on cases involving medical malpractice, employment discrimination, personal injury, real estate, family law—a broadly based legal practice. She was then elected attorney general of Iowa in 1990, the first woman to hold that office in our State. She managed an office of 200 people, including 120 attorneys, again, handling a wide variety of criminal and civil matters for State agencies and officers. As attorney general, she gained high marks from all ends of the political spectrum as someone who was committed to enforcing the law, reducing crime, and protecting our consumers.

In 1995, she was appointed director of the Violence Against Women Office in the Department of Justice. In that position, she has played a critical role in the implementation of the violence against women provisions of the 1994 Crime Act. Again, she has won the respect from a wide range of interests with different points of views on this issue. She has been and is today responsible for the overall coordination and agenda of the Department of Justice efforts to combat violence against women.

I have known Bonnie Campbell for many years. She is a person of unquestioned integrity, keen intellect, and outstanding judgment. She has a great sense of fairness and evenhandedness. These qualities and her significant experience make her an ideal candidate for this circuit court position. Her nomination has been strongly supported by many of her colleagues, including the present Iowa attorney general, the president of the Iowa State Police Association and, of course, the American Bar Association.

Finally, we need a judicial system that reflects the diversity of this Nation. We need more women and people of color on the bench. Only 20 percent of all federal judge position in the country are filled by women, according to the Justice Department.

We have a backlog of judicial vacancies. It is only fair to move them, and we ought to move all of them out, especially Bonnie Campbell. She has had her hearing. Her nomination is sitting in the Judiciary Committee. If the reports I just heard are correct, the Judiciary Committee is stonewalling, refusing to move her name out to the floor of the Senate.

As I said earlier, this is another indication of how the leadership in this Senate is shirking its responsibilities to the people of this country—to put it off, delay, stonewall, don't do anything—when we have a crying need to fill these vacancies.

I am very dismayed. I had talked with the majority leader and the chairman of the Judiciary Committee, Senator HATCH, and others about this. And, Senator GRASSLEY and I had remained hopeful that her name would be reported out so the Senate could act on it, but it seems we have been led astray, that it is the intention of the chairman of the Judiciary Committee to lock up this nomination and not report out Bonnie Campbell.

The women of this country ought to know that. The women of this country ought to know that a uniquely qualified, eminently qualified individual to take a vacant position on the Eighth Circuit Court of Appeals is being denied by the Judiciary Committee her right to have a vote. Is that what the Judiciary Committee is telling the women of this country—that they need to take a back seat, that they will not act on these judicial nominees if you are a woman, qualified as Bonnie Campbell is?

I am very upset about this. I had in good faith been reluctant to exercise my rights as a Senator to in any way inhibit or do anything that would stop the flow of legislation or anything on the Senate floor because I had, I guess mistakenly, been of the opinion, or at least advised, if we just waited a due length of time, Bonnie Campbell's name would be reported out. Again, I think I was obviously mistaken, that my faith—my good faith—was not responded to in kind.

This is not right. It is not right to treat a person like this. It is not right to block someone who has had their hearing and is widely supported on both sides of the aisle. It might be a different story if there were a lot of controversy about Bonnie Campbell, but there is none. As I said, Senator GRASSLEY, a conservative Republican, is openly supporting her. Republicans in my State have been supportive of her getting on the Eighth Circuit.

This is, I think, a black mark on the operations of the Senate, another indication of how the leadership of this Senate refuses to do the people's business, to let things come out on the floor so we can vote up or down. Bonnie Campbell is being denied her right, I believe, as a citizen of this country to have her nomination acted upon by the full Senate, and it is a bad mark on the Senate.

I am hopeful the Judiciary Committee will reconsider its action—rather, its inaction. The Judiciary Committee can meet tomorrow, they can meet Monday, they can meet any day the chairman wants them to meet and report out this nominee. I was under the impression that was going to happen today, but obviously I had the wrong impression of what the Senate Judiciary Committee was going to do.

I urge the chairman to convene the Judiciary Committee and report Bonnie Campbell's name out before this session is over.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. THOMAS. Mr. President, I ask unanimous consent to speak for 5 minutes before those who have time reserved come to the floor.

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

REFORMS VERSUS ROADBLOCKS

Mr. THOMAS. Mr. President, I have been in some meetings this morning. Of course, we do not have any more committee hearings going on because the other side has objected to that. I haven't listened to everything, but I heard enough to hear my friends on the other side of the aisle complaining about not moving forward.

So I just believe it is really important to talk a little bit about the whole idea of what has been going on here now for several months, where we have been seeking to make some reforms and seeking to move forward, moving a number of bills, and finding nothing but roadblocks from the other side of the aisle. It is almost hilarious to hear that kind of conversation when the facts are that we have had nothing but roadblocks coming from the other side of the aisle. And it is too bad.

We are down to where we don't have a great deal of time, and the notion that we continue to bring up the same topics, over and over and over again, simply because these folks want to make it an issue as opposed to a solution, frankly, gets pretty redundant and tiresome.

Let me just mention a few of the things specifically that have been troublesome.

S. 2045, amending the Immigration and Nationality Act with respect to H–1B nonimmigrant aliens: Senator LOTT offered, on the 15th of September, a UC for both sides to bring the bill to the floor; objected to by Democrats.

S. 2497, the McCain-Lieberman bill dealing with the entertainment industry's marketing of inappropriate R-rated videos: In response to the FTC report, Senator SANTORUM offered a UC to bring it to the floor. The other side objected.

Four district judges in Illinois and Arizona: Asked to be brought to the floor; the minority leader objected.

S. 2507, the intelligence authorization: We tried to bring that to the floor and get a UC; no response from the minority leader.

H.R. 1776, the housing construction bill, with 32 cosponsors, including a dozen Democrats: The leader requested UC to go to conference; objected to by that side of the aisle.

H.R. 3615, the Rural Local Broadcast Signal Act, a satellite bill so we can have local-to-local broadcasting in rural areas: The leader asked for a UC to go to conference; objected to by the Democrats on that side of the aisle.

The Social Security and Medicare Safe Deposit Act, which the President and the other side of the aisle, along with Vice President GORE, claim they support: The leader asked for a UC September 7 to call it up. It was the sixth time in the 106th Congress that the Democrats have blocked the lockbox from coming up.

It takes a lot of nerve to get up and talk about not moving forward when these are the kinds of things that have actually taken place.

S. 2, the Elementary and Secondary Education Act: We spent 2 weeks of floor time this spring and summer—2 weeks—debating and voting on amendments. The other side of the aisle has blocked two UCs—including 20 additional amendments—which have kept us from finishing this measure.

It is really almost laughable to talk about that. What we need to do is to move forward. What we need to do is get these bills out, have our disagreements, vote on them, and get the job done that we are here to do. We tried to do that yesterday; we couldn't get it done.

Let me share with you another batch of information. So far in the 106th Congress well over half the votes cast on amendments are initiatives from the other side of the aisle; that is, 231 out of 403 rollcall votes. Many of these votes are repetitive votes on their favorite agenda items which are out

there more to create an issue than they are to create a solution. And they say they don't have a voice.

Further, they have continued to block action on important issues for Americans, including education reform, meaningful tax relief, protecting Social Security, Medicare. We have pushed for effective reforms. That side of the aisle has continued to throw up roadblocks. We are continuing to look to the future and getting these items accomplished. Unfortunately, our friends continue with the roadblocks.

Total rollcall votes during the 106th Congress, through September 11, 611; rollcall votes on amendments, 403. Those asked for on Democrat-sponsored amendments, 231; Republican-sponsored amendments, 172.

Votes on the Democrat agenda: Votes to raise taxes or to reduce tax relief, 55; votes to increase Federal education spending, 35; Federal funds to hire new teachers as opposed to having local decisions, 9; Federal funds for school construction as opposed to letting people decide for themselves, 5; Federal funds for afterschool, 6; votes to further regulate gun owners, 13. Now, that is an issue that people disagree on, but how many times can we continue to bring it up? How many times can we have votes on it? How many times can it be used to slow down the progress toward getting our job done? Minimum wage package, 5; the minimum wage package is in a bill they have held up.

This idea of our friends on the other side getting up and talking about things not happening here is ludicrous, absolutely ludicrous, in terms of the kinds of issues that have been put up over there as roadblocks. It is time for us to get on with it. Let's take a look at what we have before us. Let's have our debate; Let's have our exchange; and let's vote and move forward.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FITZGERALD). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed not to exceed 20 minutes.

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

APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, as the end of the 106th Congress is fast approaching, I am deeply dismayed about the prospects of completing action on the thirteen annual appropriations bills for Fiscal Year 2001, which begins October 1st. Unfortunately, as has happened far too often in recent years, much of the work on appropriations bills remains to be done. There is really no valid excuse for the Senate's failure to do its appropriations work. The House has done its work in a timely fashion.

Yet, to date, only two of the Fiscal Year 2001 appropriations bills have been signed into law—Military Construction and Defense. Of the remaining eleven bills, four have yet to even be brought up for debate in the full Senate. Those bills are Treasury, Commerce-Justice-State, VA–HUD, and The District of Columbia. As Members are aware, the conference report on H.R. 4516, the Fiscal Year 2001 Legislative Branch Appropriations is divided—broken into two divisions. Division A contains the conference agreement for the Legislative Branch bill. Division B, which was inserted into the Legislative Branch Bill without any input by Democratic Members of either the House or Senate, contains the entire Treasury-General Government Appropriations Act for Fiscal Year 2001. This was done despite the fact that the Senate has never taken up the Treasury-General Government Appropriations bill at all. In addition, again without any input from the Democratic Members of the House or Senate, a tax measure to repeal the telephone excise tax was inserted in this same conference report. The measure was soundly defeated in this body yesterday, as I believe it should have been.

Here we are with only nine calendar days left before the beginning of Fiscal Year 2001, and we have enacted only two of the thirteen annual appropriations bills and had them signed into law; two more were contained in the conference report on H.R. 4516, namely the Legislative Branch and Treasury-General Government bills. That leaves nine fiscal year 2001 appropriations bills remaining. Since, on yesterday, we did defeat the conference report, actually the Legislative Branch and Treasury-General Government bills have not been acted on, we have eleven bills remaining.

To conform with the Constitutionally envisioned process, all four of these bills should be passed in the Senate before being taken up in conferences with the other body. To shortcut that process means that the full Senate never has an opportunity to amend these bills or debate provisions in them. Especially when it comes to bills which spend the taxpayers' money, we ought to take the time to allow debate and amendment by the full membership of this body. I hear all of this talk about tax cuts and giving the people back their hard-earned money. How does that square with the rather cavalier attitude we sometimes exhibit here when it comes to appropriations bills? Do we forget, that when it comes to appropriations bills, we are spending the people's money? Don't Members of the Senate feel an obligation to let the full Senate scrutinize, debate, and, if necessary, amend, bills that allocate those hard-earned tax dollars? No public debate by the Senate on the billions of dollars contained in these bills for programs and projects means that the public is denied critical information about the use of the public's money. In a body formulated to foster debate and to protect the rights of the minority view, it is especially irresponsible to abdicate those functions when it comes to spending the people's tax dollars.

There is plenty of blame to go around as to why the Commerce-Justice-State, VA–HUD, and DC bills have not been brought up, as well as the Treasury bill. I do not seek to point the finger at anybody.

The chairman of the Appropriations Committee and the members of the Appropriations Committee have done their very best to work on these bills, to report them. The Commerce-Justice-State bill has been before the Senate long enough that we could have passed it, we could have stayed in on Fridays and, if need be, on some Saturdays. We have done that before, and we could have gotten that bill passed and, at the same time, let Senators have the chance to offer amendments to it. That is what the process is all about.

The leadership too often files cloture on appropriations bills and other matters, in order to limit the number of controversial and politically loaded amendments that can be offered by Senators on the minority side of the aisle. Democratic Members too often bring up ''message'' amendments over and over again on appropriations bills because they find little opportunity to have those matters debated by the Senate on other bills.

I have to say that the authorization committees, some of them at least, do not do their work and, as a consequence, the action and the responsibility then falls upon the Appropriations Committee. Members do not have an opportunity to offer amendments to authorization bills that ought to have been reported and brought to the floor. When those authorization committees do not act, naturally appropriations bills are the only vehicles to which Members can offer amendments that they would otherwise offer to the authorization bill.

Every action has a reaction. Polarization breeds polarization. Nevertheless, we must find a way to accommodate the needs of all Senators, as well as fulfill the responsibility of the leadership to move must-pass legislation.

This is not the first year that the regular appropriations process has broken down, but I urge us all to work on a bipartisan basis to ensure that it will be the last. Let us call a truce to the perennial warfare that we fight over these appropriations bills. Let us stop the drift that leads us to short cut the deliberative function of this Senate and all too often produces mammoth omnibus bills with everything but grandpa's false teeth thrown in. This

one grandpa who does not have false teeth. Mine would not go in.

Huge omnibus appropriations bills make a mockery of the legislative process, and sending appropriations bills direct to conference without Senate action on them also makes a mockery of the legislative process. For FY 1997, 1999, and 2000, Congress resorted to the adoption of omnibus appropriations acts which contained a number of appropriations bills, some of which had never been brought up in the Senate. Those omnibus acts also contained massive amounts of legislative matter, as well as tax cuts—legislative matter that never saw the light of day on the Senate floor.

For fiscal year 1999, the omnibus appropriations package enacted at the end of the session contained eight appropriations bills, as well as a tax bill totaling some $9.2 billion, and more than 60 major legislative proposals. Appropriations subcommittee chairmen and ranking members were not involved in a number of major decisions in their areas of jurisdiction, nor were the full committee chairmen and ranking members included in the decisions regarding the tax bill or the major legislative proposals. In all, that FY 1999 omnibus package totaled some 3,980 pages. It was wrapped together and run off on copy machines and presented to the two Houses as an unamendable conference report. That measure provided funding of nearly $500 billion and more than half of 3,980 pages contained legislative provisions. No one could possibly have known everything that was included in that omnibus monstrosity, just as no Member could have known what was in the omnibus bill for FY 1997, or for that of FY 2000. But we are headed in that direction again.

When we wait until the end of a session to take action on the overwhelming majority of appropriations bills, when we allow ourselves to be pressured by time, when we are forced to hurry because we are about to adjourn, it is an open invitation to the executive branch to sit down at the legislative table.

The Constitution vests the power of the purse in the legislative branch. That is the House and Senate. That is where the Constitution vests the power of the purse. Yet the way we are acting, the way we delay and the results that come from such delay in the end constitute an open invitation for the executive branch to come to the tables.

In that environment, most Senators are not in the room when the decisions are made. The President's men and the President's priorities carry great weight. It is late. The President's signature is needed, so the White House has the trump hand. Having squandered the whole year on meaningless posturing and bickering back and forth—

I say back and forth. That means both sides. I do not stand here and accuse either side of having a monopoly on the bickering. We are all involved. But we are much more likely to yield to the administration's every demand then to complete our work.

I am hopeful we can avoid such a process for fiscal year 2001. I am encouraged by the fact that a number of conferences are either under way or soon will begin. I was in one yesterday afternoon, last evening, and this morning.

I urge the leadership to find a way to bring up the appropriations bills which have not seen Senate action for debate and amendment in the Senate. I think it would be useful for both leaders, if I might presume to make a suggestion, to appoint a group of Senators to discuss these remaining appropriations bills, and what amendments our colleagues deem most important to be offered. Let us reach out across our respective aisles and find a way to do our business without resorting to an always contentious, usually counterproductive, lame-duck session. That would be the responsible way to do business. That is the fair way to do business. That would be the right way to conduct the people's affairs.

The American public is disenchanted with politics as usual and with the constant warfare that seems to continually be waged in Washington. We must recommit ourselves to working together in the spirit of cooperation to ensure that we find a way to fulfill our duties and our oaths of office as U.S. Senators.

Nobody looks good in this annual mad dash to complete work on spending bills that should have been done months before. There are no winners here.

The Republicans don't win; the Democrats don't win. The people lose. The result is an institutional erosion that we see going on. The Senate is losing its powers, it is losing its prerogatives, they are being taken from us, when we do not let bills come up and be debated and be amended by Senators. There are no winners.

There are no gold, silver, or even bronze medalists. When we engage in this sloppy, annual relay race to get the job done at all costs, the baton always gets dropped, and the losers, once again, are the people we represent and the trust they have in us.

The Senate—the institution, the one place in which the people's interests can be debated at length, and where bills can be amended, and where a check can be made on the House of Representatives, as the framers intended, and where a check can be exercised against an overreaching executive branch, when that is short circuited—the Senate loses its powers, its prerogatives go by the wayside, and the interests, the freedoms, and the liberties of the American people suffer.

It is time that we talk about these things. I am the ranking member on the Appropriations Committee. I am very, very, very concerned. I was up at 3 o'clock this morning working on a speech, not this one, but one that I still intend to make about this very subject.

Mr. President, I thank the distinguished Senator from New Hampshire for his consideration and courtesy in allowing me to go forward. I hope I have not kept him waiting unduly.

Mr. REID. Would my friend from New Hampshire allow me to enter into a brief dialog with the Senator from West Virginia? It will be very brief.

I say, through the Chair to my friend from West Virginia, that I do not believe the minority got us in this situation we are in. But I do say that we will do everything within our power to try to get ourselves out of the hole that we are in.

It is certainly not the intention of the minority to hold up Congress, to hold up these appropriations bills. As a longtime member of the Appropriations Committee, and someone who has the greatest respect and admiration for the ranking member on the Appropriations Committee, I think it is important we work with the majority in trying to figure out a way out of this. Certainly we are willing to do that.

Mr. BYRD. I thank the Democratic whip. I know he is willing to do just what he says. He wants to cooperate.

We have to save this institution. There are Senators in this body who have never seen the institution work as it was meant to work. I will have more to say about that later. But there are Members in this institution who think that this is the way the Senate has always worked. It is not. And I am not pointing fingers at anybody. I like both leaders. But we have to do something. We just must avoid coming back after the election. That is a disservice to the Members of the other body. They have done their work on these appropriations bills and sent them over here. Now we ought to do ours. And it is a disservice to the American people.

Mr. REID. I say to my friend, I spent all morning with you in a conference on the Interior appropriations bill.

Mr. BYRD. Yes.

Mr. REID. It was a difficult bill. But that is the way things are supposed to be done around here.

Mr. BYRD. That is the process.

Mr. REID. The process. And now, sometime today, there is going to be a bill reported out of that conference committee that will be brought to the respective bodies that will be approved.

Mr. BYRD. Absolutely.

Mr. REID. It is a nice piece of work. If the White House does not like it, they can do whatever they want with it, but the legislative bodies have spoken. It will pass overwhelming, that bill.

Mr. BYRD. Yes. We have a duty. We have a responsibility.

Now, I have been leader. I have been the majority leader, and I have been the minority leader, and I have been the majority leader again. I know what the problems and the pressures and the travails and the tribulations are of a majority leader. And I know what the

tribulations and trials of a minority leader are. So I am well acquainted with their problems. I have had them all. I have been there. My footprints are still there. It isn't the quality of our life—that the people send us here for. It is the quality of our work on behalf of the people who send us here.

I had bed check votes at 10 o'clock on Monday mornings. There are people who sit at the desk in front of me and there are some few Senators still in this body who will remember that: Bed check votes at 10 o'clock on Monday mornings. But I alerted my colleagues: That is what we are going to have. And we are going to have votes on Fridays. We are not quitting at 12. Now, in return for that, we are going to work 3 weeks, and then we are going to be out 1 week. So you can go home and see your constituents and get an understanding of what their needs are. But 3 weeks we are going to be here. You are off 1 week. We are going to be here 3 weeks.

And they loved it. Senators loved it. They knew I meant business. And I took the attitude: If you don't like me as leader—you voted me in—then you can vote me out. But as long as I am leader, I am going to lead. I may not have many who will follow me, but I will do what I think is right for this institution.

Well, my speech did not go over well with a few, but take a look at the record of that 100th Congress. That was a great Congress. That is the way we worked it.

I understand—as I say, I like both of our leaders. I personally have great admiration for Mr. LOTT and for Mr. DASCHLE. They have their problems. And we have to help them. But let's draw back here and think of the institution. The most important thing in the world is not for me to be reelected. That is not the most important. The most important thing is for me to do my duty to this Senate—to the Senate, to the Constitution, and to the people who send me here. And if it means I have to work early and late, so be it.

I thank the distinguished Senator, and thank the Senator from New Hampshire again.

The PRESIDING OFFICER. The Senator from New Hampshire.

UNANIMOUS-CONSENT AGREEMENT—S. 2796

Mr. SMITH of New Hampshire. Mr. President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 729, S. 2796, the Water Resources Development Act of 2000, under the following limitations: There be 3 hours for general debate on the bill equally divided between the two managers; the only amendments in order be a managers' amendment; one amendment to be offered by Senators WARNER and VOINOVICH relating to cost-share and operations and maintenance, limited to 2 hours equally divided in the usual form; one amendment offered by Senator FEINGOLD relating to independent peer review, limited to 1 hour equally divided in the usual form, and subject to one relevant second-degree amendment offered by Senators SMITH and BAUCUS and limited to 30 minutes; one amendment offered by Senator TORRICELLI regarding marketing of dredge spoils, limited to 20 minutes equally divided, and subject to a relevant second-degree amendment offered by Senator SMITH, or his designee, under the same time limitations; and one additional relevant amendment per manager limited to 10 minutes equally divided.

I further ask consent that during the consideration of the bill, Senators THOMAS and KENNEDY be in control of up to 1 hour each for statements.

Finally, I ask consent that following the disposition of the above amendments, and the use or yielding back of the time, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I apologize to my friend who is the chairman of the committee, but I am going to have to object.

I just spoke to one of the Members, and she is going to be over to talk to the Senator from New Hampshire forthwith.

In light of my conversation with her, I am going to have to object.

The PRESIDING OFFICER. Objection is heard.

Mr. SMITH of New Hampshire. If I could engage my colleague for a moment. Without mentioning the name—

Mr. REID. I have no problem with that. It was Senator LINCOLN from Arkansas.

Mr. SMITH of New Hampshire. All right. I think the issue with Senator LINCOLN, to the best of my knowledge, has been resolved satisfactorily. If that is not the case, then we can delay action.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SMITH of New Hampshire. Mr. President, at this time I renew my unanimous consent request regarding Calendar No. 729, S. 2796, the Water Resources Development Act of 2000.

Mr. REID. Mr. President, reserving the right to object, we have spent approximately an hour on this matter. We have had a number of conversations. I appreciate the work of the chairman and the subcommittee chair, Senator VOINOVICH. I have been assured by the Senator from Arkansas that if there is a problem in the underlying appropriations process, they will work with the people in the House to alleviate that problem to the best of their ability. There is no guarantee, but they will do everything within their power to resolve the issues about which we have spoken during this hour that we have been in a quorum call.

I say to my friend from New Hampshire and my friend from Ohio that I appreciate their consideration.

My understanding of what they will attempt to accomplish, if necessary, is accurate. Is that not true?

Mr. SMITH of New Hampshire. That is correct.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SMITH of New Hampshire. I thank my colleague from Nevada. We will do our best to work through the process as outlined by the Senator from Arkansas and the Senator from Nevada.

WATER RESOURCES DEVELOPMENT ACT OF 2000

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2796) to provide for the conservation and development of water and resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

The Senate proceeded to the bill which had been reported from the Committee on Environment and Public Works, with an amendment; as follows:

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Resources Development Act of 2000''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH CHIEF'S REPORTS.—The following project for water resources development and conservation and other purposes is authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, described in the designated report: The project for navigation, New York-New Jersey Harbor: Report of the Chief of Engineers dated May 2, 2000, at a total cost of $1,781,235,000, with an estimated Federal cost of $738,631,000 and an estimated non-Federal cost of $1,042,604,000.

(b) PROJECTS SUBJECT TO A FINAL REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed not later than December 31, 2000:

(1) FALSE PASS HARBOR, ALASKA.—The project for navigation, False Pass Harbor, Alaska, at a total cost of $15,000,000, with an estimated Federal cost of $10,000,000 and an estimated non-Federal cost of $5,000,000.

(2) UNALASKA HARBOR, ALASKA.—The project for navigation, Unalaska Harbor, Alaska, at a total cost of $20,000,000, with an estimated Federal cost of $12,000,000 and an estimated non-Federal cost of $8,000,000.

(3) RIO DE FLAG, ARIZONA.—The project for flood damage reduction, Rio de Flag, Arizona, at a total cost of $26,400,000, with an estimated Federal cost of $17,100,000 and an estimated non-Federal cost of $9,300,000.

(4) TRES RIOS, ARIZONA.—The project for environmental restoration, Tres Rios, Arizona, at a total cost of $90,000,000, with an estimated Federal cost of $58,000,000 and an estimated non-Federal cost of $32,000,000.

(5) LOS ANGELES HARBOR, CALIFORNIA.—The project for navigation, Los Angeles Harbor, California, at a total cost of $168,900,000, with an estimated Federal cost of $44,000,000 and an estimated non-Federal cost of $124,900,000.

(6) MURRIETA CREEK, CALIFORNIA.—The project for flood control, Murrieta Creek, California, at a total cost of $43,100,000, with an estimated Federal cost of $27,800,000 and an estimated non-Federal cost of $15,300,000.

(7) PINE FLAT DAM, CALIFORNIA.—The project for fish and wildlife restoration, Pine Flat Dam, California, at a total cost of $34,000,000, with an estimated Federal cost of $22,000,000 and an estimated non-Federal cost of $12,000,000.

(8) RANCHOS PALOS VERDES, CALIFORNIA.—The project for environmental restoration, Ranchos Palos Verdes, California, at a total cost of $18,100,000, with an estimated Federal cost of $11,800,000 and an estimated non-Federal cost of $6,300,000.

(9) SANTA BARBARA STREAMS, CALIFORNIA.—The project for flood damage reduction, Santa Barbara Streams, Lower Mission Creek, California, at a total cost of $17,100,000, with an estimated Federal cost of $8,600,000 and an estimated non-Federal cost of $8,500,000.

(10) UPPER NEWPORT BAY HARBOR, CALIFORNIA.—The project for environmental restoration, Upper Newport Bay Harbor, California, at a total cost of $28,280,000, with an estimated Federal cost of $18,390,000 and an estimated non-Federal cost of $9,890,000.

(11) WHITEWATER RIVER BASIN, CALIFORNIA.—The project for flood damage reduction, Whitewater River basin, California, at a total cost of $26,000,000, with an estimated Federal cost of $16,900,000 and an estimated non-Federal cost of $9,100,000.

(12) TAMPA HARBOR, FLORIDA.—Modification of the project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Act of September 22, 1922 (42 Stat. 1042, chapter 427), to deepen the Port Sutton Channel, at a total cost of $7,245,000, with an estimated Federal cost of $4,709,000 and an estimated non-Federal cost of $2,536,000.

(13) BARBERS POINT HARBOR, OAHU, HAWAII.—The project for navigation, Barbers Point Harbor, Oahu, Hawaii, at a total cost of $51,000,000, with an estimated Federal cost of $21,000,000 and an estimated non-Federal cost of $30,000,000.

(14) JOHN T. MYERS LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, John T. Myers Lock and Dam, Ohio River, Indiana and Kentucky, at a total cost of $182,000,000. The costs of construction of the project shall be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(15) GREENUP LOCK AND DAM, KENTUCKY.—The project for navigation, Greenup Lock and Dam, Ohio River, Kentucky, at a total cost of $183,000,000. The costs of construction of the project shall be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(16) MORGANZA, LOUISIANA, TO GULF OF MEXICO.—

(A) IN GENERAL.—The project for hurricane protection, Morganza, Louisiana, to the Gulf of Mexico, at a total cost of $550,000,000, with an estimated Federal cost of $358,000,000 and an estimated non-Federal cost of $192,000,000.

(B) CREDIT.—The non-Federal interests shall receive credit toward the non-Federal share of project costs for the costs of any work carried out by the non-Federal interests for interim flood protection after March 31, 1989, if the Secretary finds that the work is compatible with, and integral to, the project.

(17) CHESTERFIELD, MISSOURI.—The project to implement structural and nonstructural measures to prevent flood damage to Chesterfield, Missouri, and the surrounding area, at a total

cost of $63,000,000, with an estimated Federal cost of $40,950,000 and an estimated non-Federal cost of $22,050,000.

(18) BARNEGAT INLET TO LITTLE EGG INLET, NEW JERSEY.—The project for shore protection, Barnegat Inlet to Little Egg Inlet, New Jersey, at a total cost of $51,203,000, with an estimated Federal cost of $33,282,000 and an estimated non-Federal cost of $17,921,000, and at an estimated average annual cost of $1,751,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,138,000 and an estimated annual non-Federal cost of $613,000.

(19) RARITAN BAY AND SANDY HOOK BAY, CLIFFWOOD BEACH, NEW JERSEY.—The project for shore protection, Raritan Bay and Sandy Hook Bay, Cliffwood Beach, New Jersey, at a total cost of $5,219,000, with an estimated Federal cost of $3,392,000 and an estimated non-Federal cost of $1,827,000, and at an estimated average annual cost of $110,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $55,000 and an estimated annual non-Federal cost of $55,000.

(20) RARITAN BAY AND SANDY HOOK BAY, PORT MONMOUTH, NEW JERSEY.—The project for shore protection, Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey, at a total cost of $30,081,000, with an estimated Federal cost of $19,553,000 and an estimated non-Federal cost of $10,528,000, and at an estimated average annual cost of $2,468,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,234,000 and an estimated annual non-Federal cost of $1,234,000.

(21) MEMPHIS, TENNESSEE.—The project for ecosystem restoration, Wolf River, Memphis, Tennessee, at a total cost of $10,933,000, with an estimated Federal cost of $7,106,000 and an estimated non-Federal cost of $3,827,000.

(22) JACKSON HOLE, WYOMING.—

(A) IN GENERAL.—The project for environmental restoration, Jackson Hole, Wyoming, at a total cost of $66,500,000, with an estimated Federal cost of $43,225,000 and an estimated non-Federal cost of $23,275,000.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the costs of the project may be provided in cash or in the form of in-kind services or materials.

(ii) CREDIT.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for design and construction work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the project, if the Secretary finds that the work is integral to the project.

(23) OHIO RIVER.—

(A) IN GENERAL.—The program for protection and restoration of fish and wildlife habitat in and along the main stem of the Ohio River, consisting of projects described in a comprehensive plan, at a total cost of $200,000,000, with an estimated Federal cost of $130,000,000 and an estimated non-Federal cost of $70,000,000.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the costs of any project under the program may be provided in cash or in the form of in-kind services or materials.

(ii) CREDIT.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for design and construction work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the project, if the Secretary finds that the work is integral to the project.

SEC. 102. SMALL SHORE PROTECTION PROJECTS.

The Secretary shall conduct a study for each of the following projects, and if the Secretary determines that a project is feasible, may carry out the project under section 3 of the Act of August 13, 1946 (33 U.S.C. 426g):

(1) LAKE PALOURDE, LOUISIANA.—Project for beach restoration and protection, Highway 70, Lake Palourde, St. Mary and St. Martin Parishes, Louisiana.

(2) ST. BERNARD, LOUISIANA.—Project for beach restoration and protection, Bayou Road, St. Bernard, Louisiana.

SEC. 103. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) HOUMA NAVIGATION CANAL, LOUISIANA.—Project for navigation, Houma Navigation Canal, Terrebonne Parish, Louisiana.

(2) VIDALIA PORT, LOUISIANA.—Project for navigation, Vidalia Port, Louisiana.

SEC. 104. REMOVAL OF SNAGS AND CLEARING AND STRAIGHTENING OF CHANNELS IN NAVIGABLE WATERS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 3 of the Act of March 2, 1945 (33 U.S.C. 604):

(1) BAYOU MANCHAC, LOUISIANA.—Project for removal of snags and clearing and straightening of channels for flood control, Bayou Manchac, Ascension Parish, Louisiana.

(2) BLACK BAYOU AND HIPPOLYTE COULEE, LOUISIANA.—Project for removal of snags and clearing and straightening of channels for flood control, Black Bayou and Hippolyte Coulee, Calcasieu Parish, Louisiana.

SEC. 105. SMALL BANK STABILIZATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) BAYOU DES GLAISES, LOUISIANA.—Project for emergency streambank protection, Bayou des Glaises (Lee Chatelain Road), Avoyelles Parish, Louisiana.

(2) BAYOU PLAQUEMINE, LOUISIANA.—Project for emergency streambank protection, Highway 77, Bayou Plaquemine, Iberville Parish, Louisiana.

(3) HAMMOND, LOUISIANA.—Project for emergency streambank protection, Fagan Drive Bridge, Hammond, Louisiana.

(4) IBERVILLE PARISH, LOUISIANA.—Project for emergency streambank protection, Iberville Parish, Louisiana.

(5) LAKE ARTHUR, LOUISIANA.—Project for emergency streambank protection, Parish Road 120 at Lake Arthur, Louisiana.

(6) LAKE CHARLES, LOUISIANA.—Project for emergency streambank protection, Pithon Coulee, Lake Charles, Calcasieu Parish, Louisiana.

(7) LOGGY BAYOU, LOUISIANA.—Project for emergency streambank protection, Loggy Bayou, Bienville Parish, Louisiana.

(8) SCOTLANDVILLE BLUFF, LOUISIANA.—Project for emergency streambank protection, Scotlandville Bluff, East Baton Rouge Parish, Louisiana.

SEC. 106. SMALL FLOOD CONTROL PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) WEISER RIVER, IDAHO.—Project for flood damage reduction, Weiser River, Idaho.

(2) BAYOU TETE L'OURS, LOUISIANA.—Project for flood control, Bayou Tete L'Ours, Louisiana.

(3) BOSSIER CITY, LOUISIANA.—Project for flood control, Red Chute Bayou levee, Bossier City, Louisiana.

(4) BRAITHWAITE PARK, LOUISIANA.—Project for flood control, Braithwaite Park, Louisiana.

(5) CANE BEND SUBDIVISION, LOUISIANA.—Project for flood control, Cane Bend Subdivision, Bossier Parish, Louisiana.

(6) CROWN POINT, LOUISIANA.—Project for flood control, Crown Point, Louisiana.

(7) DONALDSONVILLE CANALS, LOUISIANA.—Project for flood control, Donaldsonville Canals, Louisiana.

(8) GOOSE BAYOU, LOUISIANA.—Project for flood control, Goose Bayou, Louisiana.

(9) GUMBY DAM, LOUISIANA.—Project for flood control, Gumby Dam, Richland Parish, Louisiana.

(10) HOPE CANAL, LOUISIANA.—Project for flood control, Hope Canal, Louisiana.

(11) JEAN LAFITTE, LOUISIANA.—Project for flood control, Jean Lafitte, Louisiana.

(12) LOCKPORT TO LAROSE, LOUISIANA.—Project for flood control, Lockport to Larose, Louisiana.

(13) LOWER LAFITTE BASIN, LOUISIANA.—Project for flood control, Lower Lafitte Basin, Louisiana.

(14) OAKVILLE TO LAREUSSITE, LOUISIANA.—Project for flood control, Oakville to LaReussite, Louisiana.

(15) PAILET BASIN, LOUISIANA.—Project for flood control, Pailet Basin, Louisiana.

(16) POCHITOLAWA CREEK, LOUISIANA.—Project for flood control, Pochitolawa Creek, Louisiana.

(17) ROSETHORN BASIN, LOUISIANA.—Project for flood control, Rosethorn Basin, Louisiana.

(18) SHREVEPORT, LOUISIANA.—Project for flood control, Twelve Mile Bayou, Shreveport, Louisiana.

(19) STEPHENSVILLE, LOUISIANA.—Project for flood control, Stephensville, Louisiana.

(20) ST. JOHN THE BAPTIST PARISH, LOUISIANA.—Project for flood control, St. John the Baptist Parish, Louisiana.

(21) MAGBY CREEK AND VERNON BRANCH, MISSISSIPPI.—Project for flood control, Magby Creek and Vernon Branch, Lowndes County, Mississippi.

(22) FRITZ LANDING, TENNESSEE.—Project for flood control, Fritz Landing, Tennessee.

SEC. 107. SMALL PROJECTS FOR IMPROVEMENT OF THE QUALITY OF THE ENVIRONMENT.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)):

(1) BAYOU SAUVAGE NATIONAL WILDLIFE REFUGE, LOUISIANA.—Project for improvement of the quality of the environment, Bayou Sauvage National Wildlife Refuge, Orleans Parish, Louisiana.

(2) GULF INTRACOASTAL WATERWAY, BAYOU PLAQUEMINE, LOUISIANA.—Project for improvement of the quality of the environment, Gulf Intracoastal Waterway, Bayou Plaquemine, Iberville Parish, Louisiana.

(3) GULF INTRACOASTAL WATERWAY, MILES 220 TO 222.5, LOUISIANA.—Project for improvement of the quality of the environment, Gulf Intracoastal Waterway, miles 220 to 222.5, Vermilion Parish, Louisiana.

(4) GULF INTRACOASTAL WATERWAY, WEEKS BAY, LOUISIANA.—Project for improvement of the quality of the environment, Gulf Intracoastal Waterway, Weeks Bay, Iberia Parish, Louisiana.

(5) LAKE FAUSSE POINT, LOUISIANA.—Project for improvement of the quality of the environment, Lake Fausse Point, Louisiana.

(6) LAKE PROVIDENCE, LOUISIANA.—Project for improvement of the quality of the environment, Old River, Lake Providence, Louisiana.

(7) NEW RIVER, LOUISIANA.—Project for improvement of the quality of the environment, New River, Ascension Parish, Louisiana.

(8) ERIE COUNTY, OHIO.—Project for improvement of the quality of the environment, Sheldon's Marsh State Nature Preserve, Erie County, Ohio.

(9) MUSHINGUM COUNTY, OHIO.—Project for improvement of the quality of the environment, Dillon Reservoir watershed, Licking River, Mushingum County, Ohio.

SEC. 108. BENEFICIAL USES OF DREDGED MATERIAL.

The Secretary may carry out the following projects under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326):

(1) HOUMA NAVIGATION CANAL, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes barrier island restoration at the Houma Navigation Canal, Terrebonne Parish, Louisiana.

(2) MISSISSIPPI RIVER GULF OUTLET, MILE -3 TO MILE -9, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes dredging of the Mississippi River Gulf Outlet, mile -3 to mile -9, St. Bernard Parish, Louisiana.

(3) MISSISSIPPI RIVER GULF OUTLET, MILE 11 TO MILE 4, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes dredging of the Mississippi River Gulf Outlet, mile 11 to mile 4, St. Bernard Parish, Louisiana.

(4) PLAQUEMINES PARISH, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes marsh creation at the contained submarine maintenance dredge sediment trap, Plaquemines Parish, Louisiana.

(5) OTTAWA COUNTY, OHIO.—Project to protect, restore, and create aquatic and related habitat using dredged material, East Harbor State Park, Ottawa County, Ohio.

SEC. 109. SMALL AQUATIC ECOSYSTEM RESTORATION PROJECTS.

The Secretary may carry out the following projects under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330):

(1) BRAUD BAYOU, LOUISIANA.—Project for aquatic ecosystem restoration, Braud Bayou, Spanish Lake, Ascension Parish, Louisiana.

(2) BURAS MARINA, LOUISIANA.—Project for aquatic ecosystem restoration, Buras Marina, Buras, Plaquemines Parish, Louisiana.

(3) COMITE RIVER, LOUISIANA.—Project for aquatic ecosystem restoration, Comite River at Hooper Road, Louisiana.

(4) DEPARTMENT OF ENERGY 21-INCH PIPELINE CANAL, LOUISIANA.—Project for aquatic ecosystem restoration, Department of Energy 21-inch Pipeline Canal, St. Martin Parish, Louisiana.

(5) LAKE BORGNE, LOUISIANA.—Project for aquatic ecosystem restoration, southern shores of Lake Borgne, Louisiana.

(6) LAKE MARTIN, LOUISIANA.—Project for aquatic ecosystem restoration, Lake Martin, Louisiana.

(7) LULING, LOUISIANA.—Project for aquatic ecosystem restoration, Luling Oxidation Pond, St. Charles Parish, Louisiana.

(8) MANDEVILLE, LOUISIANA.—Project for aquatic ecosystem restoration, Mandeville, St. Tammany Parish, Louisiana.

(9) ST. JAMES, LOUISIANA.—Project for aquatic ecosystem restoration, St. James, Louisiana.

(10) MINES FALLS PARK, NEW HAMPSHIRE.—Project for aquatic ecosystem restoration, Mines Falls Park, New Hampshire.

(11) NORTH HAMPTON, NEW HAMPSHIRE.—Project for aquatic ecosystem restoration, Little River Salt Marsh, North Hampton, New Hampshire.

(12) HIGHLAND COUNTY, OHIO.—Project for aquatic ecosystem restoration, Rocky Fork Lake, Clear Creek floodplain, Highland County, Ohio.

(13) HOCKING COUNTY, OHIO.—Project for aquatic ecosystem restoration, Long Hollow Mine, Hocking County, Ohio.

(14) TUSCARAWAS COUNTY, OHIO.—Project for aquatic ecosystem restoration, Huff Run, Tuscarawas County, Ohio.

(15) CENTRAL AMAZON CREEK, OREGON.—Project for aquatic ecosystem restoration, Central Amazon Creek, Oregon.

(16) DELTA PONDS, OREGON.—Project for aquatic ecosystem restoration, Delta Ponds, Oregon.

(17) EUGENE MILLRACE, OREGON.—Project for aquatic ecosystem restoration, Eugene Millrace, Oregon.

(18) MEDFORD, OREGON.—Project for aquatic ecosystem restoration, Bear Creek watershed, Medford, Oregon.

(19) ROSLYN LAKE, OREGON.—Project for aquatic ecosystem restoration, Roslyn Lake, Oregon.

SEC. 110. FLOOD MITIGATION AND RIVERINE RESTORATION.

Section 212(e) of the Water Resources Development Act of 1999 (33 U.S.C. 2332(e)) is amended—

(1) in paragraph (22), by striking ''and'' at the end;

(2) in paragraph (23), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(24) Perry Creek, Iowa.''.

SEC. 111. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 217 of the Water Resources Development Act of 1999 (113 Stat. 294) is amended by adding at the end the following:

''(f) FORT CANBY STATE PARK, BENSON BEACH, WASHINGTON.—The Secretary may design and construct a shore protection project at Fort Canby State Park, Benson Beach, Washington, including beneficial use of dredged material from Federal navigation projects as provided under section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j).''.

TITLE II—GENERAL PROVISIONS

SEC. 201. COOPERATION AGREEMENTS WITH COUNTIES.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)) is amended in the second sentence—

(1) by striking ''State legislative''; and

(2) by inserting before the period at the end the following: ''of the State or a body politic of the State''.

SEC. 202. WATERSHED AND RIVER BASIN ASSESSMENTS.

Section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164) is amended to read as follows:

''SEC. 729. WATERSHED AND RIVER BASIN ASSESSMENTS.

''(a) IN GENERAL.—The Secretary may assess the water resources needs of river basins and watersheds of the United States, including needs relating to—

''(1) ecosystem protection and restoration;

''(2) flood damage reduction;

''(3) navigation and ports;

''(4) watershed protection;

''(5) water supply; and

''(6) drought preparedness.

''(b) COOPERATION.—An assessment under subsection (a) shall be carried out in cooperation and coordination with—

''(1) the Secretary of the Interior;

''(2) the Secretary of Agriculture;

''(3) the Secretary of Commerce;

''(4) the Administrator of the Environmental Protection Agency; and

''(5) the heads of other appropriate agencies.

''(c) CONSULTATION.—In carrying out an assessment under subsection (a), the Secretary shall consult with Federal, tribal, State, interstate, and local governmental entities.

''(d) PRIORITY RIVER BASINS AND WATERSHEDS.—In selecting river basins and watersheds for assessment under this section, the Secretary shall give priority to—

''(1) the Delaware River basin; and

''(2) the Willamette River basin, Oregon.

''(e) ACCEPTANCE OF CONTRIBUTIONS.—In carrying out an assessment under subsection (a), the Secretary may accept contributions, in cash or in kind, from Federal, tribal, State, interstate, and local governmental entities to the extent that the Secretary determines that the contributions will facilitate completion of the assessment.

''(f) COST-SHARING REQUIREMENTS.—

''(1) NON-FEDERAL SHARE.—The non-Federal share of the costs of an assessment carried out under this section shall be 50 percent.

''(2) CREDIT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the non-Federal interests may receive credit toward the non-Federal share required under paragraph (1) for the provision of services, materials, supplies, or other in-kind contributions.

''(B) MAXIMUM AMOUNT OF CREDIT.—Credit under subparagraph (A) shall not exceed an amount equal to 25 percent of the costs of the assessment.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.''.

SEC. 203. TRIBAL PARTNERSHIP PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) PROGRAM.—

(1) IN GENERAL.—In cooperation with Indian tribes and the heads of other Federal agencies, the Secretary may study and determine the feasibility of carrying out water resources development projects that—

(A) will substantially benefit Indian tribes; and

(B) are located primarily within Indian country (as defined in section 1151 of title 18, United States Code) or in proximity to Alaska Native villages.

(2) MATTERS TO BE STUDIED.—A study conducted under paragraph (1) may address—

(A) projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources; and

(B) such other projects as the Secretary, in cooperation with Indian tribes and the heads of other Federal agencies, determines to be appropriate.

(c) CONSULTATION AND COORDINATION WITH SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—In recognition of the unique role of the Secretary of the Interior concerning trust responsibilities with Indian tribes, and in recognition of mutual trust responsibilities, the Secretary shall consult with the Secretary of the Interior concerning studies conducted under subsection (b).

(2) INTEGRATION OF ACTIVITIES.—The Secretary shall—

(A) integrate civil works activities of the Department of the Army with activities of the Department of the Interior to avoid conflicts, duplications of effort, or unanticipated adverse effects on Indian tribes; and

(B) consider the authorities and programs of the Department of the Interior and other Federal agencies in any recommendations concerning carrying out projects studied under subsection (b).

(d) PRIORITY PROJECTS.—In selecting water resources development projects for study under this section, the Secretary shall give priority to—

(1) the project along the upper Snake River within and adjacent to the Fort Hall Indian Reservation, Idaho, authorized by section 304; and

(2) the project for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington, authorized by section 435(b).

(e) COST SHARING.—

(1) ABILITY TO PAY.—

(A) IN GENERAL.—Any cost-sharing agreement for a study under subsection (b) shall be subject to the ability of the non-Federal interest to pay.

(B) USE OF PROCEDURES.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

(2) CREDIT.—

(A) IN GENERAL.—Subject to subparagraph (B), in conducting studies of projects under subsection (b), the Secretary may provide credit to the non-Federal interest for the provision of services, studies, supplies, or other in-kind contributions to the extent that the Secretary determines that the services, studies, supplies, and

other in-kind contributions will facilitate completion of the project.

(B) MAXIMUM AMOUNT OF CREDIT.—Credit under subparagraph (A) shall not exceed an amount equal to the non-Federal share of the costs of the study.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) $5,000,000 for each of fiscal years 2002 through 2006, of which not more than $1,000,000 may be used with respect to any 1 Indian tribe.

SEC. 204. ABILITY TO PAY.

Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—Any cost-sharing agreement under this section for a feasibility study, or for construction of an environmental protection and restoration project, a flood control project, a project for navigation, storm damage protection, shoreline erosion, hurricane protection, or recreation, or an agricultural water supply project, shall be subject to the ability of the non-Federal interest to pay.

''(2) CRITERIA AND PROCEDURES.—

''(A) IN GENERAL.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with—

''(i) during the period ending on the date on which revised criteria and procedures are promulgated under subparagraph (B), criteria and procedures in effect on the day before the date of enactment of this subparagraph; and

''(ii) after the date on which revised criteria and procedures are promulgated under subparagraph (B), the revised criteria and procedures promulgated under subparagraph (B).

''(B) REVISED CRITERIA AND PROCEDURES.—Not later than 18 months after the date of enactment of this subparagraph, in accordance with paragraph (3), the Secretary shall promulgate revised criteria and procedures governing the ability of a non-Federal interest to pay.''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by adding ''and'' at the end; and

(B) by striking subparagraphs (B) and (C) and inserting the following:

''(B) may consider additional criteria relating to—

''(i) the financial ability of the non-Federal interest to carry out its cost-sharing responsibilities; or

''(ii) additional assistance that may be available from other Federal or State sources.''.

SEC. 205. PROPERTY PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary may carry out a program to reduce vandalism and destruction of property at water resources development projects under the jurisdiction of the Department of the Army.

(b) PROVISION OF REWARDS.—In carrying out the program, the Secretary may provide rewards (including cash rewards) to individuals who provide information or evidence leading to the arrest and prosecution of individuals causing damage to Federal property.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for each fiscal year.

SEC. 206. NATIONAL RECREATION RESERVATION SERVICE.

Notwithstanding section 611 of the Treasury and General Government Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–515), the Secretary may—

(1) participate in the National Recreation Reservation Service on an interagency basis; and

(2) pay the Department of the Army's share of the activities required to implement, operate, and maintain the Service.

SEC. 207. OPERATION AND MAINTENANCE OF HYDROELECTRIC FACILITIES.

Section 314 of the Water Resources Development Act of 1990 (33 U.S.C. 2321) is amended in the first sentence by inserting before the period at the end the following: ''in cases in which the activities require specialized training relating to hydroelectric power generation''.

SEC. 208. INTERAGENCY AND INTERNATIONAL SUPPORT.

Section 234(d) of the Water Resources Development Act of 1996 (33 U.S.C. 2323a(d)) is amended—

(1) in the first sentence, by striking ''$1,000,000'' and inserting ''$2,000,000''; and

(2) in the second sentence, by inserting ''out'' after ''carry''.

SEC. 209. REBURIAL AND CONVEYANCE AUTHORITY.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) REBURIAL.—

(1) REBURIAL AREAS.—In consultation with affected Indian tribes, the Secretary may identify and set aside areas at civil works projects of the Department of the Army that may be used to rebury Native American remains that—

(A) have been discovered on project land; and

(B) have been rightfully claimed by a lineal descendant or Indian tribe in accordance with applicable Federal law.

(2) REBURIAL.—In consultation with and with the consent of the lineal descendant or the affected Indian tribe, the Secretary may recover and rebury, at full Federal expense, the remains at the areas identified and set aside under subsection (b)(1).

(c) CONVEYANCE AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the Secretary may convey to an Indian tribe for use as a cemetery an area at a civil works project that is identified and set aside by the Secretary under subsection (b)(1).

(2) RETENTION OF NECESSARY PROPERTY INTERESTS.—In carrying out paragraph (1), the Secretary shall retain any necessary right-of-way, easement, or other property interest that the Secretary determines to be necessary to carry out the authorized purposes of the project.

SEC. 210. APPROVAL OF CONSTRUCTION OF DAMS AND DIKES.

Section 9 of the Act of March 3, 1899 (33 U.S.C. 401), is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''It shall'';

(2) by striking ''However, such structures'' and inserting the following:

''(b) WATERWAYS WITHIN A SINGLE STATE.—Notwithstanding subsection (a), structures described in subsection (a)'';

(3) by striking ''When plans'' and inserting the following:

''(c) MODIFICATION OF PLANS.—When plans'';

(4) by striking ''The approval'' and inserting the following:

''(d) APPLICABILITY.—

''(1) BRIDGES AND CAUSEWAYS.—The approval''; and

(5) in subsection (d) (as designated by paragraph (4)), by adding at the end the following:

''(2) DAMS AND DIKES.—

''(A) IN GENERAL.—The approval required by this section of the location and plans, or any modification of plans, of any dam or dike, applies only to a dam or dike that, if constructed, would completely span a waterway used to transport interstate or foreign commerce, in such a manner that actual, existing interstate or foreign commerce could be adversely affected.

''(B) OTHER DAMS AND DIKES.—Any dam or dike (other than a dam or dike described in subparagraph (A)) that is proposed to be built in any other navigable water of the United States—

''(i) shall be subject to section 10; and

''(ii) shall not be subject to the approval requirements of this section.''.

SEC. 211. PROJECT DEAUTHORIZATION AUTHORITY.

Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

''SEC. 1001. PROJECT DEAUTHORIZATIONS.

''(a) DEFINITIONS.—In this section:

''(1) CONSTRUCTION.—The term 'construction', with respect to a project or separable element, means—

''(A) in the case of—

''(i) a nonstructural flood control project, the acquisition of land, an easement, or a right-of-way primarily to relocate a structure; and

''(ii) in the case of any other nonstructural measure, the performance of physical work under a construction contract;

''(B) in the case of an environmental protection and restoration project—

''(i) the acquisition of land, an easement, or a right-of-way primarily to facilitate the restoration of wetland or a similar habitat; or

''(ii) the performance of physical work under a construction contract to modify an existing project facility or to construct a new environmental protection and restoration measure; and

''(C) in the case of any other water resources project, the performance of physical work under a construction contract.

''(2) PHYSICAL WORK UNDER A CONSTRUCTION CONTRACT.—The term 'physical work under a construction contract' does not include any activity related to project planning, engineering and design, relocation, or the acquisition of land, an easement, or a right-of-way.

''(b) PROJECTS NEVER UNDER CONSTRUCTION.—

''(1) LIST OF PROJECTS.—The Secretary shall annually submit to Congress a list of projects and separable elements of projects that—

''(A) are authorized for construction; and

''(B) for which no Federal funds were obligated for construction during the 4 full fiscal years preceding the date of submission of the list.

''(2) DEAUTHORIZATION.—Any water resources project, or separable element of a water resources project, authorized for construction shall be deauthorized effective at the end of the 7-year period beginning on the date of the most recent authorization or reauthorization of the project or separable element unless Federal funds have been obligated for construction of the project or separable element by the end of that period.

''(c) PROJECTS FOR WHICH CONSTRUCTION HAS BEEN SUSPENDED.—

''(1) LIST OF PROJECTS.—The Secretary shall annually submit to Congress a list of projects and separable elements of projects—

''(A) that are authorized for construction;

''(B) for which Federal funds have been obligated for construction of the project or separable element; and

''(C) for which no Federal funds have been obligated for construction of the project or separable element during the 2 full fiscal years preceding the date of submission of the list.

''(2) DEAUTHORIZATION.—Any water resources project, or separable element of a water resources project, for which Federal funds have been obligated for construction shall be deauthorized effective at the end of any 5-fiscal year period during which Federal funds specifically identified for construction of the project or separable element (in an Act of Congress or in the accompanying legislative report language) have not been obligated for construction.

''(d) CONGRESSIONAL NOTIFICATIONS.—Upon submission of the lists under subsections (b)(1) and (c)(1), the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, the affected project or separable element is or would be located.

''(e) FINAL DEAUTHORIZATION LIST.—The Secretary shall publish annually in the Federal Register a list of all projects and separable elements deauthorized under subsection (b)(2) or (c)(2).

''(f) EFFECTIVE DATE.—Subsections (b)(2) and (c)(2) take effect 3 years after the date of enactment of this subsection.''.

SEC. 212. FLOODPLAIN MANAGEMENT REQUIREMENTS.

(a) IN GENERAL.—Section 402(c) of the Water Resources Development Act of 1986 (33 U.S.C. 701b–12(c)) is amended—

(1) in the first sentence of paragraph (1), by striking ''Within 6 months after the date of the enactment of this subsection, the'' and inserting ''The'';

(2) by redesignating paragraph (2) as paragraph (3);

(3) by striking ''Such guidelines shall address'' and inserting the following:

''(2) REQUIRED ELEMENTS.—The guidelines developed under paragraph (1) shall—

''(A) address''; and

(4) in paragraph (2) (as designated by paragraph (3))—

(A) by inserting ''that non-Federal interests shall adopt and enforce'' after ''policies'';

(B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(B) require non-Federal interests to take measures to preserve the level of flood protection provided by a project to which subsection (a) applies.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any project or separable element of a project with respect to which the Secretary and the non-Federal interest have not entered a project cooperation agreement on or before the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 402(b) of the Water Resources Development Act of 1986 (33 U.S.C. 701b–12(b)) is amended—

(1) in the subsection heading, by striking ''FLOOD PLAIN'' and inserting ''FLOODPLAIN''; and

(2) in the first sentence, by striking ''flood plain'' and inserting ''floodplain''.

SEC. 213. ENVIRONMENTAL DREDGING.

Section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1272) is amended by adding at the end the following:

''(g) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal sponsor may include a nonprofit entity, with the consent of the affected local government.''.

SEC. 214. REGULATORY ANALYSIS AND MANAGEMENT SYSTEMS DATA.

(a) IN GENERAL.—Beginning October 1, 2000, the Secretary, acting through the Chief of Engineers, shall publish, on the Army Corps of Engineers' Regulatory Program website, quarterly reports that include all Regulatory Analysis and Management Systems (RAMS) data.

(b) DATA.—Such RAMS data shall include—

(1) the date on which an individual or nationwide permit application under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is first received by the Corps;

(2) the date on which the application is considered complete;

(3) the date on which the Corps either grants (with or without conditions) or denies the permit; and

(4) if the application is not considered complete when first received by the Corps, a description of the reason the application was not considered complete.

SEC. 215. PERFORMANCE OF SPECIALIZED OR TECHNICAL SERVICES.

(a) DEFINITION OF STATE.—In this section, the term ''State'' has the meaning given the term in section 6501 of title 31, United States Code.

(b) AUTHORITY.—The Corps of Engineers may provide specialized or technical services to a Federal agency (other than a Department of Defense agency), State, or local government of the United States under section 6505 of title 31, United States Code, only if the chief executive of the requesting entity submits to the Secretary—

(1) a written request describing the scope of the services to be performed and agreeing to reimburse the Corps for all costs associated with the performance of the services; and

(2) a certification that includes adequate facts to establish that the services requested are not reasonably and quickly available through ordinary business channels.

(c) CORPS AGREEMENT TO PERFORM SERVICES.—The Secretary, after receiving a request described in subsection (b) to provide specialized or technical services, shall, before entering into an agreement to perform the services—

(1) ensure that the requirements of subsection (b) are met with regard to the request for services; and

(2) execute a certification that includes adequate facts to establish that the Corps is uniquely equipped to perform such services.

(d) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than the end of each calendar year, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report identifying any request submitted by a Federal agency (other than a Department of Defense agency), State, or local government of the United States to the Corps to provide specialized or technical services.

(2) CONTENTS OF REPORT.—The report shall include, with respect to each request described in paragraph (1)—

(A) a description of the scope of services requested;

(B) the certifications required under subsection (b) and (c);

(C) the status of the request;

(D) the estimated and final cost of the services;

(E) the status of reimbursement;

(F) a description of the scope of services performed; and

(G) copies of all certifications in support of the request.

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 301. BOYDSVILLE, ARKANSAS.

The Secretary shall credit toward the non-Federal share of the costs of the study to determine the feasibility of the reservoir and associated improvements in the vicinity of Boydsville, Arkansas, authorized by section 402 of the Water Resources Development Act of 1999 (113 Stat. 322), not more than $250,000 of the costs of the relevant planning and engineering investigations carried out by State and local agencies, if the Secretary finds that the investigations are integral to the scope of the feasibility study.

SEC. 302. WHITE RIVER BASIN, ARKANSAS AND MISSOURI.

Section 374 of the Water Resources Development Act of 1999 (113 Stat. 321) is amended—

(1) in subsection (a), by striking ''the following'' and all that follows and inserting ''the amounts of project storage that are recommended by the report required under subsection (b).''; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting before the period at the end the following: ''and does not significantly impact other authorized project purposes'';

(B) in paragraph (2), by striking ''2000'' and inserting ''2002''; and

(C) in paragraph (3)—

(i) by inserting ''and to what extent'' after ''whether'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) project storage should be reallocated to sustain the tail water trout fisheries.''.

SEC. 303. GASPARILLA AND ESTERO ISLANDS, FLORIDA.

The project for shore protection, Gasparilla and Estero Island segments, Lee County, Florida, authorized under section 201 of the Flood Control Act of 1965 (79 Stat. 1073), by Senate Resolution dated December 17, 1970, and by House Resolution dated December 15, 1970, is modified to authorize the Secretary to enter into an agreement with the non-Federal interest to carry out the project in accordance with section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1), if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified.

SEC. 304. FORT HALL INDIAN RESERVATION, IDAHO.

(a) IN GENERAL.—The Secretary shall carry out planning, engineering, and design of an adaptive ecosystem restoration, flood damage reduction, and erosion protection project along the upper Snake River within and adjacent to the Fort Hall Indian Reservation, Idaho.

(b) PROJECT JUSTIFICATION.—Notwithstanding any other provision of law or requirement for economic justification, the Secretary may construct and adaptively manage for 10 years a project under this section if the Secretary determines that the project—

(1) is a cost-effective means of providing ecosystem restoration, flood damage reduction, and erosion protection;

(2) is environmentally acceptable and technically feasible; and

(3) will improve the economic and social conditions of the Shoshone-Bannok Indian Tribe.

(c) LAND, EASEMENTS, AND RIGHTS-OF-WAY.—As a condition of the project described in subsection (a), the Shoshone-Bannock Indian Tribe shall provide land, easements, and rights-of-way necessary for implementation of the project.

SEC. 305. UPPER DES PLAINES RIVER AND TRIBUTARIES, ILLINOIS.

The Secretary shall credit toward the non-Federal share of the costs of the study to determine the feasibility of improvements to the upper Des Plaines River and tributaries, phase 2, Illinois and Wisconsin, authorized by section 419 of the Water Resources Development Act of 1999 (113 Stat. 324), the costs of work carried out by the non-Federal interests in Lake County, Illinois, before the date of execution of the feasibility study cost-sharing agreement, if—

(1) the Secretary and the non-Federal interests enter into a feasibility study cost-sharing agreement; and

(2) the Secretary finds that the work is integral to the scope of the feasibility study.

SEC. 306. RED RIVER WATERWAY, LOUISIANA.

The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142) and modified by section 4(h) of the Water Resources Development Act of 1988 (102 Stat. 4016), section 102(p) of the Water Resources Development Act of 1990 (104 Stat. 4613), and section 301(b)(7) of the Water Resources Development Act of 1996 (110 Stat. 3710), is further modified to authorize the purchase of mitigation land from willing sellers in any of the parishes that comprise the Red River Waterway District, consisting of Avoyelles, Bossier, Caddo, Grant, Natchitoches, Rapides, and Red River Parishes.

SEC. 307. WILLIAM JENNINGS RANDOLPH LAKE, MARYLAND.

The Secretary—

(1) may provide design and construction assistance for recreational facilities in the State of Maryland at the William Jennings Randolph Lake (Bloomington Dam), Maryland and West Virginia, project authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1182); and

(2) shall require the non-Federal interest to provide 50 percent of the costs of designing and constructing the recreational facilities.

SEC. 308. MISSOURI RIVER VALLEY, MISSOURI.

(a) SHORT TITLE.—This section may be cited as the ''Missouri River Valley Improvement Act''.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) Lewis and Clark were pioneering naturalists that recorded dozens of species previously unknown to science while ascending the Missouri River in 1804;

(B) the Missouri River, which is 2,321 miles long, drains ⅛ of the United States, is home to approximately 10,000,000 people in 10 States and 28 Native American tribes, and is a resource of incalculable value to the United States;

(C) the construction of dams, levees, and river training structures in the past 150 years has aided navigation, flood control, and water supply along the Missouri River, but has reduced habitat for native river fish and wildlife;

(D) river organizations, including the Missouri River Basin Association, support habitat restoration, riverfront revitalization, and improved operational flexibility so long as those efforts do not significantly interfere with uses of the Missouri River; and

(E) restoring a string of natural places by the year 2004 would aid native river fish and wildlife, reduce flood losses, enhance recreation and tourism, and celebrate the bicentennial of Lewis and Clark's voyage.

(2) PURPOSES.—The purposes of this section are—

(A) to protect, restore, and enhance the fish, wildlife, and plants, and the associated habitats on which they depend, of the Missouri River;

(B) to restore a string of natural places that aid native river fish and wildlife, reduce flood losses, and enhance recreation and tourism;

(C) to revitalize historic riverfronts to improve quality of life in riverside communities and attract recreation and tourism;

(D) to monitor the health of the Missouri River and measure biological, chemical, geological, and hydrological responses to changes in Missouri River management;

(E) to allow the Corps of Engineers increased authority to restore and protect fish and wildlife habitat on the Missouri River;

(F) to protect and replenish cottonwoods, and their associated riparian woodland communities, along the upper Missouri River; and

(G) to educate the public about the economic, environmental, and cultural importance of the Missouri River and the scientific and cultural discoveries of Lewis and Clark.

(c) DEFINITION OF MISSOURI RIVER.—In this section, the term ''Missouri River'' means the Missouri River and the adjacent floodplain that extends from the mouth of the Missouri River (RM 0) to the confluence of the Jefferson, Madison, and Gallatin Rivers (RM 2341) in the State of Montana.

(d) AUTHORITY TO PROTECT, ENHANCE, AND RESTORE FISH AND WILDLIFE HABITAT.—Section 9(b) of the Act of December 22, 1944 (58 Stat. 891, chapter 665), is amended—

(1) by striking ''(b) The general'' and inserting the following:

''(b) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—The general'';

(2) by striking ''paragraph'' and inserting ''subsection''; and

(3) by adding at the end the following:

''(2) FISH AND WILDLIFE HABITAT.—In addition to carrying out the duties under the comprehensive plan described in paragraph (1), the Chief of Engineers shall protect, enhance, and restore fish and wildlife habitat on the Missouri River to the extent consistent with other authorized project purposes.''.

(e) INTEGRATION OF ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section and in accordance with paragraph (2), the Secretary shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting—

(A) the water-related needs of the Missouri River basin, including flood control, navigation, hydropower, water supply, and recreation; and

(B) private property rights.

(2) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity under this section.

(f) MISSOURI RIVER MITIGATION PROJECT.—The matter under the heading ''MISSOURI RIVER MITIGATION, MISSOURI, KANSAS, IOWA, AND NEBRASKA'' of section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143) is amended by adding at the end the following: ''There is authorized to be appropriated to carry out this paragraph $20,000,000 for each of fiscal years 2001 through 2010, contingent on the completion by December 31, 2000, of the study under this heading.''.

(g) UPPER MISSOURI RIVER AQUATIC AND RIPARIAN HABITAT MITIGATION PROGRAM.—

(1) IN GENERAL.—

(A) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary, through an interagency agreement with the Director of the United States Fish and Wildlife Service and in accordance with the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.), shall complete a study that—

(i) analyzes any adverse effects on aquatic and riparian-dependent fish and wildlife resulting from the operation of the Missouri River Mainstem Reservoir Project in the States of Nebraska, South Dakota, North Dakota, and Montana;

(ii) recommends measures appropriate to mitigate the adverse effects described in clause (i); and

(iii) develops baseline geologic and hydrologic data relating to aquatic and riparian habitat.

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subparagraph (A).

(2) PILOT PROGRAM.—The Secretary, in consultation with the Director of the United States Fish and Wildlife Service and the affected State fish and wildlife agencies, shall develop and administer a pilot mitigation program that—

(A) involves the experimental releases of warm water from the spillways at Fort Peck Dam during the appropriate spawning periods for native fish;

(B) involves the monitoring of the response of fish to and the effectiveness of the preservation of native fish and wildlife habitat of the releases described in subparagraph (A); and

(C) shall not adversely impact a use of the reservoir existing on the date on which the pilot program is implemented.

(3) RESERVOIR FISH LOSS STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the North Dakota Game and Fish Department and the South Dakota Department of Game, Fish and Parks, shall complete a study to analyze and recommend measures to avoid or reduce the loss of fish, including rainbow smelt, through Garrison Dam in North Dakota and Oahe Dam in South Dakota.

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subparagraph (A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

(A) to complete the study required under paragraph (3), $200,000; and

(B) to carry out the other provisions of this subsection, $1,000,000 for each of fiscal years 2001 through 2010.

(h) MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.—Section 514 of the Water Resources Development Act of 1999 (113 Stat. 342) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to pay the Federal share of the cost of carrying out activities under this section $5,000,000 for each of fiscal years 2001 through 2004.''.

SEC. 309. NEW MADRID COUNTY, MISSOURI.

(a) IN GENERAL.—The project for navigation, New Madrid County Harbor, New Madrid County, Missouri, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is authorized as described in the feasibility report for the project, including both phase 1 and phase 2 of the project.

(b) CREDIT.—

(1) IN GENERAL.—The Secretary shall provide credit to the non-Federal interests for the costs incurred by the non-Federal interests in carrying out construction work for phase 1 of the project, if the Secretary finds that the construction work is integral to phase 2 of the project.

(2) MAXIMUM AMOUNT OF CREDIT.—The amount of the credit under paragraph (1) shall not exceed the required non-Federal share for the project.

SEC. 310. PEMISCOT COUNTY HARBOR, MISSOURI.

(a) CREDIT.—With respect to the project for navigation, Pemiscot County Harbor, Missouri, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), the Secretary shall provide credit to the Pemiscot County Port Authority, or an agent of the authority, for the costs incurred by the Authority or agent in carrying out construction work for the project after December 31, 1997, if the Secretary finds that the construction work is integral to the project.

(b) MAXIMUM AMOUNT OF CREDIT.—The amount of the credit under subsection (a) shall not exceed the required non-Federal share for the project, estimated as of the date of enactment of this Act to be $222,000.

SEC. 311. PIKE COUNTY, MISSOURI.

(a) IN GENERAL.—Subject to subsections (c) and (d), at such time as S.S.S., Inc. conveys all right, title, and interest in and to the parcel of land described in subsection (b)(1) to the United States, the Secretary shall convey all right, title, and interest of the United States in and to the parcel of land described in subsection (b)(2) to S.S.S., Inc.

(b) LAND DESCRIPTION.—The parcels of land referred to in subsection (a) are the following:

(1) NON-FEDERAL LAND.—8.99 acres with existing flowage easements, located in Pike County, Missouri, adjacent to land being acquired from Holnam, Inc. by the Corps of Engineers.

(2) FEDERAL LAND.—8.99 acres located in Pike County, Missouri, known as ''Government Tract Numbers FM–46 and FM–47'', administered by the Corps of Engineers.

(c) CONDITIONS.—The land exchange under subsection (a) shall be subject to the following conditions:

(1) DEEDS.—

(A) NON-FEDERAL LAND.—The conveyance of the parcel of land described in subsection (b)(1) to the Secretary shall be by a warranty deed acceptable to the Secretary.

(B) FEDERAL LAND.—The instrument of conveyance used to convey the parcel of land described in subsection (b)(2) to S.S.S., Inc. shall contain such reservations, terms, and conditions as the Secretary considers necessary to allow the United States to operate and maintain the Mississippi River 9-Foot Navigation Project.

(2) REMOVAL OF IMPROVEMENTS.—

(A) IN GENERAL.—S.S.S., Inc. may remove, and the Secretary may require S.S.S., Inc. to remove, any improvements on the parcel of land described in subsection (b)(1).

(B) NO LIABILITY.—If S.S.S., Inc., voluntarily or under direction from the Secretary, removes an improvement on the parcel of land described in subsection (b)(1)—

(i) S.S.S., Inc. shall have no claim against the United States for liability; and

(ii) the United States shall not incur or be liable for any cost associated with the removal or relocation of the improvement.

(3) TIME LIMIT FOR LAND EXCHANGE.—Not later than 2 years after the date of enactment of this Act, the land exchange under subsection (a) shall be completed.

(4) LEGAL DESCRIPTION.—The Secretary shall provide legal descriptions of the parcels of land described in subsection (b), which shall be used in the instruments of conveyance of the parcels.

(5) ADMINISTRATIVE COSTS.—The Secretary shall require S.S.S., Inc. to pay reasonable administrative costs associated with the land exchange under subsection (a).

(d) VALUE OF PROPERTIES.—If the appraised fair market value, as determined by the Secretary, of the parcel of land conveyed to S.S.S., Inc. by the Secretary under subsection (a) exceeds the appraised fair market value, as determined by the Secretary, of the parcel of land conveyed to the United States by S.S.S., Inc. under that subsection, S.S.S., Inc. shall pay to the United States, in cash or a cash equivalent, an amount equal to the difference between the 2 values.

SEC. 312. FORT PECK FISH HATCHERY, MONTANA.

(a) FINDINGS.—Congress finds that—

(1) Fort Peck Lake, Montana, is in need of a multispecies fish hatchery;

(2) the burden of carrying out efforts to raise and stock fish species in Fort Peck Lake has been disproportionately borne by the State of Montana despite the existence of a Federal project at Fort Peck Lake;

(3)(A) as of the date of enactment of this Act, eastern Montana has only 1 warm water fish hatchery, which is inadequate to meet the demands of the region; and

(B) a disease or infrastructure failure at that hatchery could imperil fish populations throughout the region;

(4) although the multipurpose project at Fort Peck, Montana, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1034, chapter 831), was intended to include irrigation projects and other activities designed to promote economic growth, many of those projects were never completed, to the detriment of the local communities flooded by the Fort Peck Dam;

(5) the process of developing an environmental impact statement for the update of the Corps of Engineers Master Manual for the operation of the Missouri River recognized the need for greater support of recreation activities and other authorized purposes of the Fort Peck project;

(6)(A) although fish stocking is included among the authorized purposes of the Fort Peck project, the State of Montana has funded the stocking of Fort Peck Lake since 1947; and

(B) the obligation to fund the stocking constitutes an undue burden on the State; and

(7) a viable multispecies fishery would spur economic development in the region.

(b) PURPOSES.—The purposes of this section are—

(1) to authorize and provide funding for the design and construction of a multispecies fish hatchery at Fort Peck Lake, Montana; and

(2) to ensure stable operation and maintenance of the fish hatchery.

(c) DEFINITIONS.—In this section:

(1) FORT PECK LAKE.—The term ''Fort Peck Lake'' means the reservoir created by the damming of the upper Missouri River in northeastern Montana.

(2) HATCHERY PROJECT.—The term ''hatchery project'' means the project authorized by subsection (d).

(d) AUTHORIZATION.—The Secretary shall carry out a project at Fort Peck Lake, Montana, for the design and construction of a fish hatchery and such associated facilities as are necessary to sustain a multispecies fishery.

(e) COST SHARING.—

(1) DESIGN AND CONSTRUCTION.—

(A) FEDERAL SHARE.—The Federal share of the costs of design and construction of the hatchery project shall be 75 percent.

(B) FORM OF NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the costs of the hatchery project may be provided in the form of cash or in the form of land, easements, rights-of-way, services, roads, or any other form of in-kind contribution determined by the Secretary to be appropriate.

(ii) REQUIRED CREDITING.—The Secretary shall credit toward the non-Federal share of the costs of the hatchery project—

(I) the costs to the State of Montana of stocking Fort Peck Lake during the period beginning January 1, 1947; and

(II) the costs to the State of Montana and the counties having jurisdiction over land surrounding Fort Peck Lake of construction of local access roads to the lake.

(2) OPERATION, MAINTENANCE, REPAIR, AND REPLACEMENT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the operation, maintenance, repair, and replacement of the hatchery project shall be a non-Federal responsibility.

(B) COSTS ASSOCIATED WITH THREATENED AND ENDANGERED SPECIES.—The costs of operation and maintenance associated with raising threatened or endangered species shall be a Federal responsibility.

(C) POWER.—The Secretary shall offer to the hatchery project low-cost project power for all hatchery operations.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000; and

(B) such sums as are necessary to carry out subsection (e)(2)(B).

(2) AVAILABILITY OF FUNDS.—Sums made available under paragraph (1) shall remain available until expended.

SEC. 313. SAGAMORE CREEK, NEW HAMPSHIRE.

The Secretary shall carry out maintenance dredging of the Sagamore Creek Channel, New Hampshire.

SEC. 314. PASSAIC RIVER BASIN FLOOD MANAGEMENT, NEW JERSEY.

(a) IN GENERAL.—The project for flood control, Passaic River, New Jersey and New York, authorized by section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607), is modified to emphasize nonstructural approaches for flood control as alternatives to the construction of the Passaic River tunnel element, while maintaining the integrity of other separable mainstream project elements, wetland banks, and other independent projects that were authorized to be carried out in the Passaic River Basin before the date of enactment of this Act.

(b) REEVALUATION OF FLOODWAY STUDY.—The Secretary shall review the Passaic River Floodway Buyout Study, dated October 1995, to calculate the benefits of a buyout and environmental restoration using the method used to calculate the benefits of structural projects under section 308(b) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(b)).

(c) REEVALUATION OF 10-YEAR FLOODPLAIN STUDY.—The Secretary shall review the Passaic River Buyout Study of the 10-year floodplain beyond the floodway of the Central Passaic River Basin, dated September 1995, to calculate the benefits of a buyout and environmental restoration using the method used to calculate the benefits of structural projects under section 308(b) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(b)).

(d) PRESERVATION OF NATURAL STORAGE AREAS.—

(1) IN GENERAL.—The Secretary shall reevaluate the acquisition, from willing sellers, for flood protection purposes, of wetlands in the Central Passaic River Basin to supplement the wetland acquisition authorized by section 101(a)(18)(C)(vi) of the Water Resources Development Act of 1990 (104 Stat. 4609).

(2) PURCHASE.—If the Secretary determines that the acquisition of wetlands evaluated under paragraph (1) is economically justified, the Secretary shall purchase the wetlands, with the goal of purchasing not more than 8,200 acres.

(e) STREAMBANK EROSION CONTROL STUDY.—The Secretary shall review relevant reports and conduct a study to determine the feasibility of carrying out a project for environmental restoration, erosion control, and streambank restoration along the Passaic River, from Dundee Dam to Kearny Point, New Jersey.

(f) PASSAIC RIVER FLOOD MANAGEMENT TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary, in cooperation with the non-Federal interest, shall establish a task force, to be known as the ''Passaic River Flood Management Task Force'', to provide advice to the Secretary concerning all aspects of the Passaic River flood management project.

(2) MEMBERSHIP.—The task force shall be composed of 20 members, appointed as follows:

(A) APPOINTMENT BY SECRETARY.—The Secretary shall appoint 1 member to represent the Corps of Engineers and to provide technical advice to the task force.

(B) APPOINTMENTS BY GOVERNOR OF NEW JERSEY.—The Governor of New Jersey shall appoint 18 members to the task force, as follows:

(i) 2 representatives of the New Jersey legislature who are members of different political parties.

(ii) 1 representative of the State of New Jersey.

(iii) 1 representative of each of Bergen, Essex, Morris, and Passaic Counties, New Jersey.

(iv) 6 representatives of governments of municipalities affected by flooding within the Passaic River Basin.

(v) 1 representative of the Palisades Interstate Park Commission.

(vi) 1 representative of the North Jersey District Water Supply Commission.

(vii) 1 representative of each of—

(I) the Association of New Jersey Environmental Commissions;

(II) the Passaic River Coalition; and

(III) the Sierra Club.

(C) APPOINTMENT BY GOVERNOR OF NEW YORK.—The Governor of New York shall appoint 1 representative of the State of New York to the task force.

(3) MEETINGS.—

(A) REGULAR MEETINGS.—The task force shall hold regular meetings.

(B) OPEN MEETINGS.—The meetings of the task force shall be open to the public.

(4) ANNUAL REPORT.—The task force shall submit annually to the Secretary and to the non-Federal interest a report describing the achievements of the Passaic River flood management project in preventing flooding and any impediments to completion of the project.

(5) EXPENDITURE OF FUNDS.—The Secretary may use funds made available to carry out the Passaic River Basin flood management project to pay the administrative expenses of the task force.

(6) TERMINATION.—The task force shall terminate on the date on which the Passaic River flood management project is completed.

(g) ACQUISITION OF LANDS IN THE FLOODWAY.—Section 1148 of the Water Resources Development Act of 1986 (100 Stat. 4254; 110 Stat. 3718), is amended by adding at the end the following:

''(e) CONSISTENCY WITH NEW JERSEY BLUE ACRES PROGRAM.—The Secretary shall carry out this section in a manner that is consistent with the Blue Acres Program of the State of New Jersey.''.

(h) STUDY OF HIGHLANDS LAND CONSERVATION.—The Secretary, in cooperation with the Secretary of Agriculture and the State of New Jersey, may study the feasibility of conserving land in the Highlands region of New Jersey and New York to provide additional flood protection for residents of the Passaic River Basin in accordance with section 212 of the Water Resources Development Act of 1999 (33 U.S.C. 2332).

(i) RESTRICTION ON USE OF FUNDS.—The Secretary shall not obligate any funds to carry out design or construction of the tunnel element of the Passaic River flood control project, as authorized by section 101(a)(18)(A) of the Water

Resources Development Act of 1990 (104 Stat. 4607).

(j) CONFORMING AMENDMENT.—Section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607) is amended in the paragraph heading by striking ''MAIN STEM,'' and inserting ''FLOOD MANAGEMENT PROJECT,''.

SEC. 315. ROCKAWAY INLET TO NORTON POINT, NEW YORK.

(a) IN GENERAL.—The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point (Coney Island Area), New York, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4135) is modified to authorize the Secretary to construct T-groins to improve sand retention down drift of the West 37th Street groin, in the Sea Gate area of Coney Island, New York, as identified in the March 1998 report prepared for the Corps of Engineers, entitled ''Field Data Gathering Project Performance Analysis and Design Alternative Solutions to Improve Sandfill Retention'', at a total cost of $9,000,000, with an estimated Federal cost of $5,850,000 and an estimated non-Federal cost of $3,150,000.

(b) COST SHARING.—The non-Federal share of the costs of constructing the T-groins under subsection (a) shall be 35 percent.

SEC. 316. JOHN DAY POOL, OREGON AND WASHINGTON.

(a) EXTINGUISHMENT OF REVERSIONARY INTERESTS AND USE RESTRICTIONS.—With respect to the land described in each deed specified in subsection (b)—

(1) the reversionary interests and the use restrictions relating to port or industrial purposes are extinguished;

(2) the human habitation or other building structure use restriction is extinguished in each area where the elevation is above the standard project flood elevation; and

(3) the use of fill material to raise low areas above the standard project flood elevation is authorized, except in any low area constituting wetland for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) would be required.

(b) AFFECTED DEEDS.—Subsection (a) applies to deeds with the following county auditors' numbers:

(1) Auditor's Microfilm Numbers 229 and 16226 of Morrow County, Oregon, executed by the United States.

(2) The portion of the land conveyed in a deed executed by the United States and bearing Benton County, Washington, Auditor's File Number 601766, described as a tract of land lying in sec. 7, T. 5 N., R. 28 E., Willamette meridian, Benton County, Washington, being more particularly described by the following boundaries:

(A) Commencing at the point of intersection of the centerlines of Plymouth Street and Third Avenue in the First Addition to the Town of Plymouth (according to the duly recorded plat thereof).

(B) Thence west along the centerline of Third Avenue, a distance of 565 feet.

(C) Thence south 54° 10' west, to a point on the west line of Tract 18 of that Addition and the true point of beginning.

(D) Thence north, parallel with the west line of that sec. 7, to a point on the north line of that sec. 7.

(E) Thence west along the north line thereof to the northwest corner of that sec. 7.

(F) Thence south along the west line of that sec. 7 to a point on the ordinary high water line of the Columbia River.

(G) Thence northeast along that high water line to a point on the north and south coordinate line of the Oregon Coordinate System, North Zone, that coordinate line being east 2,291,000 feet.

(H) Thence north along that line to a point on the south line of First Avenue of that Addition.

(I) Thence west along First Avenue to a point on the southerly extension of the west line of T. 18.

(J) Thence north along that west line of T. 18 to the point of beginning.

SEC. 317. FOX POINT HURRICANE BARRIER, PROVIDENCE, RHODE ISLAND.

Section 352 of the Water Resources Development Act of 1999 (113 Stat. 310) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(2) by adding at the end the following:

''(b) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal interest shall receive credit toward the non-Federal share of project costs, or reimbursement, for the Federal share of the costs of repairs authorized under subsection (a) that are incurred by the non-Federal interest before the date of execution of the project cooperation agreement.''.

SEC. 318. HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS.

(a) IN GENERAL.—Subject to the completion, not later than December 31, 2000, of a favorable report by the Chief of Engineers, the project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1996 (110 Stat. 3666), is modified to authorize the Secretary to design and construct barge lanes adjacent to both sides of the Houston Ship Channel from Redfish Reef to Morgan Point, a distance of approximately 15 miles, to a depth of 12 feet, at a total cost of $34,000,000, with an estimated Federal cost of $30,600,000 and an estimated non-Federal cost of $3,400,000.

(b) COST SHARING.—The non-Federal interest shall pay a portion of the costs of construction of the barge lanes under subsection (a) in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) FEDERAL INTEREST.—If the modification under subsection (a) is in compliance with all applicable environmental requirements, the modification shall be considered to be in the Federal interest.

(d) NO AUTHORIZATION OF MAINTENANCE.—No maintenance is authorized to be carried out for the modification under subsection (a).

SEC. 319. JOE POOL LAKE, TRINITY RIVER BASIN, TEXAS.

(a) IN GENERAL.—The Secretary shall enter into an agreement with the city of Grand Prairie, Texas, under which the city agrees to assume all responsibilities of the Trinity River Authority of the State of Texas under Contract No. DACW63–76–C–0166, other than financial responsibilities, except the responsibility described in subsection (d).

(b) RESPONSIBILITIES OF TRINITY RIVER AUTHORITY.—The Trinity River Authority shall be relieved of all financial responsibilities under the contract described in subsection (a) as of the date on which the Secretary enters into the agreement with the city under that subsection.

(c) PAYMENTS BY CITY.—In consideration of the agreement entered into under subsection (a), the city shall pay the Federal Government $4,290,000 in 2 installments—

(1) 1 installment in the amount of $2,150,000, which shall be due and payable not later than December 1, 2000; and

(2) 1 installment in the amount of $2,140,000, which shall be due and payable not later than December 1, 2003.

(d) OPERATION AND MAINTENANCE COSTS.—The agreement entered into under subsection (a) shall include a provision requiring the city to assume responsibility for all costs associated with operation and maintenance of the recreation facilities included in the contract described in that subsection.

SEC. 320. LAKE CHAMPLAIN WATERSHED, VERMONT AND NEW YORK.

(a) DEFINITIONS.—In this section:

(1) CRITICAL RESTORATION PROJECT.—The term ''critical restoration project'' means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(2) LAKE CHAMPLAIN WATERSHED.—The term ''Lake Champlain watershed'' means—

(A) the land areas within Addison, Bennington, Caledonia, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, and Washington Counties in the State of Vermont; and

(B)(i) the land areas that drain into Lake Champlain and that are located within Essex, Clinton, Franklin, Warren, and Washington Counties in the State of New York; and

(ii) the near-shore areas of Lake Champlain within the counties referred to in clause (i).

(b) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—The Secretary may participate in critical restoration projects in the Lake Champlain watershed.

(2) TYPES OF PROJECTS.—A critical restoration project shall be eligible for assistance under this section if the critical restoration project consists of—

(A) implementation of an intergovernmental agreement for coordinating regulatory and management responsibilities with respect to the Lake Champlain watershed;

(B) acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use in the Lake Champlain watershed;

(C) acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality in the Lake Champlain watershed;

(D) natural resource stewardship activities on public or private land to promote land uses that—

(i) preserve and enhance the economic and social character of the communities in the Lake Champlain watershed; and

(ii) protect and enhance water quality; or

(E) any other activity determined by the Secretary to be appropriate.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a critical restoration project under this section only if—

(1) the critical restoration project is publicly owned; or

(2) the non-Federal interest with respect to the critical restoration project demonstrates that the critical restoration project will provide a substantial public benefit in the form of water quality improvement.

(d) PROJECT SELECTION.—

(1) IN GENERAL.—In consultation with the heads of other appropriate Federal, State, tribal, and local agencies, the Secretary may—

(A) identify critical restoration projects in the Lake Champlain watershed; and

(B) carry out the critical restoration projects after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and this section.

(2) CERTIFICATION.—

(A) IN GENERAL.—A critical restoration project shall be eligible for financial assistance under this section only if the State director for the critical restoration project certifies to the Secretary that the critical restoration project will contribute to the protection and enhancement of the quality or quantity of the water resources of the Lake Champlain watershed.

(B) SPECIAL CONSIDERATION.—In certifying critical restoration projects to the Secretary, State directors shall give special consideration to projects that implement plans, agreements, and measures that preserve and enhance the economic and social character of the communities in the Lake Champlain watershed.

(e) COST SHARING.—

(1) IN GENERAL.—Before providing assistance under this section with respect to a critical restoration project, the Secretary shall enter into a

project cooperation agreement that shall require the non-Federal interest—

(A) to pay 35 percent of the total costs of the critical restoration project;

(B) to acquire any land, easements, rights-of-way, relocations, and dredged material disposal areas necessary to carry out the critical restoration project;

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the critical restoration project; and

(D) to hold the United States harmless from any claim or damage that may arise from carrying out the critical restoration project, except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

(2) NON-FEDERAL SHARE.—

(A) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the critical restoration project, if the Secretary finds that the design work is integral to the critical restoration project.

(B) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out the critical restoration project.

(C) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of Federal or State law with respect to a critical restoration project carried out with assistance provided under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000, to remain available until expended.

SEC. 321. MOUNT ST. HELENS, WASHINGTON.

The project for sediment control, Mount St. Helens, Washington, authorized by the matter under the heading ''TRANSFER OF FEDERAL TOWNSITES'' in chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 318), is modified to authorize the Secretary to maintain, for Longview, Kelso, Lexington, and Castle Rock on the Cowlitz River, Washington, the flood protection levels specified in the October 1985 report entitled ''Mount St. Helens, Washington, Decision Document (Toutle, Cowlitz, and Columbia Rivers)'', published as House Document No. 135, 99th Congress, signed by the Chief of Engineers, and endorsed and submitted to Congress by the Acting Assistant Secretary of the Army.

SEC. 322. PUGET SOUND AND ADJACENT WATERS RESTORATION, WASHINGTON.

(a) DEFINITION OF CRITICAL RESTORATION PROJECT.—In this section, the term ''critical restoration project'' means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(b) CRITICAL RESTORATION PROJECTS.—The Secretary may participate in critical restoration projects in the area of Puget Sound, Washington, and adjacent waters, including—

(1) the watersheds that drain directly into Puget Sound;

(2) Admiralty Inlet;

(3) Hood Canal;

(4) Rosario Strait; and

(5) the eastern portion of the Strait of Juan de Fuca.

(c) PROJECT SELECTION.—In consultation with the Secretary of the Interior, the Secretary of Commerce, and the heads of other appropriate Federal, tribal, State, and local agencies, the Secretary may—

(1) identify critical restoration projects in the area described in subsection (b); and

(2) carry out the critical restoration projects after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and this section.

(d) PRIORITIZATION OF PROJECTS.—In prioritizing projects for implementation under this section, the Secretary shall consult with, and give full consideration to the priorities of, public and private entities that are active in watershed planning and ecosystem restoration in Puget Sound watersheds, including—

(1) the Salmon Recovery Funding Board;

(2) the Northwest Straits Commission;

(3) the Hood Canal Coordinating Council;

(4) county watershed planning councils; and

(5) salmon enhancement groups.

(e) COST SHARING.—

(1) IN GENERAL.—Before carrying out any critical restoration project under this section, the Secretary shall enter into a binding agreement with the non-Federal interest that shall require the non-Federal interest—

(A) to pay 35 percent of the total costs of the critical restoration project;

(B) to acquire any land, easements, rights-of-way, relocations, and dredged material disposal areas necessary to carry out the critical restoration project;

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the critical restoration project; and

(D) to hold the United States harmless from any claim or damage that may arise from carrying out the critical restoration project, except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

(2) CREDIT.—

(A) IN GENERAL.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out the critical restoration project.

(B) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000, of which not more than $5,000,000 may be used to carry out any 1 critical restoration project.

SEC. 323. FOX RIVER SYSTEM, WISCONSIN.

Section 332(a) of the Water Resources Development Act of 1992 (106 Stat. 4852) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) PAYMENTS TO STATE.—The terms and conditions may include 1 or more payments to the State of Wisconsin to assist the State in paying the costs of repair and rehabilitation of the transferred locks and appurtenant features.''.

SEC. 324. CHESAPEAKE BAY OYSTER RESTORATION.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended—

(1) in the second sentence, by striking ''$7,000,000'' and inserting ''$20,000,000''; and

(2) by striking paragraph (4) and inserting the following:

''(4) the construction of reefs and related clean shell substrate for fish habitat, including manmade 3-dimensional oyster reefs, in the Chesapeake Bay and its tributaries in Maryland and Virginia—

''(A) which reefs shall be preserved as permanent sanctuaries by the non-Federal interests, consistent with the recommendations of the scientific consensus document on Chesapeake Bay oyster restoration dated June 1999; and

''(B) for assistance in the construction of which reefs the Chief of Engineers shall solicit participation by and the services of commercial watermen.''.

SEC. 325. GREAT LAKES DREDGING LEVELS ADJUSTMENT.

(a) DEFINITION OF GREAT LAKE.—In this section, the term ''Great Lake'' means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(b) DREDGING LEVELS.—In operating and maintaining Federal channels and harbors of, and the connecting channels between, the Great Lakes, the Secretary shall conduct such dredging as is necessary to ensure minimal operation depths consistent with the original authorized depths of the channels and harbors when water levels in the Great Lakes are, or are forecast to be, below the International Great Lakes Datum of 1985.

SEC. 326. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.

(a) FINDINGS.—Congress finds that—

(1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;

(2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and

(3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

(b) DEFINITIONS.—In this section:

(1) GREAT LAKE.—

(A) IN GENERAL.—The term ''Great Lake'' means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(B) INCLUSIONS.—The term ''Great Lake'' includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

(2) GREAT LAKES COMMISSION.—The term ''Great Lakes Commission'' means The Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

(3) GREAT LAKES FISHERY COMMISSION.—The term ''Great Lakes Fishery Commission'' has the meaning given the term ''Commission'' in section 2 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 931).

(4) GREAT LAKES STATE.—The term ''Great Lakes State'' means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Army.

(c) GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.—

(1) SUPPORT PLAN.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

(B) USE OF EXISTING DOCUMENTS.—To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on the date of enactment of this Act, such as lakewide management plans and remedial action plans.

(C) COOPERATION.—The Secretary shall develop the plan in cooperation with—

(i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and

(ii) other affected interests.

(2) PROJECTS.—The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

(3) EVALUATION PROGRAM.—

(A) IN GENERAL.—The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (2) in meeting fishery and ecosystem restoration goals.

(B) STUDIES.—Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

(d) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

(e) RELATIONSHIP TO OTHER GREAT LAKES ACTIVITIES.—No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

(f) COST SHARING.—

(1) DEVELOPMENT OF PLAN.—The Federal share of the cost of development of the plan under subsection (c)(1) shall be 65 percent.

(2) PROJECT PLANNING, DESIGN, CONSTRUCTION, AND EVALUATION.—The Federal share of the cost of planning, design, construction, and evaluation of a project under paragraph (2) or (3) of subsection (c) shall be 65 percent.

(3) NON-FEDERAL SHARE.—

(A) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out a project under subsection (c)(2).

(B) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share required under paragraphs (1) and (2) in the form of services, materials, supplies, or other in-kind contributions.

(4) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(5) NON-FEDERAL INTERESTS.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEVELOPMENT OF PLAN.—There is authorized to be appropriated for development of the plan under subsection (c)(1) $300,000.

(2) OTHER ACTIVITIES.—There is authorized to be appropriated to carry out paragraphs (2) and (3) of subsection (c) $8,000,000 for each of fiscal years 2002 through 2006.

SEC. 327. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

Section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644; 110 Stat. 3763; 113 Stat. 338) is amended—

(1) in subsection (a)(2)(A), by striking ''50 percent'' and inserting ''35 percent'';

(2) in subsection (b)—

(A) by striking paragraph (3);

(B) in the first sentence of paragraph (4), by striking ''50 percent'' and inserting ''35 percent''; and

(C) by redesignating paragraph (4) as paragraph (3); and

(3) in subsection (c), by striking ''$5,000,000 for each of fiscal years 1998 through 2000.'' and inserting ''$10,000,000 for each of fiscal years 2001 through 2010.''.

SEC. 328. GREAT LAKES TRIBUTARY MODEL.

Section 516 of the Water Resources Development Act of 1996 (33 U.S.C. 2326b) is amended—

(1) in subsection (e), by adding at the end the following:

''(3) COST SHARING.—The non-Federal share of the costs of developing a tributary sediment transport model under this subsection shall be 50 percent.''; and

(2) in subsection (g)—

(A) by striking ''There is authorized'' and inserting the following:

''(1) IN GENERAL.—There is authorized''; and

(B) by adding at the end the following:

''(2) GREAT LAKES TRIBUTARY MODEL.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out subsection (e) $5,000,000 for each of fiscal years 2001 through 2008.''.

SEC. 329. TREATMENT OF DREDGED MATERIAL FROM LONG ISLAND SOUND.

(a) IN GENERAL.—Not later than December 31, 2002, the Secretary shall carry out a demonstration project for the use of innovative sediment treatment technologies for the treatment of dredged material from Long Island Sound.

(b) PROJECT CONSIDERATIONS.—In carrying out subsection (a), the Secretary shall, to the maximum extent practicable—

(1) encourage partnerships between the public and private sectors;

(2) build on treatment technologies that have been used successfully in demonstration or full-scale projects (such as projects carried out in the State of New York, New Jersey, or Illinois), such as technologies described in—

(A) section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; 106 Stat. 4863); or

(B) section 503 of the Water Resources Development Act of 1999 (33 U.S.C. 2314 note; 113 Stat. 337);

(3) ensure that dredged material from Long Island Sound that is treated under the demonstration project is disposed of by beneficial reuse, by open water disposal, or at a licensed waste facility, as appropriate; and

(4) ensure that the demonstration project is consistent with the findings and requirements of any draft environmental impact statement on the designation of 1 or more dredged material disposal sites in Long Island Sound that is scheduled for completion in 2001.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

SEC. 330. NEW ENGLAND WATER RESOURCES AND ECOSYSTEM RESTORATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL RESTORATION PROJECT.—The term ''critical restoration project'' means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(2) NEW ENGLAND.—The term ''New England'' means all watersheds, estuaries, and related coastal areas in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(b) ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in coordination with appropriate Federal, State, tribal, regional, and local agencies, shall perform an assessment of the condition of water resources and related ecosystems in New England to identify problems and needs for restoring, preserving, and protecting water resources, ecosystems, wildlife, and fisheries.

(2) MATTERS TO BE ADDRESSED.—The assessment shall include—

(A) development of criteria for identifying and prioritizing the most critical problems and needs; and

(B) a framework for development of watershed or regional restoration plans.

(3) USE OF EXISTING INFORMATION.—In performing the assessment, the Secretary shall, to the maximum extent practicable, use—

(A) information that is available on the date of enactment of this Act; and

(B) ongoing efforts of all participating agencies.

(4) CRITERIA; FRAMEWORK.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and make available for public review and comment—

(i) criteria for identifying and prioritizing critical problems and needs; and

(ii) a framework for development of watershed or regional restoration plans.

(B) USE OF RESOURCES.—In developing the criteria and framework, the Secretary shall make full use of all available Federal, State, tribal, regional, and local resources.

(5) REPORT.—Not later than October l, 2002, the Secretary shall submit to Congress a report on the assessment.

(c) RESTORATION PLANS.—

(1) IN GENERAL.—After the report is submitted under subsection (b)(5), the Secretary, in coordination with appropriate Federal, State, tribal, regional, and local agencies, shall—

(A) develop a comprehensive plan for restoring, preserving, and protecting the water resources and ecosystem in each watershed and region in New England; and

(B) submit the plan to Congress.

(2) CONTENTS.—Each restoration plan shall include—

(A) a feasibility report; and

(B) a programmatic environmental impact statement covering the proposed Federal action.

(d) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—After the restoration plans are submitted under subsection (c)(1)(B), the Secretary, in coordination with appropriate Federal, State, tribal, regional, and local agencies, shall identify critical restoration projects that will produce independent, immediate, and substantial restoration, preservation, and protection benefits.

(2) AGREEMENTS.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and this section.

(3) PROJECT JUSTIFICATION.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out a critical restoration project under this subsection, the Secretary may determine that the project—

(A) is justified by the environmental benefits derived from the ecosystem; and

(B) shall not need further economic justification if the Secretary determines that the project is cost effective.

(4) TIME LIMITATION.—No critical restoration project may be initiated under this subsection after September 30, 2005.

(5) COST LIMITATION.—Not more than $5,000,000 in Federal funds may be used to carry out a critical restoration project under this subsection.

(e) COST SHARING.—

(1) ASSESSMENT.—

(A) IN GENERAL.—The non-Federal share of the cost of the assessment under subsection (b) shall be 25 percent.

(B) IN-KIND CONTRIBUTIONS.—The non-Federal share may be provided in the form of services, materials, or other in-kind contributions.

(2) RESTORATION PLANS.—

(A) IN GENERAL.—The non-Federal share of the cost of developing the restoration plans under subsection (c) shall be determined in accordance with section 105 of the Water Resources Development Act of 1986 (33 U.S.C. 2215).

(B) IN-KIND CONTRIBUTIONS.—Up to 50 percent of the non-Federal share may be provided in the form of services, materials, or other in-kind contributions.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—The non-Federal share of the cost of carrying out a critical restoration project under subsection (d) shall be 35 percent.

(B) IN-KIND CONTRIBUTIONS.—Up to 50 percent of the non-Federal share may be provided in the form of services, materials, or other in-kind contributions.

(C) REQUIRED NON-FEDERAL CONTRIBUTION.—For any critical restoration project, the non-Federal interest shall—

(i) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(ii) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(iii) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(D) CREDIT.—The non-Federal interest shall receive credit for the value of the land, easements, rights-of-way, dredged material disposal areas, and relocations provided under subparagraph (C).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) ASSESSMENT AND RESTORATION PLANS.—There is authorized to be appropriated to carry out subsections (b) and (c) $2,000,000 for each of fiscal years 2001 through 2005.

(2) CRITICAL RESTORATION PROJECTS.—There is authorized to be appropriated to carry out subsection (d) $30,000,000.

SEC. 331. PROJECT DEAUTHORIZATIONS.

The following projects or portions of projects are not authorized after the date of enactment of this Act:

(1) KENNEBUNK RIVER, KENNEBUNK AND KENNEBUNKPORT, MAINE.—The following portion of the project for navigation, Kennebunk River, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173), is not authorized after the date of enactment of this Act: the portion of the northernmost 6-foot deep anchorage the boundaries of which begin at a point with coordinates N1904693.6500, E418084.2700, thence running south 01 degree 04 minutes 50.3 seconds 35 feet to a point with coordinates N190434.6562, E418084.9301, thence running south 15 degrees 53 minutes 45.5 seconds 416.962 feet to a point with coordinates N190033.6386, E418199.1325, thence running north 03 degrees 11 minutes 30.4 seconds 70 feet to a point with coordinates N190103.5300, E418203.0300, thence running north 17 degrees 58 minutes 18.3 seconds west 384.900 feet to the point of origin.

(2) WALLABOUT CHANNEL, BROOKLYN, NEW YORK.—

(A) IN GENERAL.—The northeastern portion of the project for navigation, Wallabout Channel, Brooklyn, New York, authorized by the Act of March 3, 1899 (30 Stat. 1124, chapter 425), beginning at a point N682,307.40, E638,918.10, thence running along the courses and distances described in subparagraph (B).

(B) COURSES AND DISTANCES.—The courses and distances referred to in subparagraph (A) are the following:

(i) South 85 degrees, 44 minutes, 13 seconds East 87.94 feet (coordinate: N682,300.86, E639,005.80).

(ii) North 74 degrees, 41 minutes, 30 seconds East 271.54 feet (coordinate: N682,372.55, E639,267.71).

(iii) South 4 degrees, 46 minutes, 02 seconds West 170.95 feet (coordinate: N682,202.20, E639,253.50).

(iv) South 4 degrees, 46 minutes, 02 seconds West 239.97 feet (coordinate: N681,963.06, E639,233.56).

(v) North 50 degrees, 48 minutes, 26 seconds West 305.48 feet (coordinate: N682,156.10, E638,996.80).

(vi) North 3 degrees, 33 minutes, 25 seconds East 145.04 feet (coordinate: N682.300.86, E639,005.80).

(3) NEW YORK AND NEW JERSEY CHANNELS, NEW YORK AND NEW JERSEY.—The portion of the project for navigation, New York and New Jersey Channels, New York and New Jersey, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030, chapter 831), and modified by section 101 of the River and Harbor Act of 1950 (64 Stat. 164), consisting of a 35-foot-deep channel beginning at a point along the western limit of the authorized project, N644100.411, E2129256.91, thence running southeast about 38.25 feet to a point N644068.885, E2129278.565, thence running south about 1163.86 feet to a point N642912.127, E2129150.209, thence running southwest about 56.9 feet to a point N642864.09, E2129119.725, thence running north along the western limit of the project to the point of origin.

TITLE IV—STUDIES

SEC. 401. BALDWIN COUNTY, ALABAMA.

The Secretary shall conduct a study to determine the feasibility of carrying out beach erosion control, storm damage reduction, and other measures along the shores of Baldwin County, Alabama.

SEC. 402. BONO, ARKANSAS.

The Secretary shall conduct a study to determine the feasibility of, and need for, a reservoir and associated improvements to provide for flood control, recreation, water quality, and fish and wildlife in the vicinity of Bono, Arkansas.

SEC. 403. CACHE CREEK BASIN, CALIFORNIA.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the project for flood control, Cache Creek Basin, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112), to authorize construction of features to mitigate impacts of the project on the storm drainage system of the city of Woodland, California, that have been caused by construction of a new south levee of the Cache Creek Settling Basin.

(b) REQUIRED ELEMENTS.—The study shall include consideration of—

(1) an outlet works through the Yolo Bypass capable of receiving up to 1,600 cubic feet per second of storm drainage from the city of Woodland and Yolo County;

(2) a low-flow cross-channel across the Yolo Bypass, including all appurtenant features, that is sufficient to route storm flows of 1,600 cubic feet per second between the old and new south levees of the Cache Creek Settling Basin, across the Yolo Bypass, and into the Tule Canal; and

(3) such other features as the Secretary determines to be appropriate.

SEC. 404. ESTUDILLO CANAL WATERSHED, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of constructing flood control measures in the Estudillo Canal watershed, San Leandro, Calfornia.

SEC. 405. LAGUNA CREEK WATERSHED, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of constructing flood control measures in the Laguna Creek watershed, Fremont, California, to provide a 100-year level of flood protection.

SEC. 406. OCEANSIDE, CALIFORNIA.

Not later than 32 months after the date of enactment of this Act, the Secretary shall conduct a special study, at full Federal expense, of plans—

(1) to mitigate for the erosion and other impacts resulting from the construction of Camp Pendleton Harbor, Oceanside, California, as a wartime measure; and

(2) to restore beach conditions along the affected public and private shores to the conditions that existed before the construction of Camp Pendleton Harbor.

SEC. 407. SAN JACINTO WATERSHED, CALIFORNIA.

(a) IN GENERAL.—The Secretary shall conduct a watershed study for the San Jacinto watershed, California.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000.

SEC. 408. CHOCTAWHATCHEE RIVER, FLORIDA.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in dredging the mouth of the Choctawhatchee River, Florida, to remove the sand plug.

SEC. 409. EGMONT KEY, FLORIDA.

The Secretary shall conduct a study to determine the feasibility of stabilizing the historic fortifications and beach areas of Egmont Key, Florida, that are threatened by erosion.

SEC. 410. UPPER OCKLAWAHA RIVER AND APOPKA/PALATLAKAHA RIVER BASINS, FLORIDA.

(a) IN GENERAL.—The Secretary shall conduct a restudy of flooding and water quality issues in—

(1) the upper Ocklawaha River basin, south of the Silver River; and

(2) the Apopka River and Palatlakaha River basins.

(b) REQUIRED ELEMENTS.—In carrying out subsection (a), the Secretary shall review the report of the Chief of Engineers on the Four River Basins, Florida, project, published as House Document No. 585, 87th Congress, and other pertinent reports to determine the feasibility of measures relating to comprehensive watershed planning for water conservation, flood control, environmental restoration and protection, and other issues relating to water resources in the river basins described in subsection (a).

SEC. 411. BOISE RIVER, IDAHO.

The Secretary shall conduct a study to determine the feasibility of carrying out multi-objective flood control activities along the Boise River, Idaho.

SEC. 412. WOOD RIVER, IDAHO.

The Secretary shall conduct a study to determine the feasibility of carrying out multi-objective flood control and flood mitigation planning projects along the Wood River in Blaine County, Idaho.

SEC. 413. CHICAGO, ILLINOIS.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out projects for water-related urban improvements, including infrastructure development and improvements, in Chicago, Illinois.

(b) SITES.—Under subsection (a), the Secretary shall study—

(1) the USX/Southworks site;

(2) Calumet Lake and River;

(3) the Canal Origins Heritage Corridor; and

(4) Ping Tom Park.

(c) USE OF INFORMATION; CONSULTATION.—In carrying out this section, the Secretary shall use available information from, and consult with, appropriate Federal, State, and local agencies.

SEC. 414. BOEUF AND BLACK, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of deepening the navigation channel of the Atchafalaya River and Bayous Chene, Boeuf and Black, Louisiana, from 20 feet to 35 feet.

SEC. 415. PORT OF IBERIA, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of constructing navigation improvements for ingress and egress between the Port of Iberia, Louisiana, and the Gulf of Mexico, including channel widening and deepening.

SEC. 416. SOUTH LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of constructing projects for hurricane protection in the coastal area of the State of Louisiana between Morgan City and the Pearl River.

SEC. 417. ST. JOHN THE BAPTIST PARISH, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of constructing urban flood control measures on the east bank of the Mississippi River in St. John the Baptist Parish, Louisiana.

SEC. 418. NARRAGUAGUS RIVER, MILBRIDGE, MAINE.

(a) STUDY OF REDESIGNATION AS ANCHORAGE.—The Secretary shall conduct a study to determine the feasibility of redesignating as anchorage a portion of the 11-foot channel of the project for navigation, Narraguagus River, Milbridge, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173).

(b) STUDY OF REAUTHORIZATION.—The Secretary shall conduct a study to determine the

feasibility of reauthorizing for the purpose of maintenance as anchorage a portion of the project for navigation, Narraguagus River, Milbridge, Maine, authorized by section 2 of the Act of June 14, 1880 (21 Stat. 195, chapter 211), lying adjacent to and outside the limits of the 11-foot channel and the 9-foot channel.

SEC. 419. PORTSMOUTH HARBOR AND PISCATAQUA RIVER, MAINE AND NEW HAMPSHIRE.

The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Portsmouth Harbor and Piscataqua River, Maine and New Hampshire, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and modified by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), to increase the authorized width of turning basins in the Piscataqua River to 1000 feet.

SEC. 420. MERRIMACK RIVER BASIN, MASSACHUSETTS AND NEW HAMPSHIRE.

(a) IN GENERAL.—The Secretary shall conduct a comprehensive study of the water resources needs of the Merrimack River basin, Massachusetts and New Hampshire, in the manner described in section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164).

(b) CONSIDERATION OF OTHER STUDIES.—In carrying out this section, the Secretary may take into consideration any studies conducted by the University of New Hampshire on environmental restoration of the Merrimack River System.

SEC. 421. PORT OF GULFPORT, MISSISSIPPI.

The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094) and modified by section 4(n) of the Water Resources Development Act of 1988 (102 Stat. 4017)—

(1) to widen the channel from 300 feet to 450 feet; and

(2) to deepen the South Harbor channel from 36 feet to 42 feet and the North Harbor channel from 32 feet to 36 feet.

SEC. 422. UPLAND DISPOSAL SITES IN NEW HAMPSHIRE.

In conjunction with the State of New Hampshire, the Secretary shall conduct a study to identify and evaluate potential upland disposal sites for dredged material originating from harbor areas located within the State.

SEC. 423. MISSOURI RIVER BASIN, NORTH DAKOTA, SOUTH DAKOTA, AND NEBRASKA.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) STUDY.—In cooperation with the Secretary of the Interior, the State of South Dakota, the State of North Dakota, the State of Nebraska, county officials, ranchers, sportsmen, other affected parties, and the Indian tribes referred to in subsection (c)(2), the Secretary shall conduct a study to determine the feasibility of the conveyance to the Secretary of the Interior of the land described in subsection (c), to be held in trust for the benefit of the Indian tribes referred to in subsection (c)(2).

(c) LAND TO BE STUDIED.—The land authorized to be studied for conveyance is the land that—

(1) was acquired by the Secretary to carry out the Pick-Sloan Missouri River Basin Program, authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665); and

(2) is located within the external boundaries of the reservations of—

(A) the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota;

(B) the Standing Rock Sioux Tribe of North Dakota and South Dakota;

(C) the Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota;

(D) the Yankton Sioux Tribe of South Dakota; and

(E) the Santee Sioux Tribe of Nebraska.

SEC. 424. CUYAHOGA RIVER, OHIO.

Section 438 of the Water Resources Development Act of 1996 (110 Stat. 3746) is amended to read as follows:

''SEC. 438. CUYAHOGA RIVER, OHIO.

''(a) IN GENERAL.—The Secretary shall—

''(1) conduct a study to evaluate the structural integrity of the bulkhead system located on the Federal navigation channel along the Cuyahoga River near Cleveland, Ohio; and

''(2) provide to the non-Federal interest design analysis, plans and specifications, and cost estimates for repair or replacement of the bulkhead system.

''(b) COST SHARING.—The non-Federal share of the cost of the study shall be 35 percent.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.''.

SEC. 425. FREMONT, OHIO.

In consultation with appropriate Federal, State, and local agencies, the Secretary shall conduct a study to determine the feasibility of carrying out projects for water supply and environmental restoration at the Ballville Dam, on the Sandusky River at Fremont, Ohio.

SEC. 426. GRAND LAKE, OKLAHOMA.

(a) EVALUATION.—The Secretary shall—

(1) evaluate the backwater effects specifically due to flood control operations on land around Grand Lake, Oklahoma; and

(2) not later than 180 days after the date of enactment of this Act, submit to Congress a report on whether Federal actions have been a significant cause of the backwater effects.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of—

(A) addressing the backwater effects of the operation of the Pensacola Dam, Grand/Neosho River basin; and

(B) purchasing easements for any land that has been adversely affected by backwater flooding in the Grand/Neosho River basin.

(2) COST SHARING.—If the Secretary determines under subsection (a)(2) that Federal actions have been a significant cause of the backwater effects, the Federal share of the costs of the feasibility study under paragraph (1) shall be 100 percent.

SEC. 427. DREDGED MATERIAL DISPOSAL SITE, RHODE ISLAND.

In consultation with the Administrator of the Environmental Protection Agency, the Secretary shall conduct a study to determine the feasibility of designating a permanent site in the State of Rhode Island for the disposal of dredged material.

SEC. 428. CHICKAMAUGA LOCK AND DAM, TENNESSEE.

(a) IN GENERAL.—The Secretary shall use $200,000, from funds transferred from the Tennessee Valley Authority, to prepare a report of the Chief of Engineers for a replacement lock at Chickamauga Lock and Dam, Tennessee.

(b) FUNDING.—As soon as practicable after the date of enactment of this Act, the Tennessee Valley Authority shall transfer the funds described in subsection (a) to the Secretary.

SEC. 429. GERMANTOWN, TENNESSEE.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood control and related purposes along Miller Farms Ditch, Howard Road Drainage, and Wolf River Lateral D, Germantown, Tennessee.

(b) JUSTIFICATION ANALYSIS.—The Secretary shall include environmental and water quality benefits in the justification analysis for the project.

(c) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study under subsection (a) shall not exceed 25 percent.

(2) NON-FEDERAL SHARE.—The Secretary—

(A) shall credit toward the non-Federal share of the costs of the feasibility study the value of the in-kind services provided by the non-Federal interests relating to the planning, engineering, and design of the project, whether carried out before or after execution of the feasibility study cost-sharing agreement; and

(B) for the purposes of subparagraph (A), shall consider the feasibility study to be conducted as part of the Memphis Metro Tennessee and Mississippi study authorized by resolution of the Committee on Transportation and Infrastructure, dated March 7, 1996.

SEC. 430. HORN LAKE CREEK AND TRIBUTARIES, TENNESSEE AND MISSISSIPPI.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the project for flood control, Horn Lake Creek and Tributaries, Tennessee and Mississippi, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), to provide a high level of urban flood protection to development along Horn Lake Creek.

(b) REQUIRED ELEMENT.—The study shall include a limited reevaluation of the project to determine the appropriate design, as desired by the non-Federal interests.

SEC. 431. CEDAR BAYOU, TEXAS.

The Secretary shall conduct a study to determine the feasibility of constructing a 12-foot-deep and 125-foot-wide channel from the Houston Ship Channel to Cedar Bayou, mile marker 11, Texas.

SEC. 432. HOUSTON SHIP CHANNEL, TEXAS.

The Secretary shall conduct a study to determine the feasibility of constructing barge lanes adjacent to both sides of the Houston Ship Channel from Bolivar Roads to Morgan Point, Texas, to a depth of 12 feet.

SEC. 433. SAN ANTONIO CHANNEL, TEXAS.

The Secretary shall conduct a study to determine the feasibility of modifying the project for San Antonio Channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259), and modified by section 103 of the Water Resources Development Act of 1976 (90 Stat. 2921), to add environmental restoration and recreation as project purposes.

SEC. 434. WHITE RIVER WATERSHED BELOW MUD MOUNTAIN DAM, WASHINGTON.

(a) REVIEW.—The Secretary shall review the report of the Chief of Engineers on the Upper Puyallup River, Washington, dated 1936, authorized by section 5 of the Act of June 22, 1936 (49 Stat. 1591, chapter 688), the Puget Sound and adjacent waters report authorized by section 209 of the Flood Control Act of 1962 (76 Stat. 1197), and other pertinent reports, to determine whether modifications to the recommendations contained in the reports are advisable to provide improvements to the water resources and watershed of the White River watershed downstream of Mud Mountain Dam, Washington.

(b) ISSUES.—In conducting the review under subsection (a), the Secretary shall review, with respect to the Lake Tapps community and other parts of the watershed—

(1) constructed and natural environs;

(2) capital improvements;

(3) water resource infrastructure;

(4) ecosystem restoration;

(5) flood control;

(6) fish passage;

(7) collaboration by, and the interests of, regional stakeholders;

(8) recreational and socioeconomic interests; and

(9) other issues determined by the Secretary.

SEC. 435. WILLAPA BAY, WASHINGTON.

(a) STUDY.—The Secretary shall conduct a study to determine the feasibility of providing

coastal erosion protection for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington.

(b) PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including any requirement for economic justification), the Secretary may construct and maintain a project to provide coastal erosion protection for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington, at full Federal expense, if the Secretary determines that the project—

(A) is a cost-effective means of providing erosion protection;

(B) is environmentally acceptable and technically feasible; and

(C) will improve the economic and social conditions of the Shoalwater Bay Indian Tribe.

(2) LAND, EASEMENTS, AND RIGHTS-OF-WAY.—As a condition of the project described in paragraph (1), the Shoalwater Bay Indian Tribe shall provide land, easements, rights-of-way, and dredged material disposal areas necessary for the implementation of the project.

SEC. 436. UPPER MISSISSIPPI RIVER BASIN SEDIMENT AND NUTRIENT STUDY.

(a) IN GENERAL.—The Secretary, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to—

(1) identify and evaluate significant sources of sediment and nutrients in the upper Mississippi River basin;

(2) quantify the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water; and

(3) quantify the transport of those sediments and nutrients to the upper Mississippi River and the tributaries of the upper Mississippi River.

(b) STUDY COMPONENTS.—

(1) COMPUTER MODELING.—In carrying out the study under this section, the Secretary shall develop computer models of the upper Mississippi River basin, at the subwatershed and basin scales, to—

(A) identify and quantify sources of sediment and nutrients; and

(B) examine the effectiveness of alternative management measures.

(2) RESEARCH.—In carrying out the study under this section, the Secretary shall conduct research to improve the understanding of—

(A) fate processes and processes affecting sediment and nutrient transport, with emphasis on nitrogen and phosphorus cycling and dynamics;

(B) the influences on sediment and nutrient losses of soil type, slope, climate, vegetation cover, and modifications to the stream drainage network; and

(C) river hydrodynamics, in relation to sediment and nutrient transformations, retention, and transport.

(c) USE OF INFORMATION.—On request of a relevant Federal agency, the Secretary may provide information for use in applying sediment and nutrient reduction programs associated with land-use improvements and land management practices.

(d) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a preliminary report that outlines work being conducted on the study components described in subsection (b).

(2) FINAL REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under this section, including any findings and recommendations of the study.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2001 through 2005.

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out this section shall be 50 percent.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. VISITORS CENTERS.

(a) JOHN PAUL HAMMERSCHMIDT VISITORS CENTER, ARKANSAS.—Section 103(e) of the Water Resources Development Act of 1992 (106 Stat. 4813) is amended by striking ''Arkansas River, Arkansas.'' and inserting ''at Fort Smith, Arkansas, on land provided by the city of Fort Smith.''.

(b) LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE, MISSISSIPPI.—Section 103(c)(2) of the Water Resources Development Act of 1992 (106 Stat. 4811) is amended in the first sentence by striking ''in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi.'' and inserting ''between the Mississippi River Bridge and the waterfront in downtown Vicksburg, Mississippi.''.

SEC. 502. CALFED BAY-DELTA PROGRAM ASSISTANCE, CALIFORNIA.

(a) IN GENERAL.—The Secretary—

(1) may participate with the appropriate Federal and State agencies in the planning and management activities associated with the CALFED Bay-Delta Program referred to in the California Bay-Delta Environmental Enhancement and Water Security Act (division E of Public Law 104–208; 110 Stat. 3009–748); and

(2) shall, to the maximum extent practicable and in accordance with applicable law, integrate the activities of the Corps of Engineers in the San Joaquin and Sacramento River basins with the long-term goals of the CALFED Bay-Delta Program.

(b) COOPERATIVE ACTIVITIES.—In participating in the CALFED Bay-Delta Program under subsection (a), the Secretary may—

(1) accept and expend funds from other Federal agencies and from non-Federal public, private, and nonprofit entities to carry out ecosystem restoration projects and activities associated with the CALFED Bay-Delta Program; and

(2) in carrying out the projects and activities, enter into contracts, cooperative research and development agreements, and cooperative agreements with Federal and non-Federal private, public, and nonprofit entities.

(c) AREA COVERED BY PROGRAM.—For the purposes of this section, the area covered by the CALFED Bay-Delta Program shall be the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and its watershed (known as the ''Bay-Delta Estuary''), as identified in the Framework Agreement Between the Governor's Water Policy Council of the State of California and the Federal Ecosystem Directorate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2005.

SEC. 503. CONVEYANCE OF LIGHTHOUSE, ONTONAGON, MICHIGAN.

(a) IN GENERAL.—The Secretary may convey to the Ontonagon County Historical Society, at full Federal expense—

(1) the lighthouse at Ontonagon, Michigan; and

(2) the land underlying and adjacent to the lighthouse (including any improvements on the land) that is under the jurisdiction of the Secretary.

(b) MAP.—The Secretary shall—

(1) determine—

(A) the extent of the land conveyance under this section; and

(B) the exact acreage and legal description of the land to be conveyed under this section; and

(2) prepare a map that clearly identifies any land to be conveyed.

(c) CONDITIONS.—The Secretary may—

(1) obtain all necessary easements and rights-of-way; and

(2) impose such terms, conditions, reservations, and restrictions on the conveyance;

as the Secretary determines to be necessary to protect the public interest.

(d) ENVIRONMENTAL RESPONSE.—To the extent required under any applicable law, the Secretary shall be responsible for any necessary environmental response required as a result of the prior Federal use or ownership of the land and improvements conveyed under this section.

(e) RESPONSIBILITIES AFTER CONVEYANCE.—After the conveyance of land under this section, the Ontonagon County Historical Society shall be responsible for any additional operation, maintenance, repair, rehabilitation, or replacement costs associated with—

(1) the lighthouse; or

(2) the conveyed land and improvements.

(f) APPLICABILITY OF ENVIRONMENTAL LAW.—Nothing in this section affects the potential liability of any person under any applicable environmental law.

SEC. 504. LAND CONVEYANCE, CANDY LAKE, OKLAHOMA.

Section 563(c) of the Water Resources Development Act of 1999 (113 Stat. 357) is amended—

(1) in paragraph (1)(B), by striking ''a deceased'' and inserting ''an''; and

(2) by adding at the end the following:

''(4) COSTS OF NEPA COMPLIANCE.—The Federal Government shall assume the costs of any Federal action under this subsection that is carried out for the purpose of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

TITLE VI—COMPREHENSIVE EVERGLADES RESTORATION PLAN

SEC. 601. COMPREHENSIVE EVERGLADES RESTORATION PLAN.

(a) DEFINITIONS.—In this section:

(1) CENTRAL AND SOUTHERN FLORIDA PROJECT.—

(A) IN GENERAL.—The term ''Central and Southern Florida Project'' means the project for Central and Southern Florida authorized under the heading ''CENTRAL AND SOUTHERN FLORIDA'' in section 203 of the Flood Control Act of 1948 (62 Stat. 1176).

(B) INCLUSION.—The term ''Central and Southern Florida Project'' includes any modification to the project authorized by this Act or any other provision of law.

(2) GOVERNOR.—The term ''Governor'' means the Governor of the State.

(3) NATURAL SYSTEM.—

(A) IN GENERAL.—The term ''natural system'' means all land and water managed by the Federal Government or the State within the South Florida ecosystem.

(B) INCLUSIONS.—The term ''natural system'' includes—

(i) water conservation areas;

(ii) sovereign submerged land;

(iii) Everglades National Park;

(iv) Biscayne National Park;

(v) Big Cypress National Preserve;

(vi) other Federal or State (including a political subdivision of a State) land that is designated and managed for conservation purposes; and

(vii) any tribal land that is designated and managed for conservation purposes, as approved by the tribe.

(4) PLAN.—The term ''Plan'' means the Comprehensive Everglades Restoration Plan contained in the ''Final Integrated Feasibility Report and Programmatic Environmental Impact Statement'', dated April 1, 1999, as modified by this Act.

(5) SOUTH FLORIDA ECOSYSTEM.—

(A) IN GENERAL.—The term ''South Florida ecosystem'' means the area consisting of the land and water within the boundary of the South Florida Water Management District in effect on July 1, 1999.

(B) INCLUSIONS.—The term ''South Florida ecosystem'' includes—

(i) the Everglades;

(ii) the Florida Keys; and

(iii) the contiguous near-shore coastal water of South Florida.

(6) STATE.—The term ''State'' means the State of Florida.

(b) COMPREHENSIVE EVERGLADES RESTORATION PLAN.—

(1) APPROVAL.—

(A) IN GENERAL.—Except as modified by this Act, the Plan is approved as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to—

(i) restore, preserve and protect the South Florida ecosystem;

(ii) provide for the protection of water quality in, and the reduction of the loss of fresh water from, the Everglades; and

(iii) provide for the water-related needs of the region, including—

(I) flood control;

(II) the enhancement of water supplies; and

(III) other objectives served by the Central and Southern Florida Project.

(B) INTEGRATION.—In carrying out the Plan, the Secretary shall integrate the activities described in subparagraph (A) with ongoing Federal and State projects and activities in accordance with section 528(c) of the Water Resources Development Act of 1996 (110 Stat. 3769).

(2) SPECIFIC AUTHORIZATIONS.—

(A) IN GENERAL.—

(i) PROJECTS.—The Secretary shall carry out the projects included in the Plan in accordance with subparagraphs (B), (C), (D) and (E).

(ii) CONSIDERATIONS.—In carrying out activities described in the Plan, the Secretary shall—

(I) take into account the protection of water quality by considering applicable State water quality standards; and

(II) include such features as the Secretary determines are necessary to ensure that all ground water and surface water discharges from any project feature authorized by this subsection will meet all applicable water quality standards and applicable water quality permitting requirements.

(iii) REVIEW AND COMMENT.—In developing the projects authorized under subparagraph (B), the Secretary shall provide for public review and comment in accordance with applicable Federal law.

(B) PILOT PROJECTS.—The following pilot projects are authorized for implementation, after review and approval by the Secretary, subject to the conditions in subparagraph (D), at a total cost of $69,000,000, with an estimated Federal cost of $34,500,000 and an estimated non-Federal cost of $34,500,000:

(i) Caloosahatchee River (C–43) Basin ASR, at a total cost of $6,000,000, with an estimated Federal cost of $3,000,000 and an estimated non-Federal cost of $3,000,000.

(ii) Lake Belt In-Ground Reservoir Technology, at a total cost of $23,000,000, with an estimated Federal cost of $11,500,000 and an estimated non-Federal cost of $11,500,000.

(iii) L–31N Seepage Management, at a total cost of $10,000,000, with an estimated Federal cost of $5,000,000 and an estimated non-Federal cost of $5,000,000.

(iv) Wastewater Reuse Technology, at a total cost of $30,000,000, with an estimated Federal cost of $15,000,000 and an estimated non-Federal cost of $15,000,000.

(C) INITIAL PROJECTS.—The following projects are authorized for implementation, after review and approval by the Secretary, subject to the conditions stated in subparagraph (D), at a total cost of $1,100,918,000, with an estimated Federal cost of $550,459,000 and an estimated non-Federal cost of $550,459,000:

(i) C–44 Basin Storage Reservoir, at a total cost of $112,562,000, with an estimated Federal cost of $56,281,000 and an estimated non-Federal cost of $56,281,000.

(ii) Everglades Agricultural Area Storage Reservoirs—Phase I, at a total cost of $233,408,000, with an estimated Federal cost of $116,704,000 and an estimated non-Federal cost of $116,704,000.

(iii) Site 1 Impoundment, at a total cost of $38,535,000, with an estimated Federal cost of $19,267,500 and an estimated non-Federal cost of $19,267,500.

(iv) Water Conservation Areas 3A/3B Levee Seepage Management, at a total cost of $100,335,000, with an estimated Federal cost of $50,167,500 and an estimated non-Federal cost of $50,167,500.

(v) C–11 Impoundment and Stormwater Treatment Area, at a total cost of $124,837,000, with an estimated Federal cost of $62,418,500 and an estimated non-Federal cost of $62,418,500.

(vi) C–9 Impoundment and Stormwater Treatment Area, at a total cost of $89,146,000, with an estimated Federal cost of $44,573,000 and an estimated non-Federal cost of $44,573,000.

(vii) Taylor Creek/Nubbin Slough Storage and Treatment Area, at a total cost of $104,027,000, with an estimated Federal cost of $52,013,500 and an estimated non-Federal cost of $52,013,500.

(viii) Raise and Bridge East Portion of Tamiami Trail and Fill Miami Canal within Water Conservation Area 3, at a total cost of $26,946,000, with an estimated Federal cost of $13,473,000 and an estimated non-Federal cost of $13,473,000.

(ix) North New River Improvements, at a total cost of $77,087,000, with an estimated Federal cost of $38,543,500 and an estimated non-Federal cost of $38,543,500.

(x) C–111 Spreader Canal, at a total cost of $94,035,000, with an estimated Federal cost of $47,017,500 and an estimated non-Federal cost of $47,017,500.

(xi) Adaptive Assessment and Monitoring Program, at a total cost of $100,000,000, with an estimated Federal cost of $50,000,000 and an estimated non-Federal cost of $50,000,000.

(D) CONDITIONS.—

(i) PROJECT IMPLEMENTATION REPORTS.—Before implementation of a project described in any of clauses (i) through (x) of subparagraph (C), the Secretary shall review and approve for the project a project implementation report prepared in accordance with subsections (f) and (h).

(ii) SUBMISSION OF REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the project implementation report required by subsections (f) and (h) for each project under this paragraph (including all relevant data and information on all costs).

(iii) FUNDING CONTINGENT ON APPROVAL.—No appropriation shall be made to construct any project under this paragraph if the project implementation report for the project has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(iv) MODIFIED WATER DELIVERY.—No appropriation shall be made to construct the Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement Project or the Central Lakebelt Storage Project until the completion of the project to improve water deliveries to Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8).

(E) MAXIMUM COST OF PROJECTS.—Section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280) shall apply to each project feature authorized under this subsection.

(c) ADDITIONAL PROGRAM AUTHORITY.—

(1) IN GENERAL.—To expedite implementation of the Plan, the Secretary may implement modifications to the Central and Southern Florida Project that—

(A) are described in the Plan; and

(B) will produce a substantial benefit to the restoration, preservation and protection of the South Florida ecosystem.

(2) PROJECT IMPLEMENTATION REPORTS.—Before implementation of any project feature authorized under this subsection, the Secretary shall review and approve for the project feature a project implementation report prepared in accordance with subsections (f) and (h).

(3) FUNDING.—

(A) INDIVIDUAL PROJECT FUNDING.—

(i) FEDERAL COST.—The total Federal cost of each project carried out under this subsection shall not exceed $12,500,000.

(ii) OVERALL COST.—The total cost of each project carried out under this subsection shall not exceed $25,000,000.

(B) AGGREGATE FEDERAL COST.—The total Federal cost of all projects carried out under this subsection shall not exceed $206,000,000

(d) AUTHORIZATION OF FUTURE PROJECTS.—

(1) IN GENERAL.—Except for a project authorized by subsection (b) or (c), any project included in the Plan shall require a specific authorization by Congress.

(2) SUBMISSION OF REPORT.—Before seeking congressional authorization for a project under paragraph (1), the Secretary shall submit to Congress—

(A) a description of the project; and

(B) a project implementation report for the project prepared in accordance with subsections (f) and (h).

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project authorized by subsection (b), (c), or (d) shall be 50 percent.

(2) NON-FEDERAL RESPONSIBILITIES.—The non-Federal sponsor with respect to a project described in subsection (b), (c), or (d), shall be—

(A) responsible for all land, easements, rights-of-way, and relocations necessary to implement the Plan; and

(B) afforded credit toward the non-Federal share of the cost of carrying out the project in accordance with paragraph (5)(A).

(3) FEDERAL ASSISTANCE.—

(A) IN GENERAL.—The non-Federal sponsor with respect to a project authorized by subsection (b), (c), or (d) may use Federal funds for the purchase of any land, easement, rights-of-way, or relocation that is necessary to carry out the project if any funds so used are credited toward the Federal share of the cost of the project.

(B) AGRICULTURE FUNDS.—Funds provided to the non-Federal sponsor under any programs such as the Conservation Restoration and Enhancement Program (CREP) and the Wetlands Reserve Program (WRP) for projects in the Plan shall be credited toward the non-Federal share of the cost of the Plan if the Secretary of Agriculture certifies that the funds provided may be used for that purpose.

(4) OPERATION AND MAINTENANCE.—Notwithstanding section 528(e)(3) of the Water Resources Development Act of 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible for 50 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation activities authorized under this section.

(5) CREDIT.—

(A) IN GENERAL.—Notwithstanding section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770), and regardless of the date of acquisition, the value of lands or interests in lands and incidental costs for land acquired by a non-Federal sponsor in accordance with a project implementation report for any project included in the Plan and authorized by Congress shall be—

(i) included in the total cost of the project; and

(ii) credited toward the non-Federal share of the cost of the project.

(B) WORK.—The Secretary may provide credit, including in-kind credit, toward the non-Federal share for the reasonable cost of any work performed in connection with a study, preconstruction engineering and design, or construction that is necessary for the implementation of the Plan, if—

(i)(I) the credit is provided for work completed during the period of design, as defined in a design agreement between the Secretary and the non-Federal sponsor; or

(II) the credit is provided for work completed during the period of construction, as defined in a project cooperation agreement for an authorized project between the Secretary and the non-Federal sponsor;

(ii) the design agreement or the project cooperation agreement prescribes the terms and conditions of the credit; and

(iii) the Secretary determines that the work performed by the non-Federal sponsor is integral to the project.

(C) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this paragraph may be carried over between authorized projects in accordance with subparagraph (D).

(D) PERIODIC MONITORING.—

(i) IN GENERAL.—To ensure that the contributions of the non-Federal sponsor equal 50 percent proportionate share for projects in the Plan, during each 5-year period, beginning with commencement of design of the Plan, the Secretary shall, for each project—

(I) monitor the non-Federal provision of cash, in-kind services, and land; and

(II) manage, to the maximum extent practicable, the requirement of the non-Federal sponsor to provide cash, in-kind services, and land.

(ii) OTHER MONITORING.—The Secretary shall conduct monitoring under clause (i) separately for—

(I) the preconstruction engineering and design phase; and

(II) the construction phase.

(E) AUDITS.—Credit for land (including land value and incidental costs) or work provided under this subsection shall be subject to audit by the Secretary.

(f) EVALUATION OF PROJECTS.—

(1) IN GENERAL.—Before implementation of a project authorized by subsection (c) or (d) or any of clauses (i) through (x) of subsection (b)(2)(C), the Secretary, in cooperation with the non-Federal sponsor, shall, after notice and opportunity for public comment and in accordance with subsection (h), complete a project implementation report for the project.

(2) PROJECT JUSTIFICATION.—

(A) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out any activity authorized under this section or any other provision of law to restore, preserve, or protect the South Florida ecosystem, the Secretary may determine that—

(i) the activity is justified by the environmental benefits derived by the South Florida ecosystem; and

(ii) no further economic justification for the activity is required, if the Secretary determines that the activity is cost-effective.

(B) APPLICABILITY.—Subparagraph (A) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the natural system.

(g) EXCLUSIONS AND LIMITATIONS.—The following Plan components are not approved for implementation:

(1) WATER INCLUDED IN THE PLAN.—

(A) IN GENERAL.—Any project that is designed to implement the capture and use of the approximately 245,000 acre-feet of water described in section 7.7.2 of the Plan shall not be implemented until such time as—

(i) the project-specific feasibility study described in subparagraph (B) on the need for and physical delivery of the approximately 245,000 acre-feet of water, conducted by the Secretary, in cooperation with the non-Federal sponsor, is completed;

(ii) the project is favorably recommended in a final report of the Chief of Engineers; and

(iii) the project is authorized by Act of Congress.

(B) PROJECT-SPECIFIC FEASIBILITY STUDY.—The project-specific feasibility study referred to in subparagraph (A) shall include—

(i) a comprehensive analysis of the structural facilities proposed to deliver the approximately 245,000 acre-feet of water to the natural system;

(ii) an assessment of the requirements to divert and treat the water;

(iii) an assessment of delivery alternatives;

(iv) an assessment of the feasibility of delivering the water downstream while maintaining current levels of flood protection to affected property; and

(v) any other assessments that are determined by the Secretary to be necessary to complete the study.

(2) WASTEWATER REUSE.—

(A) IN GENERAL.—On completion and evaluation of the wastewater reuse pilot project described in subsection (b)(2)(B)(iv), the Secretary, in an appropriately timed 5-year report, shall describe the results of the evaluation of advanced wastewater reuse in meeting, in a cost-effective manner, the requirements of restoration of the natural system.

(B) SUBMISSION.—The Secretary shall submit to Congress the report described in subparagraph (A) before congressional authorization for advanced wastewater reuse is sought.

(3) PROJECTS APPROVED WITH LIMITATIONS.—The following projects in the Plan are approved for implementation with limitations:

(A) LOXAHATCHEE NATIONAL WILDLIFE REFUGE.—The Federal share for land acquisition in the project to enhance existing wetland systems along the Loxahatchee National Wildlife Refuge, including the Stazzulla tract, should be funded through the budget of the Department of the Interior.

(B) SOUTHERN CORKSCREW REGIONAL ECOSYSTEM.—The Southern Corkscrew regional ecosystem watershed addition should be accomplished outside the scope of the Plan.

(h) ASSURANCE OF PROJECT BENEFITS.—

(1) IN GENERAL.—The overarching objective of the Plan is the restoration, preservation, and protection of the South Florida Ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Plan shall be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, the improvement of the environment of the South Florida Ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to this Act, for as long as the project is authorized.

(2) AGREEMENT.—

(A) IN GENERAL.—No appropriation shall be made for the construction of a project contained in the Plan until the President and the Governor enter into a binding agreement under which the State, shall ensure, by regulation or other appropriate means, that water made available under the Plan for the restoration of the natural system is available as specified in the Plan.

(B) ENFORCEMENT.—

(i) IN GENERAL.—Any person or entity that is aggrieved by a failure of the President or the Governor to comply with any provision of the agreement entered into under subparagraph (A) may bring a civil action in United States district court for an injunction directing the President or the Governor, as the case may be, to comply with the agreement, or for other appropriate relief.

(ii) LIMITATIONS ON COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under clause (i)—

(I) before the date that is 60 days after the Secretary receives written notice of a failure to comply with the agreement; or

(II) if the United States has commenced and is diligently prosecuting an action in a court of the United States or a State to redress a failure to comply with the agreement.

(3) PROGRAMMATIC REGULATIONS.—

(A) ISSUANCE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall, after notice and opportunity for public comment—

(i) with the concurrence of—

(I) the Governor; and

(II) the Secretary of the Interior; and

(ii) in consultation with—

(I) the Seminole Tribe of Florida;

(II) the Miccosukee Tribe of Indians of Florida;

(III) the Administrator of the Environmental Protection Agency;

(IV) the Secretary of Commerce; and

(V) other Federal, State, and local agencies;

promulgate programmatic regulations to ensure that the goals and purposes of the Plan are achieved.

(B) CONTENT OF REGULATIONS.—Programmatic regulations promulgated under this paragraph shall establish a process to—

(i) provide guidance for the development of project implementation reports, project cooperation agreements, and operating manuals that ensure that the goals and objectives of the Plan are achieved;

(ii) ensure that new information resulting from changed or unforeseen circumstances, new scientific or technical information or information that is developed through the principles of adaptive management contained in the Plan, or future authorized changes to the Plan are integrated into the implementation of the Plan; and

(iii) ensure the protection of the natural system consistent with the goals and purposes of the Plan.

(C) SCHEDULE AND TRANSITION RULE.—

(i) IN GENERAL.—All project implementation reports approved before the date of promulgation of the programmatic regulations shall be consistent with the Plan.

(ii) PREAMBLE.—The preamble of the programmatic regulations shall include a statement concerning the consistency with the programmatic regulations of any project implementation reports that were approved before the date of promulgation of the regulations.

(D) REVIEW OF PROGRAMMATIC REGULATIONS.—Whenever necessary to attain Plan goals and purposes, but not less often than every 5 years, the Secretary, in accordance with subparagraph (A), shall review the programmatic regulations promulgated under this paragraph.

(4) PROJECT-SPECIFIC ASSURANCES.—

(A) PROJECT IMPLEMENTATION REPORTS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall develop project implementation reports in accordance with section 10.3.1 of the Plan.

(ii) COORDINATION.—In developing a project implementation report, the Secretary and the non-Federal sponsor shall coordinate with appropriate Federal, State, tribal, and local governments.

(iii) REQUIREMENTS.—A project implementation report shall—

(I) be consistent with the Plan and the programmatic regulations promulgated under paragraph (3);

(II) describe how each of the requirements stated in paragraph (3)(B) is satisfied;

(III) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(IV) identify the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system;

(V) identify the amount of water to be reserved or allocated for the natural system necessary to implement, under State law, subclauses (IV) and (VI);

(VI) comply with applicable water quality standards and applicable water quality permitting requirements under subsection (b)(2)(A)(ii);

(VII) be based on the best available science; and

(VIII) include an analysis concerning the cost-effectiveness and engineering feasibility of the project.

(B) PROJECT COOPERATION AGREEMENTS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall execute project cooperation agreements in accordance with section 10 of the Plan.

(ii) CONDITION.—The Secretary shall not execute a project cooperation agreement until any reservation or allocation of water for the natural system identified in the project implementation report is executed under State law.

(C) OPERATING MANUALS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall develop and issue, for each project or group of projects, an operating manual that is consistent with the water reservation or allocation for the natural system described in the project implementation report and the project cooperation agreement for the project or group of projects.

(ii) MODIFICATIONS.—Any significant modification by the Secretary and the non-Federal sponsor to an operating manual after the operating manual is issued shall only be carried out subject to notice and opportunity for public comment.

(5) SAVINGS CLAUSE.—

(A) EXISTING WATER USERS.—The Secretary shall ensure that the implementation of the Plan, including physical or operational modifications to the Central and Southern Florida Project, does not cause significant adverse impact on existing legal water users, including—

(i) water legally allocated or provided through entitlements to the Seminole Tribe of Florida under section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e);

(ii) the Miccosukee Tribe of Indians of Florida;

(iii) annual water deliveries to Everglades National Park;

(iv) water for the preservation of fish and wildlife in the natural system; and

(v) any other legal user, as provided under Federal or State law in existence on the date of enactment of this Act.

(B) NO ELIMINATION.—Until a new source of water supply of comparable quantity and quality is available to replace the water to be lost as a result of implementation of the Plan, the Secretary shall not eliminate existing legal sources of water, including those for—

(i) an agricultural or urban water supply;

(ii) allocation or entitlement to the Seminole Indian Tribe of Florida under section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e);

(iii) the Miccosukee Tribe of Indians of Florida;

(iv) Everglades National Park; or

(v) the preservation of fish and wildlife.

(C) MAINTENANCE OF FLOOD PROTECTION.—The Secretary shall maintain authorized levels of flood protection in existence on the date of enactment of this Act, in accordance with applicable law.

(D) NO EFFECT ON STATE LAW.—Nothing in this Act prevents the State from allocating or reserving water, as provided under State law, to the extent consistent with this Act.

(E) NO EFFECT ON TRIBAL COMPACT.—Nothing in this Act amends, alters, prevents, or otherwise abrogates rights of the Seminole Indian Tribe of Florida under the compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District, defining the scope and use of water rights of the Seminole Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e).

(i) DISPUTE RESOLUTION.—

(1) IN GENERAL.—The Secretary and the Governor shall within 180 days from the date of enactment of this Act develop an agreement for resolving disputes between the Corps of Engineers and the State associated with the implementation of the Plan. Such agreement shall establish a mechanism for the timely and efficient resolution of disputes, including—

(A) a preference for the resolution of disputes between the Jacksonville District of the Corps of Engineers and the South Florida Water Management District;

(B) a mechanism for the Jacksonville District of the Corps of Engineers or the South Florida Water Management District to initiate the dispute resolution process for unresolved issues;

(C) the establishment of appropriate timeframes and intermediate steps for the elevation of disputes to the Governor and the Secretary; and

(D) a mechanism for the final resolution of disputes, within 180 days from the date that the dispute resolution process is initiated under subparagraph (B).

(2) CONDITION FOR REPORT APPROVAL.—The Secretary shall not approve a project implementation report under this Act until the agreement established under this subsection has been executed.

(3) NO EFFECT ON LAW.—Nothing in the agreement established under this subsection shall alter or amend any existing Federal or State law.

(j) INDEPENDENT SCIENTIFIC REVIEW.—

(1) IN GENERAL.—The Secretary, the Secretary of the Interior, and the State, in consultation with the South Florida Ecosystem Restoration Task Force, shall establish an independent scientific review panel convened by a body, such as the National Academy of Sciences, to review the Plan's progress toward achieving the natural system restoration goals of the Plan.

(2) REPORT.—The panel described in paragraph (1) shall produce a biennial report to Congress, the Secretary, the Secretary of the Interior, and the State of Florida that includes an assessment of ecological indicators and other measures of progress in restoring the ecology of the natural system, based on the Plan.

(k) OUTREACH AND ASSISTANCE.—

(1) SMALL BUSINESS CONCERNS OWNED AND OPERATED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—In executing the Plan, the Secretary shall ensure that small business concerns owned and controlled by socially and economically disadvantaged individuals are provided opportunities to participate under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) COMMUNITY OUTREACH AND EDUCATION.—

(A) IN GENERAL.—The Secretary shall ensure that impacts on socially and economically disadvantaged individuals, including individuals with limited English proficiency, and communities are considered during implementation of the Plan, and that such individuals have opportunities to review and comment on its implementation.

(B) PROVISION OF OPPORTUNITIES.—The Secretary shall ensure, to the maximum extent practicable, that public outreach and educational opportunities are provided to the individuals of South Florida, including individuals with limited English proficiency, and in particular for socially and economically disadvantaged communities.

(l) REPORT TO CONGRESS.—Beginning on October 1, 2005, and periodically thereafter until October 1, 2036, the Secretary and the Secretary of the Interior, in consultation with the Environmental Protection Agency, the Department of Commerce, and the State of Florida, shall jointly submit to Congress a report on the implementation of the Plan. Such reports shall be completed not less often than every 5 years. Such reports shall include a description of planning, design, and construction work completed, the amount of funds expended during the period covered by the report (including a detailed analysis of the funds expended for adaptive assessment under subsection (b)(2)(C)(xi)), and the work anticipated over the next 5-year period. In addition, each report shall include—

(1) the determination of each Secretary, and the Administrator of the Environmental Protection Agency, concerning the benefits to the natural system and the human environment achieved as of the date of the report and whether the completed projects of the Plan are being operated in a manner that is consistent with the requirements of subsection (h); and

(2) a review of the activities performed by the Secretary under subsection (k) as they relate to socially and economically disadvantaged individuals and individuals with limited English proficiency.

Mr. SMITH of New Hampshire. Mr. President, I say to my colleagues that there are amendments under the unanimous-consent agreement by Senators TORRICELLI, WARNER, VOINOVICH, and FEINGOLD.

I say to my colleagues who have those amendments, if they could proceed to the floor, the intention would be to try to get these amendments offered as soon as possible, knowing that Members do have airplanes to catch. We are hoping to yield back some of the debate time in order to get out a bit earlier. That will take the cooperation of all Members, especially those Members who are offering amendments or who have asked for time to debate other matters within this timeframe.

With the cooperation of Members, we could wrap it up hopefully by 6 o'clock or 7 o'clock. Without the cooperation of Members, it will go longer. It will be up to the leader as to how he will proceed with any votes.

I am very pleased to bring before the Senate the Water Resources Development Act of 2000.

AMENDMENT NO. 4164

(Purpose: To provide a complete substitute)

Mr. SMITH of New Hampshire. I ask unanimous consent we move to the managers' amendment, accept it, and it be considered original text for the purpose of further amendment.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for himself and Mr. BAUCUS, proposes an amendment numbered 4164.

Mr. SMITH of New Hampshire. I ask unanimous consent 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. SMITH of New Hampshire. The committee has worked very diligently to reach this point. It was quite a challenge: 99 Senators and me. We had a lot of projects. We had a lot of differences of opinion and a lot of things to work through. We worked very hard personally, wherever possible, wherever I needed to, with my colleagues on both sides of the aisle, to try to get accommodation for this bill. As it has been done since the Water Resources Development Act of 1986, the committee used a strict set of criteria to determine whether or not these projects would be included. Only those projects that met those criteria were included in this bill. As we know from many of the

hearings we had over the last year or so, there is a backlog of Corps projects which, with the help of Senator VOINOVICH, Senator BAUCUS, and others, we are trying to clear. We stuck to our criteria.

We received over 300 requests on harbor dredging, environmental restoration, flood control, a number of items in which the Army Corps would be involved. My colleagues and I drafted a bill that authorizes 22 new projects, containing 65 project-related provisions or modifications, and authorizes 40 feasibility studies—very complex, time consuming, a lot of detail, a lot of work at the staff and Member level to get there.

I appreciate the cooperation of Senator BAUCUS and his staff throughout this process, as well as Senator VOINOVICH on our side. Not even one-third of those 300 projects made the cut. I am proud of that. It is a reflection of the strength of the criteria that we worked so hard to keep in the bill and include in the bill, to stick to those criteria, trying not to make exceptions, because once you make exceptions, it opens the door to more and more projects which are not significant or important.

Our bill does not contain cost share waivers, environmental infrastructure projects, or authorized projects that are not technically sound, environmentally acceptable, or economically justified. Those are the criteria. I am very proud of that. We stuck to those criteria. We took some heat from some Members, but we thought we were fair to everyone by sticking to the criteria.

I commend Senators VOINOVICH and BAUCUS for their hard work, and their staffs, and, in addition to Senators VOINOVICH and BAUCUS, Senator MACK and Senator GRAHAM. Senator GRAHAM, of course, is a member of our committee. Senator MACK is not. But we treated Senator MACK as if he were a member of the committee. They had full input because of the Everglades issue which is such an important part of this bill. It was a pleasure to work with all of them in putting this bill together. It was very, very difficult.

This was a freestanding bill, the water 2000 provision, to restore America's Everglades. I introduced it with my colleagues, Senators BAUCUS, VOINOVICH, GRAHAM, and MACK, on June 27, 2000. The committee favorably reported out our Everglades bill by a bipartisan vote of 17–1, with an amendment to include the Everglades. It was an overwhelmingly bipartisan vote. I think we worked through this process in a bipartisan manner both at the staff level and at the Member level.

In January of this year in south Florida at the Everglades, I made a promise to the people of that State and to the Nation, with Senator GRAHAM by my side, as well as Senator VOINOVICH, that Everglades restoration would be the top priority of this committee. Speaking for myself, it would be my top priority as the chairman. It certainly has been Senator BAUCUS' top priority as he has worked with me throughout this process.

Since that markup, the committee, the State of Florida, the administration, industry groups, environmental groups, and two Indian tribes impacted by the Everglades restoration have all worked diligently on the managers' amendment that we all can support. I am pleased to report that S. 2796 with the managers' amendment is strongly supported by all vital interests. It is truly bipartisan. It is truly historic.

A few moments ago, Senator BYRD spoke on the floor about some of the partisanship. It is out there. We all do it. There is a time and place for it. But we didn't have it in this bill. Whatever differences we had with individual Members, they had nothing to do with what somebody had next to their name.

I will briefly comment on the Everglades issue and then turn it over to my ranking member, Senator BAUCUS.

We might ask, Why is Everglades restoration necessary? The Everglades is the biggest part of this water resources development bill, and that has been controversial because other Members did not get as much as Florida. But Florida has a special issue. The Everglades are very special. It is a very environmentally sensitive region of the country. It clearly is a treasure. I want my colleagues to understand why we believe time is of the essence.

This is a national treasure. It is a vast freshwater marsh which once was connected by the flow of water, a sheet of water, a river of water, flowing south from Lake Okeechobee all the way into the Gulf of Mexico, and once covered 18,000 square miles. It is the heart of a unique biologically productive ecosystem.

But now the Everglades is in peril. It is half the size it used to be. What happened? In 1948, we had a Federal flood control project, and 1.7 billion gallons of water a day as a result of that project are now flowing into the sea, totally lost. We asked the Army Corps to do this because we had flooding. We basically created a dam. On one side of that dam is the dammed-up water; on the other side essentially is a desert. That is not what the Everglades ecosystem was designed to be. So we needed to correct it. The Federal Government, the Congress, and the administration's direction at the time, in 1948, urged us to do it. They spent the money to do it. Now I think it is the Federal Government's responsibility, in conjunction with Florida, to correct it. That is exactly what this bill does. The original Central and Southern Florida Project was done with the best of intentions—the Federal Government simply had to act when devastating floods took thousand of lives prior to the project's construction. Unfortunately, the very success of the Central and Southern Florida Project disrupted the natural sheet flow of water through the so-called ''River of Grass,'' altering or destroying the habitat for many species of native plants, mammals, reptiles, fish, and wading birds.

We are going to recapture that wasted water, store it, and redirect it, when needed, to the natural system in the South Florida ecosystem. On July 1, 1999, the U.S. Army Corps of Engineers submitted to Congress a ''Restudy'' of the Central and Southern Florida Project. Called the Comprehensive Everglades Restoration Plan, this blueprint provides the details and layout of the 30-year restoration project.

The bipartisan Everglades legislation approves the Comprehensive Everglades Restoration Plan as the overall framework to restore the ecological health of the Florida Everglades. The bill also includes authorization of the initial projects necessary to get restoration underway. Specifically, the bill includes authorization of 10 construction projects. These projects, which employ already proven, standard technologies, were carefully selected by the Army Corps of Engineers and the South Florida Water Management District and included in the plan as the projects that would, once constructed, have immediate benefits to the natural system. Almost right away, the plan gets at restoring the natural sheet flow that years of human interference has interrupted.

If anybody has been in south Florida, been to the Everglades, you know what the Tamiami Trail is. Basically, that is a dam that blocks the flow of that water. We will begin the process of punching holes in that dam and allowing that sheet of water to flow once again.

The bill includes authorization of four pilot projects to test new and innovative technologies that may be employed in future restoration projects.

There is a requirement that future components of the plan must have a favorable Project Implementation Reports [PIR] from the Secretary of the Army, similar to a Chief of Engineer's report. Future projects will be authorized through the biennial Water Resources Development Act.

Adaptive management and assessment. One of my favorite aspects of the Comprehensive Everglades Restoration Plan is its inherent flexibility. If we learn something new about the ecosystem, perfect our modeling techniques, or just plain see that something is not working right, through the concept of adaptive management and assessment, we can modify the plan as new technologies and new methods become available. Much is made of this and much more will be made of this issue in the debate. This is a 36-year plan. This is a risk. It is not a sure thing. We take risks all the time in the money we spend, whether it is for a weapons system or cancer research. I am sure we would not say we haven't found a cure for cancer so therefore let's not risk any more money in research. We are saying if we do not do something to save the Everglades, we will lose the Everglades. So we have to

try. We believe, on the best science we can find, that we have reasonable expectations here to invest approximately $4 billion over 36 years. That is a can of Coke a year for every American. That is not a lot of investment. I think we would be willing to do that so our grandchildren can see alligators and wading birds and enjoy the Everglades as I have with my children on many, many occasions.

So we have adaptive management. It is a great concept. If it doesn't work, we stop and we try something else. We are not locked into something for the next 36 years. We are going to perfect our techniques. If something isn't working right, we are going to modify it.

We have ''assurances'' that the environment will be the primary beneficiary of the water made available through CERP. The overarching object of the Plan is to restore, preserve, and protect the south Florida ecosystem, while meeting the water supply, flood protection, and agricultural needs of the region. These assurances also protect existing water users, such as the Seminole Tribe of Florida's water compact.

This bill has unprecedented broad, bipartisan support. My colleague Senator GRAHAM has compared our feat to achieving peace between the Hatfields and the McCoys. This truly is a remarkable accomplishment that deserves recognition by the Senate in the form of swift passage.

Every major constituency involved in Everglades restoration has written us a letter of support and I will later ask unanimous consent that these letters be printed in the RECORD. Also, in addition to the bipartisanship, I think we should give a lot of credit to the State of Florida. The State of Florida certainly, along with the legislature, in a bipartisan unanimous vote set aside money for this project. Gov. Jeb Bush has been fantastic in his support, as has Senator GRAHAM and Senator MACK, and the entire congressional delegation. Presidential candidates GORE and Bush have also been supportive and expressed their support.

I think there is an understanding here, that this is a huge treasure that we must do something quickly to protect and preserve.

In addition to Senators VOINOVICH, BAUCUS, GRAHAM, and MACK; the administration; Florida Gov. Jeb Bush—I already mentioned them—the Seminole Tribe of Florida and the Miccosukee Tribe of Indians support this, as do Industry Groups: Florida Citrus Mutual; Florida Farm Bureau; Florida Home Builders; The American Water Works Association; Florida Chamber; Florida Fruit and Vegetable Association; Southeast Florida Utility Council; Gulf Citrus Growers Association; Florida Sugar Cane League; Florida Water Environmental Utility Council; Sugar Cane Growers Cooperative of Florida; Florida Fertilizer and Agri-chemical Association; and Environmental Groups: National Audubon Society; National Wildlife Federation; World Wildlife Fund; Center for Marine Conservation; Defenders of Wildlife; National Parks Conservation Association; the Everglades Foundation; the Everglades Trust; Audubon of Florida; 1000 Friends of Florida; Natural Resources Defense Council; Environmental Defense; and the Sierra Club.

I also have a set of colloquies and I will later ask unanimous consent that these colloquies be printed in the RECORD.

Garnering the support of these vast interests was not easy. Long hours of intense negotiations since the time the committee reported this bill has resulted in this broad coalition of supporters. They are not the only ones who recognize a good, effective bill when they see it. Newspaper editorial boards across the country have called for Congress to swiftly enact Everglades restoration legislation this year.

On September 13, the New York Times ran an editorial, ''Congress's Obligation to Nature.'' This editorial calls on Congress to approve two vital conservation bills, one of those being the Everglades bill. The New York Times had run an initial editorial in support of our Everglades bill on July 13, 2000.

On July 7, 2000, the Washington Post ran an editorial lauding restoration of the Everglades.

Just last week, on September 6, the Baltimore Sun ran an editorial, as well which summed up what we face now: absent action, the unique ecosystem will be lost.

Numerous Florida-based papers have also voiced strong support for the Everglades bill. On September 7, a Miami Herald editorial, ''Pass the 'glades bill,'' so correctly states:

> more delay serves no interest—not federal, state, tribal, regional, or local. Let this Congress authorize restoration . . .''

On July 23, a Tampa Tribune-Times editorial titled, ''Noble effort to rescue Everglades'' recognizes that:

> the long-term survival of the Everglades National Park, which belongs to all Americans, depends upon restoring a natural flow to the Glades . . . Congress should adopt this noble plan to rescue one of the nation's genuine natural wonders.

On June 30, the Sun Sentinel ran an editorial, ''Restoring the Everglades: Bill on the right track'' which stated that:

> Everglades restoration will require a massive, sustained commitment . . . but it is worth it.

And if I could indulge in one more, on June 28th, the Palm Beach Post editorial, ''Give Florida a lifeline'' summed it up:

> Florida and the feds need to get started.

It is clear that these major national and Florida newspapers agree: the bill is strong and the time is now. This Senate, this Congress and this administration must pass Everglades restoration before the conclusion of the 106th Congress.

If you care about the environment, if you care about this national treasure, you must join me, Senators VOINOVICH, BAUCUS, MACK, and GRAHAM, and help us move WRDA, with Everglades, forward. The Everglades cannot afford to wait. We have worked too hard to build this coalition of support and the Everglades has waited too long for Congress to notice and act upon its demise. Each day that we are delayed, we jeopardize the chances of realizing restoration. Each day that we are delayed, we come closer to losing this unique ecosystem. Each day that we are delayed, vital habitat is lost and we threaten the species that are already in peril. Each day that we are delayed, the Everglades come closer to sure extinction.

I am afraid too often people forget that the Everglades is a national environmental treasure. We need to view our efforts as our legacy to future generations. Many years from now, I hope that this Congress will be remembered for answering the call and saving the Everglades while we still had the chance. Mr. President, I strongly encourage my colleagues to support passage of the WRDA, with the Everglades title intact. With that, I will only add that I hope we can finish this bill expeditiously.

The PRESIDING OFFICER. Without objection, the managers' amendment is agreed to and the committee substitute is agreed to. The bill as thus amended is the original text now for the purpose of further amendment.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to join my good friend and chairman of the Environment and Public Works Committee, Senator SMITH, in supporting S. 2796, the Water Resources Development Act of 2000. I will say a few words about the bill and a couple of words about some projects in Montana, and finally wrap up with further comments about the Everglades restoration.

This bill authorizes projects for a lot of different areas. It is really quite a sweeping bill: flood control, for one, navigation, shore protection, environmental restoration, water supply storage, and recreation.

It also modifies some existing projects and directs the Corps to study other proposed projects. All projects in this bill have the support of a local sponsor, somebody at home willing to share the cost of the project.

Even a brief review of the projects will demonstrate the importance of passing this bill. A number of the projects are needed to protect shorelines along oceans, lakes, and rivers.

Several of the navigation projects will ensure that our ports remain competitive in an increasingly global marketplace. The studies authorized in the bill will help us make informed decisions about the future use and management of our water resources.

Each project in this bill has been reviewed by the Army Corps of Engineers and has been found to be in the Federal

interest, technologically feasible, economically justified, and environmentally sound. These projects have also been reviewed in accordance with applicable standards and also with our own committee criteria; in other words, they are worthy of support.

Let me mention two that are very important to my State of Montana. First is the authorization for a fish hatchery at Fort Peck. This fish hatchery will make good on a long-awaited promise on the Fort Peck project; namely, to create more opportunities for people in communities like Sidney, Malta, Lewistown, Billings, and, of course, Glasgow, and all across Montana.

Fort Peck Lake, one of the greatest resources that exists in our State, not only plays a major role in power production, water supply, but it is an increasingly important center for recreation. Not just for Montanans; people from all around the world—believe me, that is true, all around the world—come to Fort Peck Lake, MT, for our annual walleye tournaments. Hundreds of boats and probably 1,000 or more anglers participate in these events. It is amazing. I was there last summer. It is truly a sight to behold, all these boats taking off for a major national fishing tournament. The local community really puts its heart and soul into these tournaments.

Local folks have also collaborated on raising a lot of money for the matching share of the feasibility study for the fish hatchery, from Sidney, Malta, Glasgow, all across northeastern Montana. There are not a lot of people in northeastern Montana, but there is a lot of spirit and spunk and a lot of wide open spaces.

Fort Peck Lake is very important to these communities, in some sense it is almost the heart and soul of the northeastern part of our State. So, these communities have come together, they have raised the funds, and they have pitched in to support the fish hatchery project.

The State legislature also passed a special warm water fishery stamp to help provide additional financial support for the hatchery.

This hatchery will help ensure the continued development of opportunities at Fort Peck Lake, and it will represent a major source of jobs and economic development for that part of our State.

Another provision of the bill that affects my State of Montana is the one that affects cabin sites that are leased by private individuals on Federal land at Fort Peck Lake. The lake is huge. It is surrounded by the Charles M. Russell National Wildlife Refuge, but there are a lot of private in-holdings in this refuge.

This provision will allow cabin leases to be exchanged for other private land within the refuge that has higher value for, say, fish, wildlife, and recreation. By consolidating management of the refuge lands, the provision will reduce the cost to the Corps associated with managing these cabin sites. It will also enhance public access to the refuge lands.

This exchange is modeled on a similar project, of which I am very proud, near Helena, MT, which Congress authorized in 1998. It represents a win-win-win solution—a win for the public, a win for the wildlife, and a win for the cabin site owners.

I also want to mention another landmark provision in this bill referred to at some length by my good friend, Senator SMITH, chairman of the committee. In addition to the usual project authorizations contained in the water resources bill, this bill also affords a historic opportunity. Title 6 of the bill is known as the Comprehensive Everglades Restoration Plan.

Restoration of the Everglades has been many years in the making. For example, in the 1970s, the State of Florida became concerned that the previously authorized central and south Florida water project was doing too good a job. Why? Because it was draining the swampy areas of the State and was, in fact, draining the life out of the Everglades.

Under the leadership of our current colleague from Florida, Senator GRAHAM, who was then Governor GRAHAM, the State recognized that the health of the entire south Florida ecosystem, including the Everglades, was in serious jeopardy and that a major effort was needed to restore it.

Ever since, Senator GRAHAM has worked tirelessly to achieve that goal. I can testify to that personally. The comprehensive plan to restore this valuable ecosystem that is contained in the bill before us is the culmination of his work.

The Everglades is clearly a national treasure. I know it holds a particularly special place in the hearts of Senator GRAHAM and Senator MACK. Senator MACK joined Senator GRAHAM to make Everglades restoration a key part of their agenda for the State of Florida. Both of them worked very hard in a bipartisan way to make this provision a reality.

The administration, under the leadership of the Corps of Engineers and Army Assistant Secretary for Civil Works, Joe Westphal, with the cooperation of the Department of Interior and the Environmental Protection Agency, are also committed to bringing all the affected parties together to develop a plan that will work for the State of Florida, the ecosystem, and the Everglades.

The committee has worked with all the stakeholders in South Florida and with the administration to develop the consensus contained in this bill. There are provisions to review the progress of the plan, to make sure it is working, to require Congress to approve steps along the way, and to assure the water will be where it is needed, when it is needed.

We cannot wait for the Everglades to die. We have to begin now to restore it. This project is the largest environmental restoration project in the Corps' history, and it will reverse the decline of the Everglades. It is the right thing to do. I know my colleagues will join us with in supporting this section of the bill and the Water Resources Development bill generally.

I have one final point. I pay special commendation to the chairman of our committee, Senator SMITH. The first committee hearing he held as chairman of the committee was in Florida on the Everglades. It was there he saw the need to restore the Everglades, and it was there he made his pledge to the people of Florida, and to the Nation, to restore the Everglades. That is the hallmark of the very balanced, solid, far-reaching, and perceptive way in which he has handled the chairmanship of the Environment and Public Works Committee.

We are here today, in many respects, not only because of the Senators from Florida, Senators GRAHAM and MACK, and others, but also because of Senator SMITH's farsighted work as chairman of the committee. I thank him, as well as the others, for what they have done for a true national treasure.

Mr. SMITH of New Hampshire. I thank my colleague for those remarks.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I yield whatever time he may consume to my colleague, the chairman of the subcommittee, Senator VOINOVICH.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I congratulate the chairman of the Environment and Public Works Committee and his staff, and the ranking member and members of his staff for their terrific work. I also thank Senator GRAHAM and Senator MACK for their patience as we worked through some of the problems we had with the Florida Everglades restoration project.

This Water Resources Development Act of 2000 is a product of months of hard work by the Environment and Public Works Committee. The bill provides authority for the Secretary of the Army to carry out 24 projects for water resources development, conservation, and other purposes, substantially in accordance with the Chief of Engineer reports referenced in the bill language.

In addition to the projects authorized by WRDA 2000, there are a number of significant policy provisions in the bill, including a provision to enhance the Corps' ability to accomplish multiple jurisdiction watershed studies, a provision to extend the ability-to-pay provisions to all types of projects, and a provision to accelerate project deauthorizations, which is very important.

The bill also provides for a facilitated role for the Corps to partner with non-Federal interests in implementing

small environmental restoration projects on a regional basis including the Ohio River, the Puget Sound region, New England, the Great Lakes region, Chesapeake Bay, and the Illinois River.

There are some who may question the need for a WRDA bill this year since Congress passed a WRDA bill just last year. In reality, last year's bill was actually unfinished business from 1998, and if Congress is to get back on its 2-year cycle for passage of WRDA legislation, we need to act on a bill this year. The 2-year cycle is important to avoid long delays between the planning and the execution of projects, and also to meet Federal commitments to State and local government partners who share the costs with the Federal Government.

While the 2-year authorization cycle is extremely important in maintain efficient schedules for completions of important water resources projects—as I explored in a hearing I conducted in May of this year—efficient schedules also depend on adequate levels of funding. Unfortunately the appropriations for the Corps; program have not been adequate to meet the needs that have been identified.

I would like to direct my colleagues' attention to Chart No. 1. This chart dramatically illustrates what has occurred. Chart No. 1 shows our capital investment in water resources infrastructure since the 1930s, shown in constant 1999 dollars, as measured by the Corps of Engineers Civil Works construction appropriations. You can see the sharp decline from the peak in 1966 of a $5 billion appropriation, and appropriations through the 1970s in the $4 billion level, to the 1980s, and then to the 1990s, where as you can see, the annual Corps construction appropriations have dropped substantially. Corps projects have averaged only around $1.6 billion during this period of time.

Another dramatic thing has happened, as illustrated in the next two charts. We are asking the Corps of Engineers to do more with less. These two charts show the breakdown by mission area for the Corps' construction appropriation in FY 1965 and FY 1999.

If we look at the FY 1965 chart, you will see that in FY 1965, most of the money went for flood control, navigation, and hydropower.

Then we come to 1999. We find that the Corps' mission has expanded into many, many other areas: Shore protection, environmental infrastructure. So we have asked the Corps to take on a lot more responsibility than it ever had before.

As the FY 1999 chart shows, there is a dramatic mission increase with environmental restoration as a significant mission area, and two new mission areas: environmental infrastructure, and remediation of formerly used Government nuclear sites. Environmental infrastructure, as contrasted with environmental restoration, includes such work as construction of drinking water facilities and sewage treatment plants.

What is the point of all this?

If you recall the chart, the Corps construction appropriations have been falling since 1965, and its falls sharply in the 1990s. At the same time, the Corps' mission has been growing.

The result is today's huge backlog of over 500 active projects that will cost the Federal Government some $38 billion to complete. Think about it—$38 billion.

These are worthy projects with positive benefit-to-cost ratios and capable non-Federal sponsors. The projects in the backlog that are being funded for construction are being funded under spread out schedules that result in increased construction costs and delays in achieving project benefits.

I recognize that budget allocations and Corps appropriations are beyond the purview of this Water Resources Development Act. But the backlog issue impacted very fundamentally the way we approached WRDA 2000 by highlighting the importance of adhering to three important criteria in putting together the bill.

We adhered to these criteria which made many of our colleagues unhappy because many of the projects they wanted did not fit into the criteria we laid down.

First, we controlled the mission creep of the Corps of Engineers. WRDA 2000 addresses national needs within the traditional Corps mission areas: needs such as flood control, navigation shore protection, and the emerging mission area of restoration of nationally significant environmental resources such as the Florida Everglades.

The second thing we did in WRDA 2000 is make sure that the projects we are authorizing meet the highest standard of engineering, economic and environmental analysis.

We can only assure that projects meet these high standards if projects have received adequate study and evaluation to establish project costs, benefits, and environmental impacts to an appropriate level of confidence. This means that a feasibility report must be completed this calendar year before projects are authorized for construction. That is a requirement.

Finally, we have to preserve the partnerships and cost-sharing principles of the Water Resources Development Act of 1986. WRDA 1986 established the principle that water resources projects should be accomplished in partnerships with State and local governments and that this partnership would involve significant financial participation by the non-Federal partners.

My experience as mayor of Cleveland and Governor of Ohio convinced me that the requirement for local funding to match Federal dollars results in much better projects than where Federal funds are simply handed out. It doesn't matter if it is parks, housing, highways, or water resources projects, the requirement for a local cost share provides a level of accountability that is essential to a quality project. Cost sharing principles were enforced in this WRDA bill.

I am very proud of the discipline that the Environment and Public Works Committee exercised in putting together this bill Chairman SMITH should be congratulated. I recognize, though, that not everyone, as he said has been satisfied, but I believe that our authorization actions must reflect the fiscal realities of the Corps national program.

Without a doubt, the centerpiece of WRDA is the Comprehensive Everglades Restoration Plan. I want you to know, I have spent a lot of time in the Everglades on a number of different occasions. I want my grandchildren and their grandchildren to have the same experience as I have had in enjoying this wonderful national treasure.

Our Environment and Public Works Committee Chairman BOB SMITH and his staff deserve enormous credit for making this Everglades provision a reality, particularly in the very difficult area of assuring that the benefits to the natural system are realized while the interests of other water users are adequately protected.

As Senator BAUCUS said, this is not only the largest restoration project the Corps has undertaken, but it is the largest restoration project ever undertaken in the world. So this is really quite an undertaking.

My role in putting together the Everglades title has been to assure that we moved the Everglades Restoration Plan forward while achieving consistency with the criteria that applied to all the projects in this WRDA bill. The Everglades Restoration Plan is extremely important but there are other critical water resources needs reflected in this WRDA bill. I believe the playing field should be level for the consideration of all projects.

I want my colleagues to know that we spent a great deal of time making sure that the Florida Everglades restoration plan does fit into the criteria we have establishes for other projects.

Originally, the administration's Everglades legislative proposal deviated substantially from Corps of Engineers and Environmental and Public Works Committee policies for other water resources projects, and would have set precedents which would have been very damaging to preserving effective Congressional oversight of the Corps of Engineers program. Our goal was to hold the Everglades project to the same standards that apply to other projects. This is really important.

We have accomplished a great deal in meeting this objective. I would just like to mention a few of them to give comfort to my colleagues.

First, we have reduced the level of programmatic authority for restoration projects that can be accomplished without congressional review. That is very, very important. The levels we have set are applicable to other parts of the Corps program.

We have required that two primarily land acquisition projects have been

earmarked to be accomplished under other programs. That was in this. We are saying, No. Those will be done someplace else.

We have expressed concerns about advanced wastewater treatment and indicated that more effective ways of providing additional water must be explored.

We have eliminated the provision that would have allowed reimbursement to the State of Florida for the Federal share of work accomplished by the State. However, we have retained the ability of the State to receive credit for work in-kind for up to 50 percent of the work but only as this work is accomplished proportionate to Federal expenditures based on appropriations. In other words, they cannot move ahead of Federal appropriations.

We have added an incentive to encourage the completion of the modified water deliveries to the Everglades project which is essential to many aspects of Everglades restoration.

I think our most important accomplishment was in assuming that individual Everglades projects receive the same level of congressional review as other water resources projects. The administration recommended 10 projects for authorization at a total cost of $1.1 billion without a traditional feasibility report level of detail and without individual project justification.

These projects would have been authorized without congressional review of the detailed information normally associated with a Corps feasibility report and required of every other large Corps of Engineers project as a condition of authorization.

I am pleased to have been able to add a requirement to the Everglades section of the bill that no appropriation shall be made to construct any of the 10 projects until the Secretary submits the Project Implementation Report on the individual projects. Such reports will be presented to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and each committee will be able to approve the projects by resolution.

This assures that the Everglades projects will get a similar level of congressional oversight as other Corps projects.

I believe we have accomplished a great deal in making this Everglades Plan acceptable to all parties. The only question I have is the question of the operation and maintenance costs. I will be discussing that later in an amendment.

As a final item, let me turn to the redevelopment of the former Homestead Air Force Base and its relationship to the Comprehensive Everglades Restoration Plan.

In December of 1999, the U.S. Air Force and the Federal Aviation Administration released a draft supplemental environmental impact statement, EIS on the disposal of 1,632 acres of the former Homestead Air Force Base. About 870 acres of the Homestead Air Force Base has been retained as the Homestead Air Reserve Station.

This draft supplemental EIS presents as its proposed action the redevelopment of portions of the Homestead Air Force Base as a regional airport with a projected 150,000 annual air operations by 2015, and an estimated 231,000 air operations at maximum use. As a point of comparison, Reagan National Airport has about 300,000 air operations and Miami International Airport has over 500,000 air operations.

The draft supplemental EIS presents three mixed use development plans and a commercial spaceport as alternatives to the regional airport. The draft supplemental EIS was circulated for public comment in December 1999. The Air Force is currently evaluating the comments on the EIS and plans to make a final decision on conveying the property later this year.

If we look at this map, here is the Homestead Air Force Base in Homestead, FL. Ten miles away is the Everglades National Park, 2 miles away from that is Biscayne National Park, and about 10 miles away is the National Marine Sanctuary. This is the Everglades project. We can see that the use of this base will have a large impact on this very fragile area of Florida we are trying to restore.

I agree with the assessment of the Natural Resources Defense Council and eight other national and local environmental groups, that the information generated in preparing the draft supplemental EIS does not support the proposed action of regional airport development.

This information reinforces what common sense would dictate: the Homestead base is an inappropriate site for the proposed commercial airport. Indeed airport development would have a number of different adverse impacts:

It would significantly increase the noise in Everglades and Biscayne Parks, potentially affecting wildlife and detracting from the experience of visitors. At places within Everglades Park, the amount of time that aircraft noise would be above the ambient sound levels would increase more than two hours. Portions of Biscayne Park would experience similar increases up to 2 hours.

The proposed airport would be an air pollution source equivalent to a large power plant, with increases of emissions to about 392 tons per year in nitrogen oxides by 2015.

The secondary and cumulative impacts of commercial airport development would result in residential and commercial growth in the surrounding area that would frustrate planned Everglades restoration activities, specifically, the Biscayne Coastal Wetland feature of the Comprehensive Everglades Restoration Plan.

Private environmental groups are not alone in raising objections to the commercial airport development. Federal and State environmental agencies have also raised strong objections.

The Department of the Interior, commenting on the EIS, indicated that the development of a commercial airport near Biscayne and Everglades National Parks could have a series of negative consequences on these nationally and internationally recognized resources including significant noise impacts, increased contaminants in Biscayne Bay and impacts on the Comprehensive Everglades Restoration Plan. Secretary of the Interior Bruce Babbitt also has publicly expressed his personal opposition to the airport development.

The Environmental Protection Agency has serious environmental objections to the airport proposal.

The National Marine Fisheries Service does not recommend the commercial airport development because of the loss of buffer areas between the airport and Biscayne Bay.

The Florida Department of Environmental Protection is opposed to this development. They say it poses a threat to the protected terrestrial and marine environment within the Florida Keys' Area of Critical State Concern.

The South Florida Water Management District is concerned about the impacts of off-site growth generated by the airport redevelopment plan on 40,000 acres of wetlands owned and managed by the Management District.

I recognize the argument that the City of Homestead has made regarding the economic boost that the airport would provide to the city and surrounding area. When I was a member of the Ohio legislature, these same kinds of economic arguments were advanced in pressing for my support of oil and gas exploration leases in Lake Erie.

However, I believed that the environmental health of Lake Erie was more important in the long run to the economic health of Ohio than the short term revenue from oil and gas exploration.

I believe the same is true of redevelopment of Homestead Air Force Base. The environmental health of Biscayne Bay, the Everglades National Park and the Florida Keys are much more important to the long term economic future of Homestead than any airport proposal. There are alternative uses of the base property that are compatible with South Florida environmental restoration—uses that would also make significant contributions to the economy of the region.

Clearly if it was my decision to make, I would not redevelop the Homestead Air Force Base as a commercial airport. We are approving a Comprehensive Everglades Restoration Plan which will involve Federal and State expenditures of $7.8 billion. I believe it would be irresponsible to approve an investment of billions of dollars in the restoration of the south Florida ecosystem, while at the same time ignoring a re-use plan for Homestead Air Force Base that is incompatible with the restoration objectives.

My preference would have been to elevate the decision on Homestead redevelopment from the Secretary of the Air Force to the Secretary of Defense to make the decision in conjunction with the Department of Interior, the EPA, and the Department of Commerce.

This approach was not acceptable because of perceptions that it would interfere with the process and cause a delay in the decision. I have agreed instead—and it is in this bill—to a sense-of-the-Senate provision that conveys the concern of the Senate about potential adverse impacts of Homestead redevelopment and about the need for consistency in redevelopment and restoration goals. This approach was endorsed by environmental interests, and it is my hope that it will make a difference in the ultimate decision on Homestead.

I know that through all of this I have been sometimes categorized as an opponent of Everglades Restoration. Nothing could be further from the truth. I believe my efforts have helped assure that this effort can move forward. I look forward to passage of WRDA 2000 and the opportunity to get started on the Comprehensive Everglades Restoration Plan and the other critical water resources projects contained in the bill.

I thank the Chair and I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I recognize that the senior Senator from Massachusetts is going to address the Senate for about an hour. It is my understanding, with his courtesy, that he will allow the Senator from Virginia to send to the desk an amendment and ask for its consideration, with the understanding that it will be laid aside for such period of time as the senior Senator from Massachusetts desires. Am I correct in that?

Mr. KENNEDY. The Senator is correct.

Mr. WARNER. I thank my good friend and colleague, the senior Senator from Massachusetts.

I send to the desk, on behalf of myself and my colleague Senator VOINOVICH, an amendment. In two or three sentences, the amendment simply does the following: Since 1986, the Senate has operated under a law whereby projects built by the Corps of Engineers, pursuant to the process of authorizing projects, are then, upon completion, carried by the States—the financial burden of the operation and maintenance of those projects.

The current legislation along the Everglades—and I am going to vote for the Everglades provision—changes that law by virtue of setting a precedent whereby the Federal taxpayer will pay half the cost of operation and maintenance for the life of the project.

Now, with due respect to my distinguished chairman and good friend, Senator SMITH, and others, who have written this legislation, I cannot understand any valid reason for changing a law that has been in effect for 14 years and served this Nation so well for this single project. My colleague from Ohio shares these concerns. That is the purpose of this amendment—to strike only a few words, providing the exception for this particular Florida project, and saying the Florida project will be treated just as all the other projects that have been authorized by the Congress in the past 14 years and presumably in the future.

I yield the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Massachusetts is recognized.

Mr. KENNEDY. I understand that under the agreement I have up to an hour, is that correct?

The PRESIDING OFFICER. The Senator is correct.

ISSUES THE SENATE SHOULD CONSIDER

Mr. KENNEDY. Mr. President, this afternoon we are considering legislation on the preservation of our water resources. That is an important issue and it should be debated, but in the short time remaining in this session, we also must answer the call of the American people for real action on key issues of main concern to working families. We still must raise the minimum wage. We must pass a Patients' Bill of Rights—a real Patients' Bill of Rights. We must enact a prescription drug benefit as a part of Medicare. We must invest in education in ways to make a real difference to our children. We must strengthen our laws against hate crimes. We must adopt sensible gun control to keep our communities and our schools safe.

But the Congress has done little more than pay lip service to these concerns of working families. In fact, this year, we have done little work at all. By the time this Congress is scheduled to adjourn only 2 weeks from now, the Senate will have met for only 115 days. That is the lowest number since 1956. It is only 2 days shy of the record set by the famous do-nothing Congress in 1948.

We know what the Senate leader has said about how he wanted to spend the last few weeks of this Congress, and that we would work day and night to get the business done. We were supposed to work on legislation by day and on appropriations bills by night. Specifically, Senator LOTT said, on September 6:

> We will focus the greatest time commitment on four other priorities. The four worthy are the permanent trade relations with China, completion of the 11 remaining appropriations bills for the fiscal year that begins October 1, raising the annual limits for protected savings in 401(k), individual retirement accounts, and the elimination of some unfair taxes like the telephone tax.

In a letter to GOP Senators, Senator LOTT wrote:

> The Senate will focus on the completion of the remaining appropriations, the China trade bill, and on the votes to override the President's vetoes of our bipartisan bills to end the marriage penalty and the death tax.

There was no mention of key priorities such as prescription drugs, Patients' Bill of Rights, or the minimum wage.

Senator LOTT said:

> When we return to session after Labor Day, there will be long days, but we will do our best to keep Senators advised, after communicating with leadership on both sides of the aisle, on what the schedule will be.

The Senate is still waiting for an answer to our unmet priorities, and so are the American people.

H–1B HIGH-TECH LEGISLATION

Mr. President, I'm pleased that the Senate is finally taking steps to debate and vote on the H–1B high tech visa legislation. Our nation's economy is experiencing a time of unprecedented growth and prosperity. The strong economic growth can, in large measure, be traced to the vitality of the highly competitive and rapidly growing high technology industry.

I'm proud to say that Massachusetts is leading the nation in the new high tech economy, according to a recent study by the Progressive Policy Institute. Thanks to our world-class universities and research facilities, Massachusetts is a pioneer in the global economy of the information age. We are home to nearly 3,000 information technology companies, employing 170,000 people, and generating $8 billion in annual revenues.

With such rapid change, the nation is stretched thin to support these new businesses and their opportunities for growth. Nationally, the demand for employees with training in computer science, electrical engineering, software, and communications is very high.

In 1998, in an effort to find a stop-gap solution to this labor shortage, we enacted the American Competitiveness and Workforce Improvement Act, which increased the number of temporary visas available to skilled foreign workers. Despite the availability of additional H–1B visas, we have reached the cap before the end of the year in the last two fiscal years.

We need to be responsive to the nation's need for high tech workers. We know that unless we take steps now to address this growing workforce gap, America's technological and economic leadership will be jeopardized. I believe that the H–1B visa cap should be increased, but in a way that better addresses the fundamental needs of the American economy. Raising the cap without addressing our long-term labor needs would be a serious mistake. We cannot count on foreign sources of labor as a long-term solution.

These are solid, middle class jobs that Americans deserve under the H–1B program. The median salary for H–1B high tech workers is $45,000. Approximately 57 percent of H–1B workers have earned only a bachelor's degree. More than half of these workers will be

employed as computer programmers and systems analysts. These are not highly specialized jobs. They do not require advanced degrees or years of training. American workers are the most productive workers in the world. It makes sense to demand that more of our workers be recruited and trained for these jobs.

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

Mr. KENNEDY. Yes, I am happy to yield.

Mr. DURBIN. Mr. President, I thank the Senator for the comments he is making. I ask him if he would draw a historical parallel to the situation we faced in the late fifties, when the Russians launched Sputnik and we, as a nation, decided to devote resources into a National Defense Education Act, so that we would have the scientists and engineers to be able to compete then with the Russians in the space race. President Kennedy followed on with our exploration into space.

Aren't we facing a similar challenge today regarding whether we will be able to compete in the 21st century with the scientists and engineers and skilled employees with all the other nations competing for the very best jobs?

Mr. KENNEDY. The Senator is exactly right. That is why, when we do have the measure before us, we will offer amendments to try to develop the support in the Senate, and also in the House, for the funding of a program that will help ensure that this deficit, in terms of the highly skilled who are being addressed by the H–1B visa, will be eased. We will utilize very effective services. For example, the National Science Foundation, which has a good deal of skill and understanding and awareness in giving focus and attention to encouraging highly specialized vocations and support for these types of programs.

We will welcome the opportunity to join with my friend from Illinois in bringing this to the attention of the Senate when we actually have the measure before us. We are very hopeful that we will have the opportunity to address it and not have steps taken in the Senate that will foreclose both the debate and discussion on this issue.

The fact is that the great majority of these H–1B jobs have good, middle-income salaries, and they are the kinds of jobs that would benefit any family in America. For a number of reasons, which I think many of us are familiar with, we have not developed the kinds of training programs and support programs for the development of the skills in these areas that we need. But the question that will be before us is, Should we throw up our hands and say we won't do that and we will depend upon a foreign supply of these workers in the future?

I think not. I think we should take the steps now to make sure this provision actually becomes an anachronism.

Perhaps we will also need opportunities for those who have the very highly specialized skills to come here and to benefit and fit into some aspect of either industry or academia. We ought to recognize that. But to rely on the kind of jobs where only 57 percent of H–1Bs earned a bachelor's degree and the average income is only $45,000—this is a long way from those. I think most Members of the Senate and I certainly think most Americans would say H–1B is a superscientist that is going to go to a very specialized company or that will generate thousands of jobs. That may be true for very few that are included. But the fact is, for the most part, these are the kinds of jobs that can be filled with American labor if they have the right kind of skills, and we ought to be able to develop that effort as we go into this program.

We also hear countless reports of age and race discrimination as rampant problems in the IT industry. The rate of unemployment for the average IT worker over age 40 is more than 5 times that of other workers. Just when we should be doing more to bring minorities into technology careers, we hear that organizations in Silicon Valley cannot get companies to recruit from minority colleges and universities, or hire skilled, educated minorities from neighboring Oakland. The number of women entering the IT field has also dramatically decreased since the mid-1980s. If the skill shortage is as dire as the IT industry reports, we can clearly do more to increase the number of minorities, women and older workers in the IT workforce.

Any credible legislative proposal to increase the number of foreign high tech workers available to American businesses must begin with the expansion of high-skill career training opportunities for American workers.

Now more than ever, employer demand for high-tech foreign workers shows that there is an even greater need to train American workers and prepare U.S. students for careers in information technology. As Chairman Alan Greenspan recently stated,

The rapidity of innovation and the unpredictability of the directions it may take imply a need for considerable investment in human capital . . . The pressure to enlarge the pool of skilled workers also requires that we strengthen the significant contributions of other types of training and educational programs, especially for those with lesser skills.

When we expanded the number of H–1B visas in 1998, we created a training initiative funded by a visa fee in recognition of the need to train and update the skills of members of our workforce. Today, as we seek to nearly double the number of high tech workers, we must ensure that legislation signed into law includes a significant expansion of career training and educational opportunities for American workers and students.

I propose that we build on the priorities in current H–1B law. The Department of Labor, in consultation with the Department of Commerce, will provide grants to local workforce investment boards in areas with substantial shortages of high tech workers. Grants will be awarded on a competitive basis for innovative high tech training proposals developed by workforce boards collaboratively with area employers, unions, and higher education institutions. Annually, this program will provide state-of-the-art high tech training for approximately 50,000 workers in primarily high tech, information technology, and biotechnology skills.

More than ever, today's jobs require advanced degrees, especially in math, science, engineering, and computer sciences. We must encourage students, including minorities to pursue degrees in these fields. We must also increase scholarship opportunities for talented minority and low-income students whose families cannot afford today's tuition costs. We must also expand the National Science Foundation's merit-based, competitive grants to partnership programs with an educational mission. Equally important, closing the digital divide must be a part of our effort to meet the growing demand for high skilled workers.

The only effective way for Congress to responsibly ensure more high skill training and scholarships for students is to increase the H–1B visa user fees. High tech companies are producing record profits. They can afford to pay a higher application fee. According to public financial information, for the top twenty companies that received the most H–1B workers this year, a $2,000 fee would cost between .002% and .5% of their net worth. A $1,000 fee would cost them very little. Immigrant families with very modest incomes were able to pay a $1,000 fee to allow family members to obtain green cards.

The H–1B debate should not focus solely on the number of visas available to skilled workers. It should also deal with the professional credentials of the workers being admitted. It makes sense to expand the number of H–1B visas to fill the shortage of masters and doctoral level professionals with specialized skills that cannot be easily and quickly produced domestically. We should insist that a significant percentage of the H–1B visa cap be carved out and reserved for individuals with masters or higher degrees.

In the days to come, we will have the opportunity to debate these issues and pass legislation that meets the needs of the high technology industry by raising the visa cap and also by ensuring state-of-the-art skills training for American workers. Clearly, however, the immigration agenda is not just an H–1B high-tech visa agenda. Congress also has a responsibility to deal with the critical issues facing Latino and other immigrant families in our country. To meet the needs of these immigrants, my colleagues and I have introduced the Latino and Immigrant Fairness Act.

The immigrants who will benefit from this legislation should have received permanent status from the INS long ago. These issues are not new to Congress. The Latino community has been seeking legislation to resolve these issues for many years. The immigrant community—particularly the Latino community—has waited far too long for the fundamental fairness that this legislation will provide.

This measure is also critical for businesses. All sectors of the economy are experiencing unprecedented economic growth, but this growth cannot be sustained without additional workers. With unemployment levels at 4 percent or even lower, many businesses find themselves unable to fill job openings. The shortages of highly skilled, semi-skilled and low-skilled workers are becoming a serious impediment to continuing growth.

Information technology companies are not the only firms urging Congress to provide additional workers. An equally important voice is that of the Essential Worker Immigration Coalition, a consortium of businesses and trade associations, and other organizations, including the U.S. Chamber of Commerce, health care and home care associations, hotel, motel, restaurant and tourism associations, manufacturing and retail concerns, and the construction and transportation industries.

These key industries have added their voices to the broad coalition of business, labor, religious, Latino and other immigrant organizations in support of the Latino and Immigrant Fairness Act. Conservative supporters of the Act include Americans for Tax Reform and Empower America. Labor supporters include the AFL-CIO, the Union of Neeletrades and Industrial Textile Employees, and the Service Employees International Union.

All of the major Latino organizations support the bill, including the Mexican American Legal Defense and Educational Fund, the National Council of La Raza, the League of United Latin American Citizens, and the National Association of Latino Elected and Appointed Officials. Religious organizations include a broad array of American Jewish groups, the U.S. Catholic Conference, and Lutheran Immigration and Refugee Services.

The Latino and Immigrant Fairness Act includes parity for Central Americans and Haitians. In 1997, Congress enacted the Nicaraguan Adjustment and Central American Relief Act, which granted permanent residence to Nicaraguans and Cubans who had fled their repressive governments. The act provided other similarly situated Central Americans and Haitians with the opportunity to apply for green cards under more difficult and narrower standards and more cumbersome procedures.

It is unfair not to provide the same relief for all immigrants seeking safe haven in the United States. Fairness requires that we address this grave injustice. As Congresswoman CARRIE MEEK said on the floor of the House of Representatives ''Nicaraguans, Cubans, Guatemalans, and Salvadorans . . . live next door to each other in some of our communities [but] one will get a green card and the others cannot. One could seek citizenship after 4 to 5 years; the others cannot. Is that fair? My answer is no, it is not fair.''

Senator MACK, Senator ABRAHAM, and others said, ''Last year, we adopted legislation to protect Nicaraguans and Cubans. But Haitians were unfairly excluded from that bill. The time has come for Congress to end the bigotry. We must remedy this flagrant omission and add Haitians to the list of deserving refugees.''

There it is, Mr. President, those who have reasonable access: Cubans and Nicaraguans; those who have unreasonable access, Salvadorans, Guatemalans, Haitians, Hondurans, and immigrants from Eastern European countries. We have the support from the Chamber of Commerce and from the AFL–CIO to bring this in. With H–1B legislation we are looking out for the high tech industry; why not look out for other industries, as well? We had a strong indication of support by two Republican Senators last year when this was passed. Yet we are being denied the opportunity by the Republican leadership to bring this matter before the Senate. We are being denied the opportunity by the Republican leadership to have a vote on it. We will agree to a time limit. They are denying even the chance to bring it up. That is wrong. That is unfair. It is unjust.

We are going to do everything we possibly can to remedy that through other parliamentary means. The idea that we are bringing up one particular proposal to look at high tech—and I am all for those provisions, and stated my support for them—and saying we should be able to deal with this issue and expand the job opportunities for other Americans, while on the other hand, saying absolutely no, we are going to set up a parliamentary situation where we are absolutely denied the opportunity to bring that up. It is supported by the religious and business communities, and has had the support of Republican Senators, but we are being denied the opportunity to bring it to the floor for a vote. It is wrong. It is unfair. The American people ought to understand it.

Not only are we failing to deal with some of the key issues which are at the heart of the American families' concerns, but we are refusing to be fair on this issue with regard to the Latino and Immigrant Fairness provisions. The Latino and Immigrant Fairness Act will create a fair and uniform set of procedures for all the immigrants from the region who have been in this country since 1995.

It is important to remember the recent history of why people in Central America and Haiti fled from their homes. In Guatemala, hundreds of so-called ''extra-judicial'' killings occurred every year between 1990 and 1995. Entire villages ''disappeared.'' Most of the villages were probably massacred. In El Salvador, an end to 12 years of civil war has not meant an end to violent internal strife. Ironically, the death toll in 1994 was higher than during the war. In Honduras, the Department of State's Human Rights Report cites ''serious problems,'' including extra-judicial killings, beatings and a civilian and military elite that has long operated with impunity. Haiti has been ruled by dictators for decades. In September 1991, Haiti's first democratically-elected government was overthrown in a violent military coup that was responsible for thousands of extra-judicial killings over a three-year period.

The idea that we have discriminatory provisions in our immigration laws is nothing new. I remember in 1965 when we passed the Immigration Act, which eliminated the Asian Pacific triangle, a provision that went back to the old Yellow Peril days. In 1965, we permitted only 125 Asians to come into the United States. We effectively excluded Asians from their ability to immigrate here. We gave preferences to others. Who did we give preference to? To those who qualified under the national origin quota system that was based upon the ethnic requirements.

The immigration laws in our country historically have been filled with these inequities, and we have been battling to try and make them fair and just. Now we are refusing to eliminate one of the most glaring discriminatory aspects that has ever existed in our immigration laws, and we are being denied that opportunity on the floor of the Senate by the Republican leadership. That is fundamentally wrong.

Providing parity for immigrants from countries in Central America and Haiti will help individuals such as Ericka and her family. In 1986, when Guatemala was in the midst of a civil war, Ericka's father was abducted and disappeared. He is presumed dead. The rest of the family fled to the United States for safety. When Ericka joined her mother in 1993, she was a minor and could be included in the family's asylum application. Her family now qualifies for permanent residence under NACARA. However, because Ericka is 21, she no longer qualifies under this law and will therefore remain in legal limbo—or worse, be deported back to Guatemala.

This is happening every single day. She lives in fear of being sent back to the country where her father was killed. Her life here is in limbo. She graduated from high school and has dreams of going on to college. But without permanent residence, she cannot qualify for scholarships. Passage of the Latino and Immigrant Fairness Act will enable her to remain in the United States with her family and continue her education.

The Latino and Immigrant Fairness Act will also provide long overdue relief to immigrants, who because of bureaucratic mistakes, were prevented from receiving green cards long ago. That is one aspect of the bill. Listen to this and wonder why we can't address this aspect of the law.

In 1986, Congress passed the Immigration Reform and Control Act, called IRCA, which included legalization for persons who could demonstrate that they had been present illegally in the United States since before 1982. There is a one-year period to file. However, INS misinterpreted the provisions in IRCA, and thousands of otherwise qualified immigrants were denied the opportunity to make timely applications.

Several successful class action lawsuits were filed on behalf of individuals who were harmed by these INS misinterpretations of law. The courts required the INS to accept filings for these individuals. One court decision stated:

> The evidence is clear that the INS' . . . regulations deterred many aliens who would otherwise qualify for legalization from applying.

They went to court. The court found for them. We are talking about 300,000 individuals. The court found for them and said: You are qualified, you got misinformation from the agency that was supposed to administer this. We apologize. Go ahead and apply.

Then what happened? The ink was not even dry and in 1996, the immigration law stripped the courts of the jurisdiction. The Attorney General ruled that the law superseded the court cases. As a result of these actions, this group of immigrants have been in legal limbo and fighting government bureaucracy over 14 years.

We are denying them the opportunity to make the adjustment of their status. Our bill will alleviate this problem by allowing all individuals who have resided in the United States prior to 1986 to obtain permanent residency, including those who were denied legalization because of INS' misinterpretation, or who were turned away by the INS before applying.

Consider Maria. Maria, who came to the United States 18 years ago, has been living in legal limbo with temporary permission to work, while courts determine whether she should have received permanent residence under the 1986 legalization law. Maria now has a U.S. citizen son who suffers from a rare bone disease that confines him to a wheel chair. As a result of the changes in the 1996 immigration law, Maria has now lost her work permit. Her father recently passed away in El Salvador, but her tenuous legal status did not permit her to return there to pay her last respects. All Maria wants to do is legalize her status and continue to work legally to support her family and pay her son's medical bills. Without the passage of this legislation, Maria faces an uncertain future.

This bill will also restore section 245(i), a vital provision of the immigration law that permitted immigrants about to become permanent residents to apply for green cards while still in the U.S. for a $1,000 fee, rather than returning to their home countries to apply.

Section 245(i) was pro-family, pro-business, fiscally prudent, and a matter of common sense. Under it, immigrants with close family members in the U.S. are able to remain here with their families while applying for legal permanent residence. The section also allows businesses to retain valuable employees, while providing INS with millions of dollars in annual revenue, at no cost to taxpayers. Restoring Section 245(i) will keep thousands of immigrants from being separated from their families and jobs for as long as ten years.

America has historically been open and welcoming to immigrant populations seeking to build new lives, free from the fear of persecution and tyranny. The Latino and Immigrant Fairness Act builds on that tradition, by restoring fairness to the immigrant community and fairness in the American legislative process. This legislation will regularize the status of thousands of workers already in the U.S., authorize them to work —that is what this is all about, obtaining a Green Card so they can work, pay taxes—and create a policy that is good for families and good for this country. It will correct past government mistakes and misdeeds that have kept hard-working immigrant families in bureaucratic limbo for far too long.

This is legislation that cannot wait. Families are being torn apart because we have failed to take the necessary steps to pass the Latino and Immigrant Fairness Act. Before the August recess, Democrats attempted to bring this legislation before the Senate, but the Republican leadership objected. Just last week, Democrats were prepared to debate and vote on this legislation as part of the high-tech visa bill, but our Republican colleagues were unwilling to bring this measure to the floor and take a vote. They prefer to talk about their support for the Latino community, rather than take tangible steps to benefit immigrant workers and their families.

Few days remain in this Congress, but we are committed to doing all we can to see that this legislation becomes law this year. Passage of this bill will be a victory for all who believe in justice, fairness, and the American dream.

There may be individuals who want to take issue with those observations I have made. We would be glad to debate them. We had, under the Democratic leader's proposal, indicated a willingness to limit amendments to, I believe, five amendments and to have short time agreements on all of those. We could have disposed of this whole legislation and done it in a way that would have expressed the will of the Senate. Instead, we are spending all week on it. We are spending virtually the whole week. With 3 weeks left, we are spending a whole week on this legislation and are still failing to deal with the fundamental issues of fairness which are within the legislation, although we will have an opportunity to deal with it, and that is the Latino and Immigrant Fairness Act.

I hope we will have that chance. I am confident Senator DASCHLE will give us that opportunity. We look forward to debating these issues. But we ought to be able to do that in the sunshine on the open floor of the Senate. Maybe there are those who differ, who believe this is not an issue of fairness. Maybe there are those who say we ought to have a dual standard, one standard for the high-tech industry and a different standard for those who basically track their heritage to Spanish tradition.

I cannot speak about what the reservation is, but I fail to be persuaded by any of the arguments I have seen so far about why we should not have fairness, the Latino and Immigrant Fairness Act, as we are having fairness in the H–1B. Maybe there are those who will want to engage in that discussion and debate. I will look forward to participating in that as well.

Mr. President, I wanted to take a few moments now of the remaining time—I will only take 15 more minutes.

In addition, I want to mention briefly my sense of what, we ought to be addressing in the Senate. We are constantly reminded that we do not set the agenda, that it is the other side that sets the agenda. We have certainly learned that over the period of this year. But we want to let the millions of Americans who are out there, who care about these issues, know that there are Members in the Senate who are deeply committed to these areas of public policy and who want to take action and think action can be taken in the areas of education, education reform; in the area of prescription drug and prescription drug reform; in the area of patients' rights and patients' rights reform. I spoke yesterday about the importance of the minimum wage.

On the issues of education, what is of enormous concern to me is—I read earlier, into the RECORD, what was going to be the calendar established by the Republican leader. But I also want to read this, so we have a good idea of what the Republican leader has said on other occasions about education. This is the majority leader's promises on education.

On January 6, 1999:

> Education is going to be a central issue this year. . . . For starters, we must reauthorize the Elementary and Secondary Education Act. That is important.

It is important for this reason: This will be the first time in 35 years—the first time in 35 years, if we do not reauthorize the Elementary and Secondary Education Act, that we have failed to do so.

Maybe there is a good reason for that. Maybe there are other higher priorities. But when the Senate spends 16

days debating the issue of bankruptcy, with 55 amendments, and then has a 6-day debate on education, and of the seven rollcall votes, three of them were virtually unanimous—we have not had the real debate and discussion the American people want.

Nonetheless, we have these promises, promises on education. This is what was said:

Remarks to U.S. Conference of Mayors Luncheon, January 29, 1999—But education is going to have a lot of attention, and it's not going to just be words. . . .

Press conference, June 22, 1999—Education is number one on the agenda for Republicans in the Congress this year.

Remarks to U.S. Chamber of Commerce, February 1, 2000—We're going to work very hard on education. I have emphasized that every year I've been majority leader. . . . And Republicans are committed to doing that.

Speech to the National Conference of State Legislatures, February 3, 2000—We must reauthorize the Elementary and Secondary Education Act. . . . Education will be a high priority in this Congress.

Congress Daily, April 20, 2000—. . . Lott said last week his top priorities in May include an agriculture sanctions bill, Elementary and Secondary Education Act reauthorization, and passage of four appropriations bills.

Senate, May 1, 2000—This is very important legislation. I hope we can debate it seriously and have amendments in the education area. Let's talk education.

Press Stakeout, May 2, 2000—

Question: Senator, on ESEA, have you scheduled a cloture vote on that?

Senator Lott. No, I haven't scheduled a cloture vote. . . . But education is number one in the minds of the American people all across this country and every state, including my own state. For us to have a good healthy, and even a protracted debate and amendments on education I think is the way to go.

Senate, May 9, 2000—

Senator Kennedy: As I understand, . . . we will have an opportunity to come back to [ESEA] next week. Is that the leader's plan?

Senator Lott: That is my hope and intent.

Then on July 10:

I, too, would very much like to see us complete the Elementary and Secondary Education Act. I feel very strongly about getting it done. We can work day and night for the next 3 weeks.

Then finally, July 25:

We will keep trying to find a way to get back to the legislation and get it completed.

The reason we are not having a debate is because the majority thought there might be an amendment dealing with limiting the opportunity for children to obtain guns in school areas. That kind of outrageous question, about whether we were going to try to make our schools safer and more secure, once that was even mentioned, the word went out and we effectively found there was not going to be any more debate and discussion.

However, in 1994, under Republican leadership, the Republican leader actually cosponsored a weapons amendment. At that time, no one on that side of the aisle said: Oh, no, we are not going to consider it. That is not relevant to education. We want to make sure we are not only going to have smaller class sizes, better trained teachers, afterschool programs, modernization of schools, more technology available, greater accountability, preschool help and assistance for our children, but we want our children to be safe and we want them to be secure.

I think parents understand that and support it.

We are denied the opportunity to even vote on that. It used to be around here, years ago in the Senate—and also not that long ago—when people had differences, you settled them through debates and by votes. Now you settle them by not even bringing them up.

That is where we are: Nowhere, on the issues of education.

This is in spite of the fact we know that student enrollment will continue to rise in the foreseeable future. According to the U.S. Department of Education's 2000 Baby Boom Echo Report, between 1990 and the year 2000, growth in the K–12 student population has gone up by 6.6 million students, from 46.4 million to 53 million. And, even beyond the next ten years, the number of school-age children will continue to increase steadily. Between the year 2000 and the year 2100, the total will rise from 53 million to 94 million children, 41 million more children are going to be going to schools in this country.

Does anyone believe the education issue is going to go away? Does anyone think by not calling it up or giving it attention it is going to disappear? We used to debate these issues and then have resolution.

This is against the background that in more recent times, since 1980 to 1999, the Federal share of education funding has declined from 11 percent to 7.7 percent for elementary and secondary education, and 15 percent to 10 percent for higher education. I know there are Members who do not want any funding in elementary and secondary education.

I was here in 1994 when the new Republican leadership took over. The first thing they did was decrease funding for programs under the Elementary and Secondary Education Act. That was the first major debate. I know they have been in favor of abolishing the Department of Education. I am aware of that. Most parents think we ought to have a partnership and that we ought to move ahead.

I would like to mention just one other fact. More students today are taking advanced math and science courses. This is very encouraging since these rigorous classes provide the foundation that students need to acquire solid math knowledge. In precalculus, the percent who are taking advanced placement courses has increased from 31 percent to 44 percent; calculus, 19 percent to 24 percent; physics, 44 percent to 49 percent.

SAT math scores are the highest in 30 years. Modest, gains have been made, but the upward trend lines are very important, and they have consistently flowed upwards. This is important. We ought to be debating this. We ought to know what schools are doing to achieve that success. We ought to benefit from those schools' successes. We ought to give our support to those successful efforts. We ought to give flexibility to the local community to make sure their schools are successful.

Why can't we debate this? We have more children taking the SATs than have ever taken them before. All of these SAT math scores—for males and females—are following an upward trend.

But, our work is far from over. In spite of this promising news, the results so far are not enough. Now is not the time to be complacent. We still have enormous problems. We have them in my State and in many of our largest cities. In so many of these areas, we have teachers, parents, communities, business leaders, and workers who are prepared to do something. In my city of Boston, we had a net day. We were 48th out of 50 States in terms of access to the Internet. We had net days around our State. Now we are tenth, and it was all done voluntarily.

The IDEW in Boston laid 450 miles of cable and did it voluntarily. We had contributions from the software industries of tens of millions of dollars. Many helped the teachers in training programs. They were delighted to do it. They wanted to work on it. Things are happening. We are not saying we are the only solution, but what we are saying is let's find ways we can be supportive. We are not given that opportunity.

Finally, I want to mention two other areas. One is on the issue of the Patients' Bill of Rights. It has been just over a year since the House passed good Patients' Bill of Rights legislation—the bipartisan Norwood-Dingell bill. The Senate passed another bill that failed to meet these requirements.

I remind the American people, there is not a single medical organization that supports the Republican proposal. Not one. I have said that a dozen times. I have challenged the other side to come up with a single medical organization in this country that supports their proposal. There isn't any. Three hundred support ours. Every children's group, every women's group, every group representing the disabled, every medical group of every stripe has supported ours—North, South, East, and West. We still cannot get it. If the Republicans would let us vote on this again, we would have a majority of the Members of this body support the bipartisan proposal that passed the House of Representatives. The American people ought to know that the Senate leadership is keeping this bottled up.

This chart shows the particular protections and where they came from. I am not going to take the Senate's time now to read all of them. If one is looking at where these protections came from, access to emergency care was recommended by the Committee on the

Patient's Quality Commission, based of Democrats and Republicans. It was a unanimous recommendation. It is also from the insurance commissioners, the Association of Health Providers, plus it is already in Medicare. Every one of these protections has been out there one way or the other. We should be about the business of ensuring that the American people are going to get all the protections.

I see my good friend from the State of Florida who is doing such an important service to the Senate in bringing a historic perspective to the importance of a prescription drug bill, and the emotional and day-to-day reality that exists without these protections.

We still have a chance to vote on these issues. We have two different proposals that are basically before us. The one that Senator GRAHAM will introduce and support and that has broad support will ensure that individuals benefit from a prescription drug benefit program that lets doctors decide what is in their best interest. It can go into effect a year from now. That is enormously important.

The proposal that has been recommended on the other side consists of block grants that go to the States, in which 28 million American seniors will not participate because they will not be eligible. We will also have to wait until the money is actually appropriated by the Congress to those States.

States will need enabling legislation to provide those prescription drugs, and then sometime after 4 years, if there is a modernization program under Medicare, there can be a prescription drug benefit. If my colleagues want to take their chances and roll the dice, that is the way to go. If they want to have a dependable, reliable, stable, predictable benefit program, it should be under Medicare. The seniors understand that. They have confidence in it. They want it strengthened. We have a responsibility to do that. We can build on that program for a sound and effective future.

I will be glad to yield the remaining time to the Senator from Florida.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Massachusetts wanted to be notified when he had 15 minutes.

Mr. KENNEDY. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time? The Senator from Utah.

Mr. BENNETT. Mr. President, it is my understanding there is an hour reserved under the control of Senator THOMAS.

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. It is my understanding further, Mr. President, and I inform the Chair, that with Senator THOMAS' permission, I am here to claim that time. Is there objection to my doing that?

The PRESIDING OFFICER (Mr. L. CHAFEE). Without objection, the Senator has the time.

Mr. BENNETT. Mr. President, I say to my friend from Florida, I want to respond briefly to the comments of the Senator from Massachusetts and then perhaps respond to the Senator from Florida.

The Senator from Massachusetts has touched a number of issues in this debate. I am not sure I can keep up with him in terms of the volume of subjects he has brought before us, but I will try to respond to some that I think need response.

I will start with the H–1B issue, which is the issue with which he started. He told us at great length how much he supports the H–1B program and described the high-tech activity in Massachusetts, his home State, which is dependent on our doing something about the H–1B problem. He did not tell us that he was one of two Senators—and there were only two—in the committee who voted against reporting out the H–1B visa bill about which we are talking. So it is clear his support is conditional on a number of things.

He outlined those on the floor. And he is certainly entitled to his conditions and to his attitude with respect to them. But I will point out a few things with respect to H–1B which those Senators who are primarily responsible to the AFL-CIO, in their political lives, do not seem to talk about.

We talk about jobs. The Senator from Massachusetts said: Many of the jobs for H–1B visas are filled by people who do not require very high academic standards, so those can be filled by Americans. We should only have the H–1B visas for people with master's degrees and doctorates. He talked about a screening program that would be set up by the Federal Government to determine, on the basis of academic credentials, who could get in and who could not get in on the H–1B system.

I spent a good portion of my life in the private sector. I found that experience to be tremendously valuable to me when I came to the Senate. At one point in my young life, I fantasized about the possibility of coming here as a very young Senator, taking a seat maybe in my thirties or even forties. Now I am very glad that I did not do that because that would have meant I would have spent all of that time in the governmental orbit and not learning some very fundamental lessons in the private community.

The first lesson I learned in the private community—and learned it again and again and again whenever the situation came up—was that the marketplace rules. I have said here before that if I could control what we carve in marble around here, along with the Latin phrases, which are inspiring and wonderful and historic, I would carve another slightly more practical phrase in marble, to keep it before us so we never forget it, and it would be: ''You cannot repeal the law of supply and demand.'' We try that every once in a while. We try to repeal the law of supply and demand with congressional mandates. This is what, frankly, the Senator from Massachusetts would be up to if he had his way on the H–1B visa issue.

Why is there an H–1B visa issue? Because there is a gap between supply and demand. It is as simple as that. There is an enormous demand for certain kinds of jobs in this country. Currently it is running somewhere between 350,000 and 400,000. That is the demand. For whatever reason, the American educational system cannot supply the workers to fill that demand. There is a pool of skilled workers who can fill that demand worldwide, and that pool of supply will meet that level of demand. The only question is: Where?

We held a high-tech summit in the Joint Economic Committee, of which the senior Senator from Massachusetts is a member. He came to that summit and heard the executives of the high-tech companies speak to us. I am not sure whether he was there when one particular statement was made, but it made a strong impression on my memory, and I would remind the Senator from Massachusetts, and others, of what one particular man said.

He said: ''Senators, understand, this work''—he was referring to the demand—''will be done by these people''—referring to the supply. ''The only question is, whether they will do it living in the United States or living abroad.''

In today's high-tech world, in today's world of the Internet, the job can be sent electronically to the worker living in India, or Pakistan, or some other country; and the results of the work can be sent electronically back to the corporate headquarters in Silicon Valley, or Route 128 in Massachusetts, or Utah Valley, or Salt Lake Valley, or the Dulles Corridor, or any other high-tech center you might want to identify.

I cannot understand why it is not recognized in this Chamber almost universally that it would be better for the United States to have highly skilled, highly motivated, immediately qualified individuals living in the United States, paying taxes in the United States, adding to the economic activity of the United States, while they do this work, instead of having them live abroad and paying their taxes and making their contributions to the economy of other countries.

Yet the restrictions that would be put on H–1B visas, primarily at the behest of the AFL-CIO, would have the effect of saying, you can't do this work in the United States. And to have the Government screen those who can get H–1B visas on the basis of the Government's criteria of what constitutes the appropriate educational level, is to deny clearly the impact of the market.

No one is going to hire someone on the basis of anything other than that person's ability to do the work. I do not want to say to Hewlett-Packard or Intel or Novell, or any other high-tech

company you can name: You can't hire this worker because we in the Government have decided that he does not have the appropriate educational credentials.

I want Hewlett-Packard to make that decision. They might not make it right. But it is the shareholders of Hewlett-Packard who pay the price if they make a mistake. That is the way the entire American economy has been built from the very beginning, and that is the way it will flourish in the future.

But no, we have from the Senator from Massachusetts an outline of the restrictions that the Government should put on the hiring practices of American companies. And we have from the Senator the statement that the Government should decide who is qualified to come in under an H–1B visa to fill one of these high-tech jobs.

Whenever the Government gets involved in trying to change the law of supply and demand, you get one of two things—I said this yesterday when we were in the debate on the minimum wage; I repeat it today—whenever the Government interferes with the law of supply and demand, you either get a shortage or you get a surplus.

Let me expand on that a little. As I reread my remarks from yesterday, I was not as clear as I usually like to be.

Right now, we have an example of the Government dictating how many foreign nationals can come in to work in the high-tech industry. They set the amount below that for which there is demand. What is the result? A shortage. Interfering with the law of supply and demand, the Government says, we will only allow this many, when, in fact, the requirement is for that many; and the result is we have a shortage of these workers.

A flip side of this, where surpluses are created, is where the Government sets a price higher than the market would. If I can go back historically to a time that is impressive to the Western U.S., the Government said: We will buy silver at a set price for our coinage. They set the price of silver higher than the market price. What happened? Everybody went out to find any kind of silver in their mountains, or any sort of mining operation, and the Government acquired a huge surplus of silver. The price was set higher than the market would set and it created a surplus.

In the case of skilled workers, the quantity is set lower than market demands, and we get a shortage.

So once again, engraved in marble on the walls: ''You cannot repeal the law of supply and demand''—and recognize that every time you try, all you do is create either an artificial surplus or an artificial shortage.

As I said, with respect to H–1B visas, the work will get done either in the United States or abroad; and it will get done by the same people either in the United States or abroad. The only question we have to ask ourselves is, Do we want the people who are doing this work, getting paid by American corporations, drawing salaries with which they support their families, to be living in the United States and spending those salaries in the United States, contributing to the tax base of the United States, adding to the economic benefits of the United States, or do we want them living abroad?

Obviously, the American companies that seek to hire these individuals want them here because it is more efficient for them to be here. It would mean higher costs for them if they had to do the work abroad, but they will absorb those higher costs because they have to do the work. If they don't, America will lose its technological lead. America will lose its edge over the rest of the world, and we will see the technology world begin to disappear.

We have recaptured it. There was a period of time when people said the future lies in Japan, that America's great day of technological advance is behind us, that the Japanese have taken over. I remember those debates. I remember those speeches. It is not true. There is no country in the world that is close to the United States in our technological edge.

But to maintain that technological edge, not rest on our oars and coast into the future, we have to have a skilled workforce that can keep things moving forward. It is not available in this country. We have to let those companies hire on a worldwide basis so that the edge can be maintained here.

People say, well, they are taking jobs from Americans. Again, Mr. President, the statistics are clear. There are 350,000 to 400,000 high-tech jobs going begging right now because there are not people qualified to fill them. Companies are paying bounties to their employees who bring in a potential employee. In many companies in Silicon Valley, an existing employee will be paid thousands of dollars if he can introduce another prospective employee to his company who gets hired. Bounties are being paid to find people with these skills so that the companies can maintain their technological skills.

It is not a matter of saying, well, there are Americans who will be shut out if the H–1B visa program passes. It is not a matter of saying there are American graduates from American universities who will be denied jobs if we let these other people in. No. It is a matter of jobs going begging, jobs that have to be performed if this country is to maintain its technological edge, people who are capable of filling those jobs being allowed to come into this country and perform them.

Now there is one other aspect to this that I will highlight and discuss. That is the importance of maintaining America's edge. I have referred to it already, but I want to expand on it a little bit.

It used to be that in the industrial age, when a company was established and momentum was created in the marketplace, you could expect the momentum of that company to carry it forward not only for years but probably for decades. In today's world, a technology company can disappear virtually overnight if somebody else gets the edge on them and produces something better quickly. The most important factor in today's economy is speed, the speed with which you get your product to market, the speed with which you move ahead of your competitor. That means, once again, qualified people. That means, once again, being able to fill those particular assignments.

Now the Senator from Massachusetts says, well, what we really need to do is spend money increasing training. We look at the bills that are before the Appropriations Committee, and there is an enormous amount of money being spent to increase training in the United States to try to close this educational gap. I would be more than thrilled if we could say that there were already 400,000 American graduates from American universities ready to fill these jobs, that we don't need any visas for high-tech people abroad.

One of the ironies of that, however, that applies to the H–1B visa issue, is this: a large percentage—indeed, in some universities it is close to 50 percent—of the high-tech graduates of these universities are foreign born. They hold foreign passports. We give them visas to come to this country to gain the best education that is available anywhere in the world in these high-tech skills. Then when they graduate, we say to them: Thank you very much; you cannot stay because we can't give you an H–1B visa.

The American taxpayers—in the State of Utah, it is my State taxpayers—are subsidizing those universities. Why? Because we want the product that comes out of them in the form of qualified graduates. So we have ourselves in the interesting and ironic situation of saying, because we believe in education, we will appropriate money for higher education on both a Federal and State level; because we believe in education, we will do everything to make the American university system the very best in the world, which it is; and because we believe in opportunity, we will allow students from all over the world to come to these schools.

But when they have been here and partaken of that tax subsidy and have obtained that education, we say to them: Now you can't work here. You have lived here for 4 years, 5 years, 6 years, with a graduate degree, maybe you have been here 7 or 8 years. You have become assimilated into American culture. You have become comfortable with hamburgers and pizza (which is more of an American food than it is Italian food, I have discovered). You feel comfortable in all of this. You are ready to find a job. You can't find a job in the hotbed of technological advancement, which is the United States of America. You have to go home. We won't give you an H–1B

visa after we have subsidized your education at taxpayer expense.

I have a hard time understanding how that makes any sense, that these students from our best universities, who have received the taxpayer subsidy giving them the best degrees, then have to leave because of the artificial barriers created by the attempt, once again, of Government to try to repeal the law of supply and demand.

When we talk about Americans filling these jobs, talk about graduates of American universities filling these jobs, let us understand that many of those graduates are themselves the very people who will benefit from the H–1B visa program that is included in this bill.

Now a few other comments, and then I will yield the floor.

I was interested to hear the Senator from Massachusetts talk about the fact that there are jobs going begging in this good economy and how difficult it is for employers to fill jobs. He was speaking at this time not about the H–1B visa and the high-tech kind of jobs, he was speaking about very ordinary jobs. He was speaking on behalf, he said, of immigrants who he wanted to come in to fill these jobs. He said these jobs are going begging and we need to pass his particular bill in order to make it possible for these immigrants to take these jobs.

I am not a member of the appropriate committee, so I cannot comment in detail on the bill he was pressing, but I would like to go back to our debate of yesterday when the senior Senator from Massachusetts was demanding that we raise the minimum wage. We have raised the minimum wage. We do that periodically. But he is demanding that we raise the minimum wage again.

To me, there is an interesting gap between the rhetoric of yesterday that says these people cannot support themselves on their wage and the Government must interfere, once again, with market forces that set their wages, to push those wages up, and then the rhetoric of today that says there are a bunch of low-level jobs going unfilled.

If the jobs are going unfilled, why is it? It is, once again, because there are not people qualified to take them. I told the Senate yesterday about the experience I have in my home State. When I talk to employers, they say their biggest problem is finding workers. They can't get anybody to fill the jobs.

I ask them: Do you offer more than the minimum wage?

The answer is always: Yes, we are offering more than the minimum wage.

The problem is not that the Government hasn't mandated a high enough wage in order for these people who are just subsisting at minimum wage to get by; the problem is they do not have the skills that will allow them to return enough value to the employer so they can command the jobs that are open in this economy.

The Senator from Massachusetts answered his rhetoric of yesterday with his rhetoric of today. I hope he can connect the two so that we can realize that the challenge for people who are living at poverty's edge, the working poor who are getting by on just the minimum wage, is not Government intervention to artificially demand that they be paid more and, thereby, in some cases, run the risk of being priced out of the market for the skills they have. The challenge is to see that their skills are improved. That is where training money should go. That is where many American corporations are spending their training money, and that is where the educational challenge becomes most obvious.

American corporations are spending billions of dollars to teach employees how to read and write. That is correct—billions of dollars to teach basic skills that should have been learned in public schools and were not.

Now we get to the next issue that the Senator from Massachusetts talked about in his presentation, which is education. I was lured back into public life by the issue of education. I was very happy being the CEO of a comfortable and profitable company.

I got a phone call one day saying: Would you be willing to serve as a member of the strategic planning commission for the Utah State Board of Education and address our education issue?

I said: Yes, that sounds like a proper kind of citizen thing to do.

Then I got a phone call a few days later and they said: By the way, we want you to be the chairman of that commission.

Thus, I found myself dragged in a little further and a little deeper than I had originally planned.

I immersed myself in education issues and came out of that experience absolutely convinced of several things:

No. 1, education is our No. 1 survival issue. Now that the Soviet Union is no more, nothing threatens the future of America, long term, so much as the educational challenge that we face. I am sure that the Senator from Massachusetts would agree with me on that.

No. 2, nothing is more high bound and determined not to change than the educational institution in this country. And we have seen that in the debate on this floor. We have seen that in the educational initiatives that have been offered on this floor. The Republicans have brought forth proposal after proposal after proposal that would bring fresh air, new opportunities, new experimentation into the educational establishment. Some of them passed, some of them were filibustered. Those that were passed were vetoed. And always we were told the solution to education is to put more money into the present system.

Now, there is a cliche that we have in the business world that says, ''If you want to keep getting the result you are getting, keep doing what you are doing.'' If we want to continue the educational crisis and challenge that we have in this country, then we should keep funding education as we are funding it. But when the Senator from Washington proposes allowing 10 States to experiment—if they want to—with a greater degree of local control over Federal dollars, we are told: No, that threatens public education as we know it. We can't do that. That is risky, that is dangerous.

We keep reminding our friends on the other side that if the State doesn't want to do that, they don't have to. We are not mandating this kind of change. We are just making it an opportunity. No, they filibuster against that. They say the President will veto that. They say we can't consider that.

I am not one of those who thinks that a voucher program constitutes a silver bullet that is going to solve every educational problem. I know some on my side of the aisle do believe that. I don't; I think there are serious problems with vouchers. But I am willing to experiment with them to find out whether or not in certain circumstances vouchers can help. I am willing to try and get a little data. The data we have with respect to vouchers is quite encouraging—sufficiently encouraging that Robert Reich, a former Secretary of Labor in the Clinton administration, a man not known for his right-wing proclivities, wrote a piece in the Wall Street Journal that said that the data is in and vouchers work. I was stunned when I read that. I thought, gee, the experiment is over and we know that it works. He had a most interesting, most creative kind of further proposal to test the implication of vouchers.

But, once again, we heard again and again: No, no, we can't experiment with that. It will threaten public education as we know it. And here are their key words, which test very well in a poll, and they work very well in a focus group: If you try the Republican experiment in education, you will drain money away from the public schools.

There is an answer to Robert Reich in the Wall Street Journal recently, where Governor Hunt says: No, no, no; you can't do this because what you are doing is taking money away from the public schools.

Well, Mr. President, as I say, I spent most of my life in the private sector. I think I understand money and the movement of money. This is the way I understand it. Let me walk through it and see if someone can help me realize how it takes money away from public schools to run one of these experiments.

Let's say that a school district is spending $7,000 per year on a child. There are many public school districts in this country that spend more than that. We happen to spend less than that in Utah for a variety of reasons. We spend considerably more than that here in the District of Columbia.

Let's take that as a number, for the sake of this illustration. The school district is spending $7,000 per child.

Along comes a Republican opportunity to try something with that child, and we follow the Robert Reich formula that says this is only with low-income children. We will not subsidize a Member of Congress who wants to send his children to private schools, as many Members of Congress have done—as the Vice President has done. No, we won't subsidize them. We will say that only low-income people who otherwise could not even conceive of going anyplace else will be eligible for this program. That is Robert Reich's proposal. OK. Let's take $5,000 and say to this child: You can take $5,000 and go someplace else.

As I say, in the private world where I have spent most of my time, $5,000 subtracted from $7,000 leaves $2,000. It seems to me that if you do that, you are saying to that school district you have an extra $2,000 per child for every child to whom you give a voucher, and you can use that $2,000 per child to spend on the children who stay. You can increase spending per child in the public school system if you adopt a voucher program such as the one Robert Reich has endorsed.

I do not ever hear that when we hear the rhetoric about education. You are taking money away from the public school system. In the aggregate, yes; you probably are. But we don't teach in the aggregate. We fund and we teach per child. If you are going to make your calculation on the basis of the amount of money available per child, you want as many children on vouchers as you can possibly get because you are going to make an extra $2,000 for every two grand on every one of them. That extra $2,000 is available for the kids who stay in the public system.

I would be very interested to have anyone on either side of the aisle explain to me why that math doesn't work. Explain to me why the reality of those numbers doesn't add up because they always add up every time I do the calculation. Every time I run through the examples, it always ends up being more money per student less in public education if you try one of these experiments.

I repeat again that I do not believe that vouchers represent a silver bullet. I have spent enough time examining them that I think there are some serious problems with them. I think it needs to be checked and rechecked. We need to be very careful before we endorse any kind of massive movement towards vouchers as some of my fellow Republicans have done.

But I ask those who do not even want to experiment: What are you afraid of finding? Are you afraid of finding that it might work? I am not afraid of finding that it fails. I am willing to admit that it was wrong, once we have some actual data. As I say, Robert Reich decided the data demonstrates that it works. The city of Milwaukee has been doing it longer than anyone else. They endorsed it and say it is working there. The driving force behind it was an inner-city black single mother named Polly Williams who serves as a liberal member of the Democratic State legislature. She says: The private system is failing my child. It is failing our children.

Interestingly, when you do the polls, support for this kind of experimentation is perhaps highest in the minority community—not the white, middle-class soccer moms in the school districts where the schools do a pretty good job, but in the inner-city minority schools where the children are being left behind,

Ultimately, this is the solution to the H–1B visa problem. It is fixing American education so that we have enough Americans to fill those 400,000 high-tech jobs. But it will not be done in the way that the Senator from Massachusetts wants to do it.

I repeat: If you want to keep getting the results you are getting, keep doing what you are doing. That is basically what he has offered us—keep putting more and more money into the present system, and don't even think about experimenting with it. When the Republicans say, let's try giving more control to the local school board, we are told, No. That would threaten the present system. When the Republicans say, let's experiment in the District of Columbia with some vouchers and see what happens, we are told, No. That would threaten the present system.

I believe we are trying to act responsibly with respect to the education situation. I am afraid there are some others who are trying to act politically and respond to the teachers union and other parts of the educational establishment for whom the only thing better than things the way they are is things the way they were. They don't want to try anything different. They don't want to experiment in the way the late Senator from Georgia tried—it was vetoed; the way the Senator from Washington tried, it was vetoed; the way Robert Reich suggested we try, and it was filibustered.

I think we should say to the Senator from Massachusetts: What are you afraid of? What are you afraid of in terms of experimentation? Don't filibuster; don't tell the President to veto. Let us have some of this experience, and then we will see if we can't move in the direction which will give us the graduates from American universities who will fill the 400,000 high-tech jobs.

One final comment: The Senator from Massachusetts talked at great length about problems with the INS and the problems with aliens here on an undocumented status who would like citizenship—that we must pass a law in order to solve their problems. Again, I am not a member of the committee, and I don't know the details of the law. I might very well end up in favor of it. But I would say this to the Senator from Massachusetts: If he makes a phone call to the White House, the chances are it will be returned more rapidly than if I do.

I will share with him my experience as a Senator, which I think is not atypical. We spend more time in our offices in Utah dealing with INS problems than any other single issue. More people come in with heartrending stories about their difficulty in dealing with the INS.

I have ridden along with the Salt Lake Police Department. They told me their No. 1 problem has to do with the INS and the way the INS handles undocumented aliens.

In the city of Salt Lake, 80 percent of our drug arrests and 50 percent of our murders are committed by undocumented aliens. They come across the border, go past the border States, and come into Utah where they think they are free from INS supervision because INS is located most heavily in the border States. And they have set up the drug turf wars. They control the drug traffic. They fight to protect their turf. The police tell me that 50 percent of the murders come from that.

Interestingly, once the cocaine is gone—they bring it with them—they will go back for more, and then come back again with another stash. Interestingly, the chief of police told me that for some reason there was a shortage of cocaine south of the border and that month all they had in Salt Lake was heroin. They brought a different drug with them, and they stayed until that shipment was gone. Then they went back and another group came—80 percent of the drug crimes; 50 percent of the murders.

Naturally, I spend time with the INS trying to get their assistance to deal with this. My point is this: If the Senator from Massachusetts is concerned about INS problems, he is not alone. But the problems, it appears to me, lie with the administration of the INS in this administration rather than with the underlying legislation that deals with it.

I was stunned to discover that there are people in my State who have been waiting for a green card so long that their 5-year visa opportunity will expire before they get it. And the answer as to why they are waiting so long has nothing to do with their qualifications but with the backlog that has been built up in the way the INS processes applications for green cards. We are not going to solve that problem by passing a visa piece of legislation that the Senator from Massachusetts wants.

But I think if he made a phone call to the President, if he made a phone call to the Attorney General, and he started with the same fervor and volume and excitement that he demonstrates from time to time on the Senate floor to berate them about the way the INS is administered and managed, those who need intelligent handling by the INS in my State would start to get some relief. I don't think they will get relief with the passage of this legislation. But I think they can get relief if we can get the attention of the INS, and the managers, the bureaucrats, the

political appointees—call them what you will—in the Clinton administration who have been handling this for the last 8 years.

I am one who would vote for increased appropriations for the INS if I were confident the management of that agency were capable of handling it because I recognize the seriousness of the problem. I see day to day, from the people who come into my office, how wrenching it is in terms of their relationship with their families, but this is something the executive branch should get together first and foremost before they come to the legislative branch for the passing of a piece of legislation that makes everybody feel good.

That is the best I can do on this short notice to respond to the issues the Senator from Massachusetts has raised. I enjoy the exchanges that seem to come about now as the Senator from Massachusetts, the Senator from Minnesota, the Senator from Illinois, and others repeatedly come to the floor to raise these issues. I and other Senators on this side will repeatedly come to the floor to respond. I am grateful to the Senator from Massachusetts for giving me the opportunity.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, my understanding is at this time the Senate will proceed with the matter before it relating to the Florida Everglades and the bill submitted by the distinguished chairman of the Environment and Public Works Committee; am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. The pending business is an amendment submitted by the Senator from Virginia with my principal cosponsor, the Senator from Ohio; is that correct?

The PRESIDING OFFICER. The amendment has not been recorded.

AMENDMENT NO. 4165

(Purpose: To require payment by non-Federal interests of certain operation and maintenance costs)

Mr. WARNER. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, and Mr. VOINOVICH and Mr. INHOFE, proposes an amendment numbered 4165.

The amendment is as follows:

On page 196, strike lines 1 through 7 and insert the following:

(4) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, replacement, and rehabilitation of projects and activities carried out under this section shall be consistent with section 528(e)(3) of the Water Resources Development Act of 1996 (110 Stat. 3770).

Mr. WARNER. Mr. President, I thank the clerk. I asked the amendment be read because this is a technical amendment. It clearly strikes the provision which, if left, changes the law that the Congress and the executive branch have operated under for 14 consecutive years. It changes it for this project, and it establishes a precedent that every Member of Congress in the future will have to grasp as he or she advocates their next project in their State. I think that is ill advised.

For 14 years, we have had a body of law that has served well regarding the most complicated and very expensive series of programs to take care of needed situations in our country—floods, saving lives, navigation, promoting commerce. We can go on and describe these many projects that each year the Congress considers working with the Corps of Engineers and the executive branch to obtain.

All of a sudden, we are going to quietly, with one short sentence, take off the law books the provision which has established that the States have the responsibility for operation and maintenance when these projects are completed with taxpayer money and some cost-sharing formula by the States. I think that is wrong. I see no justification.

I support this project. I will vote for it. It is a very important part of America. Indeed, it is shared, although in Florida the benefits are shared by all Americans. I point out regarding the Chesapeake Bay, for years I have advocated, with some success, and with the help of many colleagues, the cleanup and the restoration of that great national asset. That has been in progress for a dozen years. Each year, we get a few million dollars to do it, just a few million here and there, to improve this magnificent estuary serving a number of States on the east coast.

All of a sudden, we come along with the romance of the Everglades, and the administration has some idea—and I cannot find any justification clearly in the RECORD—and says do away with 14 years of practice and legislation that has been in effect by the Congress.

I say to every Member voting, be prepared to go back home and explain to your constituents why they must continue to pay the full 100 percent O&M for their projects in the last 14 years, and all of a sudden Florida gets a cost sharing of 50–50. Be prepared to go back home and answer that question. My amendment simply restores, preserves, the law as it has been for 14 years.

Very interestingly, in 1996 I, as I have for 14 years, served on the Environment and Public Works Committee. I happened to be subcommittee chairman when we considered the Florida Everglades and wrote the initial legislation to get this project underway. I am addressing the Water Resources Development Act of 1996, Public Law 104–303, October 12, 1996. I refer to the following, 110 Stat. 3770:

OPERATION AND MAINTENANCE.—The operation and maintenance of projects carried out under this section shall be a non-Federal responsibility.

So Congress, just 4 years ago, reiterated in this Everglades project that it shall be non-Federal for operations and maintenance.

What is the mystery about this project that first induced the administration, then the Environment and Public Works Committee in reporting this bill out—what induced them to change the law which was very succinctly and expressly stated just 4 years ago, a law that had been in effect since 1986?

I will vote for this. It is a good project. However, I succinctly say, let's adhere to the law that has served this Nation well. I guarantee no Member of this body or the other body can bring to the attention of their colleagues the need for something to be done in their State without having this same cost-sharing formula in the years to come.

To do otherwise would be unfair to your constituents. So all I am trying to do is preserve equity and fairness—equity and fairness for what has been done in the past and what shall be done in the future.

By requiring the States under the 1986 law, and as repeated under the 1996 law, to bear the burden of operation and maintenance puts a burden on the States to examine the projects brought forth by the Members of Congress to determine is this worthy, in fact, of the support of the taxpayers of that State for the life of the project. It is a joint decision at that point.

Now with the stroke of a pen in this statute we are requiring the Federal taxpayers to pay 50 percent of the lifetime of this enormous project. This is one big project.

You say, Senator, what do you mean such a big project? Look at the budget. Just look at the budget of the Corps of Engineers for the past few years. It has averaged around $1.4 billion for the whole of America, for the 50 States—$1.4 billion. In this bill alone we are authorizing $1.1 billion for 10 of perhaps 50 to 60 projects of this one restoration of the Everglades.

Let me repeat that: $1.1 billion for Florida, and that is construction costs. The O&M costs for these first 10 is estimated, total for these 10 projects, somewhere between $10 and $40 million a year. And as you look at the next 10 and the next 10 and the next 10 and the next 10, to where you get to the 50 or 60 total projects for the restoration of the Everglades, that O&M figure becomes quite considerable. This project is going to suck the lifeblood out of projects all across America, not only in terms of the construction costs but, if the Congress were to adopt this, 50–50 cost sharing.

Paul Revere called out, ''The British are coming.'' I call out: Folks, this is coming. I forewarn you. This is coming. You better go back home and talk to your constituents and say this one is going to be in competition with what I had planned this year and next year, or next year, for our State. Is the Congress ready to take the Corps of Engineers' budget averaging $1.4 billion and double it and triple it? If you look at

the statistics, this budget of the Corps has been coming down through the years. Today, the Corps has insufficient funds to meet the requirements that existed prior to 1986.

Let me point that out. Prior to 1986, we did have a cost sharing on O&M for projects. It is still the obligation of the Federal Government to live up to the O&M expenses for the project prior to 1986. Yet the Corps is short funds to meet its obligations under law prior to 1986. So I am anxious to hear from our distinguished chairman, a very valued and dear friend of mine of many years.

I see both the distinguished Senators from Florida are going to participate at some point in this debate. I just come back to something very simple. What is it about the mystique and the romance of the Florida Everglades that justifies changing a body of law that has served this Nation well for some 14 years, and that was specifically reiterated and put into law in 1996 when we addressed the first, very first pillars, the foundation for the Everglades project which we address here today?

Mr. President, I would like to return to this subject, but I know my colleague from Ohio, who is joining with me on this, and my distinguished colleague from Oklahoma—both of whom serve on the Environment and Public Works Committee—are desirous of speaking to this issue. For the moment, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I rise in support of the Warner amendment. In my dissenting view on S. 2797, the ''Restoring the Everglades, An American Legacy Act,'' I outlined my concerns with this legislation. I would like to submit my dissenting view for the RECORD.

While I recognize the Everglades as a national treasure, S. 2797 sets precedents, which I cannot, in good conscience, condone.

I would also like to reiterate my objection to the marriage of the Everglades and WRDA legislation. I know many advocates of this plan argue that the Everglades should be a part of WRDA 2000. However, the Everglades plan is hardly a typical WRDA project. Because of the scale and departure from existing law and policy of the Everglades legislation, it should be considered as a stand alone bill—not a provision in the Water Resources Development Act of 2000. This is a precedent setting bill. With other plans of this nature in the works, the Everglades will be a model for how we handle these enormous ecological restoration projects in the future. We are entering new and, in my opinion, dangerous territory.

No. 1. This legislation violates the committee policy concerning the need for a Chief of the Army Corps of Engineer's report before project authorization. This legislation authorizes 10 projects at a cost of $1.1 billion with no reports of the Chief of Engineers on these projects. Since 1986, it has been the policy of the Committee on Environment and Public Works to require projects to have undergone full and final engineering, economic and environmental review by the Chief of Engineers prior to project approvals by the committee. This process was established to protect taxpayer dollars by ensuring the soundness of all projects. While I understand that, under this legislation, no appropriation can be made until a ''Project Implementation Report'' is submitted by the Corps, this legislation is still breaking committee policy—it is authorizing projects without a Chief's report.

No. 2. Everglades restoration is based on unproven technology. I have serious concerns about the wisdom of a federal investment in unproven technologies—particularly a $7.8 billion investment. The project approval process, described above, was established to prevent exactly what is happening with this legislation—a gamble with the American taxpayers' money.

No. 3. The open-ended nature of costs of this project. The total cost of the Comprehensive Everglades Restoration Plan is estimated at $7.8 billion over 38 years. This is the current estimate. I have serious concerns about this potential for cost over runs associated with this project. GAO agrees with me. In a report—released today—GAO stated, ''Currently, there are too many uncertainties to estimate the number and costs of the Corps projects that will ultimately be needed . . .'' As with almost all federal programs, this project will probably cost much more at the end of the day. For example, in 1967, when the Medicare program was passed by Congress, the program was estimated to cost $3.4 billion. In 2000, the costs of the program are estimated to $232 billion. No one could have foreseen this exponential growth! The future cost of projects of this magnitude must be taken into consideration by Congress before we pass legislation. Once projects like these get major investments, they are funded until the end—no matter what the cost. There should be a cost cap on the entire Everglades project—not just on portions.

No. 4. This legislation sets a new precedent which requires the federal government to pay for a major portion of operations and maintenance costs. The Warner amendment will remedy this problem.

Since 1986, water resource projects, including environmental, navigation, flood control, and hurricane restoration are financed partially by the federal government and partially by the local and state governments. And all of the costs of operations and maintenance of the projects has been the non-federal entities—usually state or local governments responsibility. We should not forget that this critical cost-share policy was a key factor in breaking a 16 year stalemate on water resources development authorization legislation.

This Everglades legislation splits the cost of operations and maintenance of the Everglades—½ to the federal government and ½ to the State of Florida. The O&M expenditures for these prematurely authorized projects is expected to cost $20 million, and, according the Corp, when the Everglades project is completed, O&M costs are projected to be in excess of $170 million a year.

At the end of FY 2000, there will be a $1.6 billion backlog of federal O&M costs nationwide of which $329 million is considered ''critical'' because, if O&M is not performed on these facilities, they will not be able to maintain current performance. In the Tulsa district, which includes Oklahoma, there is a $80 million backlog in O&M. The $170 million needed for O&M of the Everglades—which is almost half of the this year's critical backlog—will drain resources—creating a larger backlog around the rest of the nation. How can we fund local O&M expenses when we can't fund federal O&M expenses.

States and localities have enormous backlogs of operations and maintenance costs due to lack of funding. The precedent, which the Everglades legislation sets, could open a pandora's box—having the Federal Government take on expenses for the operations and maintenance of many projects. There are a number of Oklahoma projects that could use federal funds for operations and maintenance costs. My hometown of Tulsa pays in excess of $3 million a year in O&M costs.

The Everglades legislation is also unfair because the Corps will be conducting annual inspections on all flood control projects turned over to the local sponsors for 100 percent O&M. Though they try very hard, many localities, which cannot afford O&M costs, will not be able to keep their projects properly maintained. When it comes time for more Federal projects, they will not be favorably looked upon. the Federal Government will say, well, if the local sponsor cannot afford the current cost-share agreement, how could they afford a new one—even if the community desperately needs the new project. How can the Federal Government fund Florida's Everglades O&M bill; while other community's projects are denied because they can not afford proper O&M and we will not help them? How is this fair?

Again, I recognize the Everglades as a national treasure—as I do many treasures in Oklahoma. As Congress considers the Everglades restoration legislation, all I ask is that Congress play by the rules.

Mr. President, to reiterate, I commend the Senator from Virginia for bringing to our attention what is happening here. I am concerned. This is a major piece of legislation. As I said yesterday in committee, it would be my preference not to have it as part of the water bill but to have it as a stand-alone bill. Because of the size, the magnitude, and nature of it, it should be. It is true what Senator WARNER has said about how this violates both the letter

and the intent of what we decided in 1986. I remember when it happened. But it is not just in this area. Let me mention briefly three other areas where we are having the same problem.

First of all, this legislation violates the committee policy concerning the need for the Chief of the Army Corps of Engineer's report before project authorization. This was decided back in 1986. To my knowledge—and I had my staff research this—we have not gone forward with any other projects that have not had a recommendation and a report completed by the Chief of the Corps of Engineers.

Mr. WARNER. Mr. President, if the Senator will yield, I checked that out. This is part of the statement I am putting in the RECORD. Clearly, it was not done. That is a second area where it is deviating from the longstanding practice of the Committee on Environment and Public Works.

Mr. INHOFE. I can see what is going to happen after this because every time something comes up they are going to say: Wait a minute, you didn't require it then. They are overworked. So why should we require it now?

We have two right now in the State of Oklahoma, in my State, awaiting those reports.

The second thing is the unproven technology. If you go back to 1986, repeated again in 1996, we said we will only use proven technology when these projects are authorized. Admittedly, during the committee meeting they said—in fact even the chairman of the committee said—we know a lot of this technology is not proven.

The third thing is it is open ended. I want to mention we are talking about $7.8 billion over 38 years. Yesterday, the GAO came out, and after pressing on this, said it could be higher. How much higher? It could be as high as $14 billion. I am old enough to remember—I think there are a couple of us in this Chamber who might remember, too—back in 1967 when we started out on the Medicare program. They said at that time it was going to cost $3.4 billion. I suggest to you this year it is $232 billion. I do not like these open-ended things. They say we are only talking about the first year. Once you start, you are committed.

The last thing, of course, is what this amendment addresses. I believe very strongly that when we open up the O&M accounts, the operation and maintenance costs will be borne by the Federal Government. It is not just going to be that on future projects that come up we will say we don't have to worry about O&M accounts because 50 percent of it can be provided by the Federal Government; there is now a precedent for it. Not only that, I can see right now coming back on existing projects and saying: Look, we are undergoing that as a State expense. Why should we do that when we are not doing it for this particular project?

I think the amendment is very good, but I think the amendment should be broadened to cover these other violations of both the intent and letter of the 1986 law.

Mr. WARNER. Mr. President, before the Senator yields the floor—we served on the Environment Committee for 14 years—I have to bring to the attention of the Senate another project. It is called the Central Artery in Boston. There are those who affectionately refer to it as ''the big ditch'' which our late, highly respected and beloved Speaker of the House, Tip O'Neill, initiated. I went back and checked the record, I say to my friend from Oklahoma. I bear some of the responsibility because I was on this committee at this time.

The first estimate for the big ditch was $1 billion. It is still unfinished. We have expended about $7 or $8 billion and the GAO estimate to finish it is $13.5 billion, underlining the importance of getting that chief engineer's report, which has been the law and the precedent of our committee for these many years. I thank the Senator.

Mr. INHOFE. I thank the Senator. I yield the floor.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support the Warner-Voinovich-Inhofe amendment regarding operation and maintenance of the Comprehensive Everglades Restoration Plan.

I join my colleagues in rejecting the current language contained in the legislation which unfairly grants the State of Florida a 50-percent non-Federal and 50-percent Federal cost share on the operation and maintenance of the Everglades project. I note this is even more generous than the administration's bill which provided for a 40-percent Federal share.

This amendment is an issue of equity among all of the 50 States, where, to date, operation and maintenance has been a State and local responsibility. I remind my colleagues that the recommendation of the Chief of Engineers was that the operation and maintenance of the Everglades restoration project be 100-percent non-Federal, consistent with WRDA 1986 and national policy, as pointed out by my colleague from Virginia.

The annual operation and maintenance costs for the construction features of the Comprehensive Everglades Restoration Plan currently contained in S. 2796 are $172 million per year.

These operation and maintenance costs would be shared on a 50–50 basis, which means the Federal share of these costs would be almost $90 million. The current operation and maintenance appropriation nationally is about $1.8 billion. This means the Everglades operation and maintenance responsibility of the Corps could represent 5 percent of the total current national appropriation for operation and maintenance.

The stark reality is that the Corps of Engineers is in no position to assume a large additional maintenance burden. By 2001, the Corps will have a backlog of critical maintenance nationwide of $450 million.

Chart 1, which I have before the Senate, shows a breakdown of that backlog by project purposes. As my colleagues will note, 61 percent of the maintenance backlog is in navigation, both inland navigation on our rivers and maintenance dredging of our coastal harbors. The Corps is not meeting its critical needs today for the infrastructure we depend on for our increasingly trade-based economy.

My colleagues should realize these unmet needs are in each of our States, not only in Florida but throughout the United States. Further, my colleagues can also see that maintenance of the flood control projects that are essential in protecting lives and property makes up a significant part of the backlog at 18 percent.

Finally, I want to highlight recreation which is especially important to my colleagues from the West. The Corps is second among Federal agencies in recreation visitation to the land and water resources it manages. Many people associate the Corps with its lake projects, and yet the Corps does not have the resources it needs to meet its maintenance responsibilities at these projects.

This next chart shows the maintenance shortfall by State as a percentage of the maintenance backlog. As one can see, California has the largest, followed by Florida and Louisiana. It is ironic to me that Florida is among the States already most severely impacted by the maintenance backlog whose situation is likely to become much more severe if the Corps takes on a larger portion of the operation and maintenance responsibility for the Everglades. I ask my colleague, Senator GRAHAM, how do you believe the Corps will be able to meet the maintenance needs in Florida, such as dredging its harbors, maintaining its waterways, and operating portions of the central and south Florida project while taking on this additional $90-million-a-year maintenance burden?

This last chart I have before the Senate shows a few examples of maintenance needs that are not being addressed in some of the other 49 States.

The reason I bring these charts to my colleagues' attention is that this maintenance problem is not in a few States; it goes across the United States of America. Every Senator in some way is impacted because we do not have enough money for paying for the operation and maintenance on these projects.

Operation and maintenance activities to accommodate the large influx of recreation visitors to Corps projects along the route of the Lewis and Clark exploration during its bicentennial celebration is underfunded. It deals with the Missouri River basin—the Dakotas, Montana, Iowa, Missouri, Nebraska.

How about the dredging in New York Harbor? That needs to be done.

How about seismic studies on projects throughout the New England States which are not able to be done because we do not have enough money?

How about recreation facilities in Oklahoma or flood protection in North and South Dakota?

The point is, it is not a Florida issue. Adding to a maintenance burden that the Corps already cannot meet will impact all of us who have Corps-managed resources in our States.

This is a matter of equity. The Senator from Virginia has spoken to that eloquently. We had it right in WRDA 1986. The operation and maintenance responsibility for new Corps of Engineers investments must rest with the non-Federal sponsors. We cannot afford at this time to deviate from principle.

This is my first term in the Senate, but I have been here long enough to know that if we begin to make exceptions, there will be no end to it. We must stick to our principles, and that is why I am asking my colleagues to support this amendment.

Mr. WARNER. Will the Senator yield for a moment? I want to clarify, the charts of the Senator from Ohio are pre-1986 projects done by the Corps.

Mr. VOINOVICH. Yes.

Mr. WARNER. That is the point. In other words, all of that magnitude of money, which was a $451 million shortfall last fiscal year, is for projects done prior to 1986. Since 1986, the States have paid for it and that is existing law. If you fail to maintain a project, a dam or a waterway, what happens? It deteriorates. The cement crumbles, the silt fills in, and it begins to degrade and begins to impact the safety of the citizens who rely on those projects for protection or navigation.

This is a very serious program my distinguished colleague brings to the attention of the Senate, and I am so glad that the Senator clearly reiterated my message: It is not a Florida situation; it is all 50 States.

When my colleagues vote, bear in mind how that vote affects this year and for years to come your State projects.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire.

Mr. SMITH of New Hampshire. I yield such time as he may consume to the distinguished Senator from Florida, Mr. GRAHAM.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. I thank the Chair. Mr. President, I thank my colleague and chairman of Senate Committee on Environment and Public Works, who has given outstanding leadership to this entire legislation, the Water Resources Development Act of 2000, and has been a particularly thoughtful student of the Everglades restoration.

I rise in strong opposition to the amendment proposed by my colleague from Virginia. To put what we are about in some context, we are talking about a unique partnership between a State and the Federal Government for the protection of one of the world's treasures. The Florida Everglades has been designated by the United Nations as a world heritage site, one of the few places on the planet that has been designated such because of its unique features, features that have a global importance.

Everglades National Park, which is just a small portion of the overall Everglades system, is the second largest national park in the continental United States. This restoration program will be the most significant and the most expensive environmental restoration project ever attempted anywhere in the world.

This is going to be a world laboratory for how we will restore damaged environmental systems, both within the United States and elsewhere on the globe.

This has been a bipartisan effort. It has been an effort that has now been underway for the better part of three decades —bipartisan in the sense that it has been supported by Republican Presidents and Governors, Congresses, and State legislatures; and Democratic Presidents, Governors, Congresses, and State legislatures.

It is a proposal that is much in the nature of a marriage. It is a relationship in which both partners must respect each other, pledge to work through their challenges together, and, thus, build a strong and sustaining relationship.

The legislation before us today offers a balance between the partners of that marriage. It requires the State to pay 50 percent of the construction cost of this project. It requires the State to pay 50 percent of the $7.8 billion, which is the estimated cost of construction of this project over the next 30 to 40 years.

It requires the Federal Government to pay 50 percent of the operation and maintenance costs of the project as it is completed.

Cost sharing for operation and maintenance represents a responsible action by the Federal Government to protect the Federal taxpayers' investment in the restoration of the Everglades.

Why is this a responsible action? It is a responsible action and is also a recognition of a reality which differentiates this project from other Federal public works projects; that the major beneficiary of this project is the natural system, and the natural system is owned in large part by the Federal Government.

To repeat, the principal beneficiary of this project will be enormous Federal land tracts in the affected area. Thus, the Federal Government has an ongoing interest; and we suggest, as does the committee of jurisdiction, the administration, and the State of Florida, that that large Federal investment and responsibility warrants an ongoing Federal-State shared role in the operation and maintenance of the project once it is completed.

Some of the projects that are in this plan, such as the wastewater reuse projects, which have some of the highest estimated cost of operation and maintenance, are included primarily for the benefit of Biscayne National Park, Florida Bay, a significant part of Everglades National Park, and the National Marine Sanctuary. The perspective that I share is not mine alone or not parochially Florida's alone.

Mr. President, I ask unanimous consent that two letters on this topic be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. GRAHAM. The first letter is signed by a broad coalition of national environmental groups, including the National Audubon Society, the National Parks Conservation Association, the Natural Resources Defense Council, the Sierra Club, the World Wildlife Fund, as well as environmental groups within Florida.

This letter states:

> In addition, approval of the [Warner] amendment would . . . severely jeopardize the likelihood of enacting Everglades Restoration legislation this year. . . .

The second letter is from a broad coalition of agricultural and industrial representatives. It states:

> The Comprehensive Everglades Restoration Plan is primarily a plan to restore and protect Federal properties.

It also states:

> The coalition of Florida agriculture, water utilities, and homebuilders is convinced that without Federal participation in the costs of operation, maintenance, repair, replacement, and rehabilitation activities associated with the Comprehensive Everglades Restoration Plan, Everglades restoration will never be implemented.

My colleague, Senator MACK, will soon be inserting into the RECORD a letter from Florida's Governor, Jeb Bush, which will state, in part:

> Not only is this partnership formula fiscally and politically prudent, it is also critical to maintaining the diverse and broad-based support that the bill before you has earned.

Mr. President, you and others in this body may ask why there is near unanimous agreement that operation and maintenance costs must be a shared cost of this project. What is it that differentiates this project from other public works projects?

Let me suggest the following. First, to quote from the bill itself:

> The overarching objective of the Comprehensive Everglades Restoration Plan is the restoration, preservation, and protection of the South Florida ecosystem while providing for other water-related needs of the region.

Let me read a portion of that again:

> The overarching objective of the Comprehensive Everglades Restoration Plan is the restoration, preservation, and protection of the South Florida ecosystem. . . .

What is that system that we are about to protect and preserve? It is essentially a Federal system.

First, it is an enormous marine sanctuary that runs from the lower part of the Florida peninsula to some 150 miles to the Dry Tortugas, an area with the only living corral reef area in the continental United States.

It is also four units of the National Park System: The Everglades National Park, which I indicated earlier is the second largest national park in the continental United States; Biscayne National Park; the Dry Tortugas National Park; and the Big Cypress Natural Preserve. Those great Federal ownership areas are going to be primary beneficiaries of the restoration of the Everglades; finally, 16 national wildlife refuges in the area that will be affected by the Everglades restoration, from those at the upper edges of the Everglades system to those throughout the Florida Keys.

Once constructed, this project will be operating, in large part, for the benefit of the natural system, which is in Federal ownership.

As the primary beneficiary of this project, the Federal Government should have a continued interest and financial role in seeing that its goals are achieved through appropriate implementation.

Once the Federal Government is a full and equal partner in the cost of operating this project, it will also be able to assure that the project continues to be operated for the benefit of the natural system in Federal ownership.

Without this participation in operation and maintenance, the Federal Government would be, in effect, abdicating its responsibility to the American taxpayers to protect the investment which they are going to make in restoration of the Everglades, which they have already made in the acquisition of these enormous Federal interests.

Another important fact, in reviewing Senator WARNER's proposal, is the cost-sharing for the Everglades restoration project. I did not hear this very significant fact mentioned by any of the three previous speakers.

The traditional Federal public works project is financed 65 percent by the Federal Government, 35 percent by the local sponsor, whoever that might be.

There are several and significant environmental and ecosystem restoration projects which contain that very cost sharing in the bill that we have before us, the Water Resources Development Act of 2000.

I draw your attention to page 118, line 7: A project for environmental restoration at Upper Newport Bay Harbor in California; 65-percent Federal, 35-percent local sponsor.

On page 121, line 23, there is a project for ecosystem restoration at Wolf River in Memphis, TN; 65-percent Federal, 35-percent local sponsor.

On page 122, line 3, there is a project for environmental restoration at Jackson Hole, WY, 65-percent Federal, 35-percent local sponsor.

I point out these examples in this very bill that is before us today, not because they are unusual but because in fact they are the norm. Sixty-five percent is the normal share that the Federal Government pays for a project in the Water Resources Development Act.

But for this project, one of the largest projects of its type in our Nation's history, the State of Florida is paying 50 percent—not 35 percent, but 50 percent—of the cost of construction.

To my knowledge—and I ask the proponents of this amendment if they have information to the contrary—I know of no other local sponsor for an environmental restoration project who is paying 50 percent of the cost of the project.

Mr. WARNER. Mr. President, if the Senator would yield, I would be happy to reply.

Mr. GRAHAM. I am glad to yield.

Mr. WARNER. Mr. President, my amendment goes to the operation and maintenance, which from 1986 on was 100-percent State responsibility. That is the amendment. The Senator, of course, quite properly is addressing, by way of background, the construction. And there are various formulas for cost sharing on construction. But he points out that they are paying 50 percent versus the 35 percent on the construction allocation of the State. But in fairness, the reason they are paying the higher is that there are some other than environmental projects here. This whole thing goes from Orlando to the tip of Florida. This is enormous. This is over half the State's length; is that correct?

Mr. GRAHAM. That happens to be the size of the Everglades system. This project encompasses the Everglades system, an integrated environmental system, the totality of which creates the environments that sustain all of these great Federal investments.

Mr. WARNER. I am trying to draw some parallel for the average Member of Congress who deals with a dam or a waterway which is in a small portion, relatively speaking, of his or her State. This covers over half the State; isn't that correct?

Mr. GRAHAM. No.

Mr. WARNER. All right. What percentage, from Orlando to the tip?

Mr. GRAHAM. From Orlando to the tip of Florida would be approximately 35 to 40 percent.

Mr. WARNER. Thirty-five to forty. I was off 10 percent. I say to my good friend, the reason you go to 50 percent and not 35 is you are covering non-Federal and part of municipal water supplies. There are a whole lot of municipal water supplies that are benefited.

Mr. GRAHAM. Mr. President, I would appreciate the opportunity to complete my remarks, and then I would like to respond specifically to the statement relative to the nature of the projects, the Federal purposes that they will play, and the appropriateness of the overall arrangement of a 50-percent State share in construction and then a 50-percent Federal share in operation and maintenance.

Mr. WARNER. Certainly, I did not wish to invade. But the Senator invited questions: Does any other Senator know of projects other than 35 percent? I am pointing out, yes, because he is including a lot of municipal water supply, treatment plants for runoff water, and a lot of other things that most States pay for back home.

I thank the Senator.

Mr. GRAHAM. I will return to discuss the specific issue of municipal water. Let me complete the arithmetic of the analysis I was doing.

On an annual basis, the difference between the State of Florida contributing 50 percent as opposed to the norm of 35 percent is approximately a $35-million-a-year savings during the construction period of this project, some 30 to 40 years, for the Federal Government. If the Federal Government were to take that $35-million-a-year savings and invest it, even at a conservative rate of interest of 5 percent, over the period of this project, that would produce a total of approximately $1.8 billion. That is the savings plus the interest earned on those savings to the Federal Government. That $1.8 billion would pay the cost of operation and maintenance of this project to approximately the year 2050.

We are, for the first half century of the 21st century, going to be saving the Federal Government an enormous amount of money by the State paying at the rate of 50 percent rather than 35 percent, and those funds will go substantially towards meeting these ongoing operation and maintenance costs that the Federal Government will share on a 50–50 basis.

The amendment Senator WARNER has offered fails to recognize any of these distinct characteristics, the nature of the Federal interest to be protected, the continuing interest of the Federal Government in how its capital investment is implemented, and, finally, the fact that because of a much more generous and forthcoming State share of the construction cost, the Federal Government is saved substantial funds.

The Senator from Virginia raised the question that there are other projects. He specifically talked about wastewater projects. There are no wastewater projects in here. There are wastewater reuse projects which are one of the areas being done precisely to protect Federal interests. They are not wastewater systems that are going to be serving a local municipality. They are wastewater systems to purify the water before it goes into the Biscayne Bay National Park and before it goes into the Florida Bay component of the Everglades National Park or before it goes into the National Marine Sanctuary in the Florida Keys.

This is not a wastewater treatment system that a municipality would have. These are systems to protect the quality of water in order to protect the quality of the Federal investment. As I said earlier, these are some of the most expensive of the operation and maintenance costs this project will generate.

The amendment fails to reflect the fact that this is a marriage, a marriage between the State and Federal Government, and that that marriage is necessary to assure the plan's success, a true union where each partner respects the other and makes a commitment as equals. Everglades restoration won't work unless the executive branch, Congress, and the State government move forward hand in hand.

We are about to make one of the most important decisions that this Congress will make. Obviously, it is a project that has enormous personal interest to me because of my personal long association with the Everglades and my deep appreciation of the qualities it represents. But this will be an opportunity for the Congress to commit itself to one of the great ventures in terms of environmental restoration and protection in our Nation's history. It is a project that I suggest Members of Congress will look back upon later in their lives and careers with pride that they were part of this effort.

It is a project in which we are asking that there be a long-term commitment with the State of Florida. On the concerns that were expressed about the possibility that additional changes might be called for, or additional costs incurred, I underscore, every one of those costs is going to be shared on a 50–50 basis. So we have a partner in this project who is going to be just as concerned about achieving the result and doing so in the most cost-effective way as we share those concerns.

So this is legislation which is truly historic. It is legislation which will lead us down the path toward Everglades restoration—a goal which our Nation has shared for many decades, a goal in which we can play an important role today in seeing that it becomes reality.

Thank you, Mr. President.

EXHIBIT NO. 1

1000 FRIENDS OF FLORIDA, AUDUBON OF FLORIDA, CENTER FOR MARINE CONSERVATION, THE EVERGLADES FOUNDATION, THE EVERGLADES TRUST, NATIONAL AUDUBON SOCIETY, NATIONAL PARKS CONSERVATION ASSOCIATION, NATURAL RESOURCE DEFENSE COUNCIL, SIERRA CLUB, WORLD WILDLIFE FUND,

September 19, 2000.

Hon. BOB SMITH,

Chairman, Senate Environment and Public Works Committee, Dirksen Senate Office Building, Washington, DC.

Hon. MAX BAUCUS,

Ranking Member, Senate Environment and Public Works Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SMITH AND SENATOR BAUCUS: We are writing to express our opposition to the Voinovich amendment to H.R. 2796, the Water Resources Development Act of 2000, that would eliminate the state-federal operations and maintenance (O&M) cost share for the Comprehensive Everglades Restoration Plan (CERP).

S. 2796 presently provides a 50-50 cost share between the State and Federal government. The Voinovich amendment would make the State of Florida pay the entire cost. The Voinovich amendment ignores the fact that this is no ordinary water project because the taxpayer is a primary beneficiary of the project.

Within the project area there is a unique and compelling federal interest that justifies a 50-50 state/federal cost share for operations and maintenance. The project area includes four National Parks, 16 National Wildlife Refuges, and one National Marine Sanctuary that comprise five million acres of federally owned and managed lands—50% of the remaining Everglades.

In addition, approval of the Voinovich amendment would likely yield two results; both of which would severely jeopardize the likelihood of enacting Everglades Restoration legislation this year: First, the State could withdraw its support for the bill leaving this a project without a non-federal sponsor. Or, the State could seek new modifications to reflect the diminished federal commitment to restoration of America's Everglades, a move that would send the Everglades back to the drawing board with no time left on the clock.

Therefore, we respectfully request that you vote against the Voinovich Everglades cost share amendment to S. 2796.

Thank you for your consideration of our views.

Sincerely,

Nathaniel Reed, Chairman, 1000 Friends of Florida.

David Guggenheim, Vice President for Conservation Policy, Center for Marine Conservation.

Tom Rumberger, Chairman, The Everglades Trust.

Mary Munson, Director, South Florida Programs, National Parks Conservation Association.

Frank Jackalone, Senior Field Representative, Sierra Club.

Stuart Strahl, Ph.D., Executive Director, Audubon of Florida.

Mary Barley, Chair, The Everglades Foundation.

Tom Adams, Director of Government Affairs, National Audubon Society.

Bradford H. Sewell, Senior Project Attorney, Natural Resources Defense Council.

Shannon Estenoz, Director, South Florida/Everglades program, World Wildlife Fund.

DAWSON ASSOCIATES INCORPORATED,

Washington, DC, September 19, 2000.

Senator BOB SMITH,

Chairman, Committee on Environment and Public Works, Dirksen Senate Office Bldg., Washington, DC.

DEAR CHAIRMAN SMITH: The coalition of Florida agriculture, water utilities, and homebuilders is convinced that without Federal participation in the costs of operation, maintenance, repair, replacement, and rehabilitation activities associated with the Comprehensive Everglades Restoration Plan (CERP), Everglades restoration will never be implemented. Governor Bush's Commission for the Everglades has taken the position that if the Federal government is to be a full and equal partner in restoration, it should share in all of the associated costs. Furthermore, it is certain that the Florida Legislature will not supply the level of funding needed to construct this plan if they are going to have to pay the full cost of operation over the life of the project.

The CERP is primarily a plan to restore and protect Federal properties, and the development of the plan has been dominated by the federal agencies, especially the Department of Interior. The restoration of a unique ecological system of world significance dramatically and fundamentally distinguishes the purposes of the Comprehensive Plan from those of other Army Civil Works projects.

Furthermore, the Army Corps of Engineers indicated to stakeholders throughout the planning process that it would seek cost sharing for all modifications over their life cycle. This commitment eliminated the biases in project decision-making that result when all costs are not treated in the same way. Affirming this commitment in the authorization will ensure that project design decisions will continue to be based on cost-effectiveness alone.

Sincerely,

ROBERT K. DAWSON,
President.

COALITION MEMBERS

Florida Citrus Mutual (Mr. Ken Keck, Director for Government Affairs).

Florida Farm Bureau (Mr. Carl B. Loop, Jr., President).

Florida Home Builders Association (Mr. Keith Hetrick, General Counsel).

The American Water Works Association, Florida Section Utility Council (Mr. Fred Rapach, Chairman).

Florida Chamber (Mr. Chuck Littlejohn, Government Affairs).

Florida Fruit and Vegetable Association (Mr. Mike Stuart, President).

Southeast Florida Utility Council (Mr. Vernon Hargrave, Chairman).

Gulf Citrus Growers Association (Mr. Ron Hamel, Executive VP).

Florida Sugar Cane League (Mr. Phil Parsons, Environmental Counsel).

The Florida Water Environment Association Utility Council (Mr. Fred Rapach, Chairman).

Sugar Cane Growers Cooperative of Florida (Mr. George Wedgworth, President).

Florida Fertilizer and Agri-chemical Association (Ms. Mary Hartney, President).

The PRESIDING OFFICER. Who yields time?

Mr. SMITH of New Hampshire. Mr. President, I yield such time as he may consume to the Senator from Florida, Mr. MACK. And I thank him for his help and cooperation on this legislation.

The PRESIDING OFFICER. The Senator from Florida, Mr. MACK, is recognized.

Mr. MACK. Mr. President, I want to say to my dear friend, the Senator from Virginia, I thoroughly enjoyed listening to his presentation. And I say this with all good humor. It was a great performance. It reminded me a little of Chicken Little in ''The Sky is Falling'' when I listened to equating $86 million in operating expenses to a $1.4 billion budget. The $86 million will be the cost of operating and maintaining this new system 25 or 30 years from now. I think it might be appropriate to try to figure out what the Corps' budget might be 25 or 30 years from now. I think that would bring a more significant understanding of the impact of the operating and maintenance costs to the Federal Government.

The second point I will make is that we are already spending more than that now on the Everglades. I suggest that on this project we are proposing today—and I believe strongly that it will pass—we will probably seek a reduction in the long run as a part of the Corps' budget. But, again, I appreciate the fervor with which my colleague presented his argument.

Mr. WARNER. I thank my colleague for his courtesy. We will have more to say.

Mr. MACK. I am sure we will.

Mr. President, I am in strong opposition to the amendment offered by my friend from Virginia. This amendment, if passed, will put an end to the unprecedented partnership developed between the Federal Government and the State of Florida in an effort to restore and protect America's Everglades. While I am sure my colleague from Virginia has the best of intentions in offering his amendment, I caution my colleagues that one-size-fits-all solutions can be extremely harmful to something as sensitive and as difficult as Everglades restoration.

It may be useful to take a few minutes today to help highlight the Everglades provision in the water resources bill before us and explain how the amendment of the Senator from Virginia will impact our longstanding efforts to restore and protect this unique ecosystem.

Let me begin by stating that the legislation before us today is a consensus product supported by a full spectrum of environmental groups and economic stakeholders. It is supported by Florida's two Indian tribes, Gov. Jeb Bush of the State of Florida, and it is supported by the Clinton administration.

Nine months ago, my colleague from Florida, Senator GRAHAM, and I set out to write a balanced Everglades bill that addressed the needs of south Florida's environment and its citizens. This was no small task. We asked individuals and groups who have long been divided to set aside their differences and work together with us. We asked them to help us restore this vibrant, natural system to its former glory. With the steady leadership of Chairman BOB SMITH and Senator BAUCUS, we have accomplished our goal. The bill we bring to the floor today is something of which all Americans, and I believe all Senators, can be proud.

In the bill we are considering today, we authorize a comprehensive plan to undo the harm done by 50 years of Federal efforts to control flooding in south Florida, without consideration for damage done to south Florida's environment. This comprehensive plan was developed over the past 8 years by the Corps of Engineers, with input from economic and environmental stakeholders, local governments, scientists, restoration engineers, the people of south Florida, and the Congress. It is recognized throughout south Florida and the Nation as a fair and balanced plan to provide for the water-related needs of the region while, for the first time, ensuring that the needs of the Everglades will be met as well.

It is terribly important that we do this. Without this plan, the Everglades will die and water, the lifeblood of south Florida's economy, will continue to be siphoned off into the sea without benefiting the environment or the people who live and work in the region.

Let me take a moment to share with you some of the principles Senator GRAHAM and I have used to guide our efforts this year in drafting this bill. We wanted to be sensitive to the legitimate concerns and needs of all citizens and interests who have a stake in how the plan is implemented, we wanted to be true to the restoration mandate and ensure that the Everglades got the first benefit of any new water generated by the plan, and we wanted to affirm and establish in law the true partnership we share with the State of Florida in achieving the plan's restoration goal.

The cooperation between the State agencies charged with managing this effort and the Federal Government over the years has been truly unprecedented. The State shared the cost of developing the plan we are considering today. The Corps of Engineers has benefited greatly from the engineering talent at the South Florida Water Management District. Florida has been our full partner in bearing half of the cost of the restoration projects already underway in the Everglades. The State has committed to split evenly the cost of implementing the plan once it is authorized. The reason for this partnership is simple. Both the State and Federal Government have a vital interest in the restoration of the Everglades. Both the State and the Federal Government should pay for the cost of operating and maintaining the restoration project once it is built.

I say this to provide background for the debate on the amendment before us. This partnership we have established is vital to our efforts, and if this amendment passes, it will be very difficult to accomplish our restoration goals.

I have a letter from Gov. Jeb Bush expressing his opposition to the amendment of the Senator from Virginia. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. MACK. Mr. President, a key part of this partnership has been the commitment by the State of Florida—already enshrined in a bill approved by Governor Bush earlier this year—to pay fully half the $7.8 billion cost of implementing the Everglades restoration plan. This is a significantly greater cost share than the local sponsor typically pays to construct a Corps project.

Many Corps projects have a local cost share of as little as 20 percent of the total project and few pay more than 35 percent. In fact, if the State were paying 35 percent, rather than the 50 percent it has committed to, it would increase the burden of the Federal taxpayer by almost $1.2 billion. Let me repeat that. The State has committed to a greater-than-average cost share for constructing the restoration project and will save the Federal taxpayers almost $1.2 billion.

I believe the good faith demonstrated by the State's offer—not to mention the resulting savings of the Federal Government—clearly refutes any argument that the State is somehow unduly benefiting from the operation and maintenance cost share proposed in the bill before us today.

While I cannot stress enough the damage this amendment will do to our relationship with the State of Florida, I remind my colleagues about the significant Federal investment we are making in the Everglades and the important Federal interest in ensuring this project is operated and maintained properly.

Within the boundaries of the proposed restoration area, there are four national parks, including Everglades National Park, one of the crown jewels of our National Park System. There is a national marine sanctuary and many other national interests. All of these important environmental assets are dependent upon the successful operation of the restoration plan.

If the project is not operated properly—if the water is not right—these important Federal holdings in south Florida will continue to suffer the same fate they are suffering today. If we and the State of Florida are to come together behind a restoration plan and spend $7.8 billion to implement that plan, it seems we also have the responsibility and obligation to stay in Florida and help with the successful operation and maintenance of the project. That is a reasonable position.

I add that the operation and maintenance cost share in this bill is fully consistent with prior central and southern Florida project authorizations. In fact, the Federal Government pays the full cost of operating and maintaining the levees, channels, locks, and control works of the St. Lucie Canal, Lake Okeechobee, and the Caloosahatchee River. The Federal Government pays the full cost—not 50–50, but the full cost—of operating the levees, channels, locks, and control works of the St. Lucie Canal, Lake Okeechobee, and the Caloosahatchee River. All of these areas that I have mentioned are in this restoration area. It pays the full cost of operating and maintaining the main spillways in the system's water conservation area.

Further, the Flood Control Act of 1968 provided that the project costs of providing water delivery to Everglades National Park is considered a federal responsibility and on that basis the federal government would share in the operation and maintenance of projects that serve that area of the system. The federal government is also required, under a 1989 law, to participate in the cost share for the modified water deliveries project. And, finally, the water resources bill of 1996 provides that the cost of operating and maintaining water deliveries to Taylor Slough and Everglades National Park be shared between the State and federal governments.

That is my argument to this constant mention of the fact that for 14 years we have had this precedent.

I have just stated the whole series of issues related to the Everglades in which there is a whole range of the sharing of costs and maintaining the Everglades system.

There appears to be ample precedent for a shared cost between the State and federal governments on projects related to the Everglades and Everglades restoration.

What the Senator from Virginia is advocating is something far different. He would have the federal government pack up and leave when the restoration project is completed—essentially abandoning precedent and abandoning a national treasure after an unprecedented effort to save it. His amendment would have the federal government abdicate its responsibility, to both the environment and the taxpayer, to protect the substantial investment we're making on their behalf in the Everglades.

I would remind my colleagues, the Everglades is a dynamic system. It is dependent on the steady, reliable supply of fresh water this restoration project will provide over the years.

It is not like a levee, or a bridge, which the federal government can construct and turn over to the local authorities. This is an enormously complex restoration project managing the water flow over and through 18,000 square miles of subtropical uplands, wetlands and coral reefs. The area covered by this project spans from Lake Okeechobee to Key West; from Fort Myers on the gulf to Fort Pierce on the Atlantic.

This is not an investment we can afford to abandon, Mr. President. The investment is too great and the stakes are too high. I would urge my colleagues to defeat the amendment.

EXHIBIT 1

GOVERNOR OF THE STATE OF FLORIDA,
September 19, 2000.

Hon. CONNIE MACK,
U.S. Senate,
Washington, DC.

DEAR SENATOR MACK: Florida awaits with much anticipation Congress' authorization of the plan to restore America's Everglades. Our optimism is derived in large measure from the demonstrated leadership in the Senate, particularly your efforts and those of Senator Smith and Senator Trent Lott and his leadership team. We are also hopeful that, with time running out, the White House will hold together the bipartisan nature of this effort by encouraging minority members to keep focused on the historic nature of the opportunity before them.

Clearly, with just a few legislative days remaining, a key to success will be limiting efforts to revisit some of the fundamental agreements that have now carried us so far. Among these agreements is the unprecedented equal cost sharing arrangement between the federal government and our state.

This true and equal partnership creates all of the right incentives for making wise, cost-effective decisions as the project proceeds through construction, operation and maintenance. An equal and shared interest between the state and federal governments ensures that cost control remains a shared goal, and that design and construction decisions are made based on what will provide the greatest long-term efficiencies. No party will benefit from attempting to shift costs forwards or backward for short-term advantage. Everybody, most importantly the taxpayers, wins if there is mutual benefit in controlling overall costs for the life of the project.

The current 50-50 cost sharing formula for construction, operation and maintenance of the Comprehensive Everglades Restoration Plan is far superior to the conventional funding formulas used for more typical Water Resources Development Act projects. Florida, by paying half of the project construction costs, will save the federal treasury nearly $2 billion. This up front savings to the federal government is equivalent to more than 20 years of the projected operation and maintenance costs.

Beyond the sound fiscal arguments for an equal partnership, there are also important practical and management benefits.

All of the diverse interests that have rallied around the bill that is now before the Congress recognize the delicate political balance that has been struck regarding the management and allocation of water resources in the South Florida ecosystem after the construction project is complete. Clearly the maintenance of this balance is best protected if there are equal commitments from the state and the federal government for the ongoing operation and maintenance of the project.

I respectfully urge you to remain alert to the importance of this full and equal partnership between the state and federal governments. Not only is this partnership formula fiscally and politically prudent, it is also critical to maintaining the diverse and broad-based support that the bill before you has earned. Please let me know if you believe that this agreement is ever in jeopardy in the critical days ahead as this Congress prepares to make environmental history.

Sincerely,

JEB BUSH.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, will the Senator yield for a question?

I was much taken by my colleague's comment that this is a matter between the Federal Government and the State. Indeed, it is a marriage that every Governor would dream about, and the wedding presents being given are astronomical. Look at the whole project. It is dotted with wastewater projects to clean up the water that comes from the communities before it goes to these estuaries. I can understand that. I can understand that, I say to my other colleague from Florida. But how does that differ from the Chesapeake Bay which has been struggling over a 10-year period to clean up the wastewater from their surrounding communities which goes into the Chesapeake Bay and which affects the striped bass, crabs, and everything else? Who pays for that? The local communities do.

The wastewater comes from the various adjacent communities, and why shouldn't this cleanup project be paid for by the local communities rather than this massive public project?

I have looked at towns all over Virginia that are struggling to meet the wastewater requirements and paying their local taxes to clean it up before it is distributed into the streams and rivers and lakes in my State. I say there is no difference between my streams and my lakes in the Chesapeake Bay and the magnificence of the Florida Everglades. Yet the Senator is asking the Federal taxpayer to pay for it and changing a law which has served this Nation for some 14 years.

That is why you do not have the 35-percent construction cost formula but 50 percent, because of the many projects which are not related to the magnificence of the flora, fauna, birds, alligators, snakes, and so forth, which indeed are very important. They are very important and essential to these projects.

Fine, clean up the water, but do it like every other municipality. Have the States pay for it with the local taxes before it is distributed back into the various components of the Florida Everglades.

If there are any Senators who wish to reply during the course of the debate, I would be glad to yield.

There is an abundance of wedding presents coming with this marriage, I say to my good friend from Florida.

Mr. GRAHAM. Mr. President, I repeat what I said before. The purpose of these water reuse facilities, as I indicated earlier, and the nature of these reuse facilities is one of the areas on which we are going to be doing some preliminary experimentation and demonstration before committing to what the ultimate formula will be.

The purpose of these is to take water which has been polluted in large part because of the Federal projects that have been in place since it was authorized in 1948 and to clean that water to a point that it will no longer serve to damage the important Federal investment.

As an example, in the middle of the Everglades there will be a variety of what are called stormwater treatment areas constructed. These are not mechanical, but biological methods of cleaning the water that comes off the middle part of the Everglades so that when it gets down into the area of Everglades National Park, it will meet the standards that will avoid the water-causing adverse effects in the park.

At the present time, the injection of inappropriate water quality into Everglades National Park has contributed substantially to a dramatic fall in the natural wildlife, fisheries, and fauna of Everglades National Park, and it has contributed to the development of extensive exotic, nonnatural plants in the area.

The purpose of these water reuse and treatment areas—most of which are not the kind of sewage treatment plants we think about with concrete in place where water comes and is mechanically treated and then discharged—is to deal with natural water flow systems—not from municipal areas; they are largely going to be biological and not mechanical. And the purpose of all of this is to achieve a level of water quality, the principal beneficiary of which will be these Federal landowners.

Mr. WARNER. Mr. President, if I may respond to my friend, I accept

what he is saying. It is just a question of who is going to pay for it.

Take, for example, the cleanup of the Chesapeake Bay, which begins way up in Delaware, reaches Baltimore, MD, reaches Washington, DC, and reaches Norfolk, VA. All of the water runoff from those municipalities the local people accept the cost of because it goes into the Chesapeake Bay, which is, as any number of projects, a Federal investment. The Federal taxpayer has put money into cleaning up the Bay.

What is the distinction between the water runoff from municipalities into the local streams or the Chesapeake Bay, which is just as important to the people of those communities as are the everglades to the people of Florida?

Mr. GRAHAM. The source of pollution is largely from a previously authorized Federal project; two, the nature of the cleanup in Florida is not of the type that surrounds the Chesapeake Bay.

The PRESIDING OFFICER. If the Senator will suspend, the time is under the control of the Senator from Virginia and the Senator from New Hampshire. At the present time, the Senator from Virginia has the time.

Mr. WARNER. Thank you. I wish to share the time. I will accept the time of my questioning to be charged to the time of the Senator from Virginia, and, of course, the reply would be charged to the chairman's time.

Mr. VOINOVICH. Mr. President, will the Senator yield?

Mr. WARNER. I make my point, Mr. President. I see no distinction. Water is water. Cleanup is cleanup. The question is, Who is going to pay for it? The question is, Who will pay for it?

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire has time and the Senator from Virginia has time.

Mr. WARNER. I yield such time as the Senator from Ohio desires, but our colleague from Florida also seeks recognition.

Mr. MACK. I wanted to respond to the question.

Mr. WARNER. Mr. President, the Senator from Florida wishes to respond to a point I made. I suggest to the Chair we recognize our colleague from Florida. Of course, his time is under the control of the chairman of the committee.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. I yield such time as the Senator from Florida may consume to respond to the Senator from Virginia.

Mr. MACK. This will be a brief response. I apologize to my colleagues for trying to hop in here, but the Senator raised a question I thought should be responded to: What makes us different?

In the State of Florida, in 1994, we passed the Everglades Forever Act which provides for local payment of water cleanup costs. The Federal Government's share in the cost of cleaning up the water that directly benefits Federal areas such as the Everglades National Park—the fact is that the local communities are paying for the cleanup of the waters that the Senator has suggested.

The second point I make, I think there is something unique about what we have come up with. The Senator says the uniqueness is the 50–50 cost sharing. The uniqueness that I see—and I don't think there is a Member who has traveled to the State of Florida and become involved and knowledgeable about the Everglades Project, who is not amazed by the partnerships that have been developed—is the various interests in our State that have come together and who have said not only do they support but they are willing to put money into it.

As the Senator knows, the State of Florida, during this past legislative session, in fact, put up I believe almost $200 million towards this project.

Again, to answer the question directly, the cities are, in fact, paying. The State of Florida anticipated that question in 1994 and passed the act that I referred to a few moments ago.

I thank the Senator for yielding.

Mr. WARNER. I want to reply to my colleague.

We love our States equally. I say to the Senator, the Chesapeake Bay is just as dear to our people as are the Everglades to Floridians. The Chesapeake Bay is a national asset—maybe not of the proportions but certainly of equal significance to the Everglades. All of this has been done through the years at a minute fraction of the cost to clean up the bay. Striped bass and crabs are returning and are beginning to live and prosper. We are making some progress. Again, there has been a clear cost sharing by the local communities, which I do not find in this bill.

My question to the Senator is, Why did the Congress of the United States in 1996, just 4 years ago almost to the day, October 12, pass a law saying ''operation and maintenance expenses of projects carried out under this section shall be a non-Federal responsibility''?

That was 1996, 4 years ago. Why is this now being changed?

Mr. MACK. I believe, if I can respond, and perhaps I can find the language, if you read further on in the act, you will find some language that has to do with some cost sharing of the area that the Senator is referring to as identifying certain aspects of the bill, but there are other references in there about following precedent with respect to cost sharing. There is, as I read in my statement, a whole series of things in which there is even 100-percent participation at the Federal level for operation and maintenance.

Mr. WARNER. I will pass this document to my good friend and we should address that together before the vote.

My amendment simply says, leave in place the 1986 and the 1996 laws. That is all.

I yield time to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. I make it clear I am a supporter of this Florida restoration plan.

Second, I point out there is this representation that we have all of these Federal resources in Florida that are going to benefit from this bill. And the answer to that, yes, they are. On the other hand, as a former Governor of Ohio, the Everglades are not only a tremendous resource for the United States, but they are also a tremendous resource for the State of Florida because they bring tremendous numbers of people to Florida from which the State benefits. We don't talk about that, but that is the other side of the coin.

Senator GRAHAM from Florida mentioned page 118 of the restoration projects. I point out that none of the restoration projects mentioned include municipal water supply. This proposal benefits the municipal water supply to the extent of 20 percent of the overall cost of the project.

In my State, the municipal water supply is paid for 100 percent by the people in the community. If we look at the numbers on this project and subtract the benefit to the State of Florida for the cost of paying for this public water supply that they would have to pay for entirely themselves, they are benefiting to the tune of $1.6 billion. If we take the $1.6 billion the State of Florida is benefiting from, the $3.9 non-Federal share they are putting into it, it works out to be $2.3 billion as what they are really paying out because they are saving on the $1.6 billion that they would have to spend on the public water supply.

Looking at those numbers, the relationship is basically 35 percent, the State of Florida; 65 percent, the Federal Government. I want the Senators to look at the numbers: 20 percent of this overall project is for the public water supply. Fine. But the fact is that if this project wasn't being undertaken, that public water supply would have to be supplied by the State of Florida or the communities within the State of Florida.

This argument that it is a 50–50 cost sharing on the construction costs does not state the facts. It is more like 35–65. Therefore, to say we are paying 50 percent of the construction costs; therefore, it should be 50–50 in operations, I don't think is a proper argument on their part.

In addition, I conclude with reference to the equity to the rest of the projects throughout the United States of America. In 1986 we decided O&M would be taken care of by the restoration project beneficiaries. I point out to the other Senator from Florida that as to the St. Luci project and many others mentioned, the Federal Government is picking up 100 percent of the cost that took place before 1986. Perhaps maybe one of the reasons why the Federal

Government decided not to pay 100 percent is because a lot of people thought that was not fair.

Mr. SMITH of New Hampshire. I yield 2 minutes to the Senator from Florida.

Mr. MACK. Mr. President, I respond to the question raised by the Senator from Virginia when we were talking about cost share. I suggested to Senator WARNER, if he looked in other places in Public Law 104, which is referred to as the Water Resources Development Act of 1996, he would find other language different from the language to which he was referring. That is found in section 316, central and southern Florida Canal, 111. Under ''Operation and Maintenance,'' it says:

The non-Federal share of operation and maintenance cost of the improvements undertaken pursuant to this section shall be 100 percent;

However, if you go on, it says:

. . . except that the Federal Government shall reimburse the non-Federal interest with respect to the project 60 percent of the cost of operating and maintaining pump stations that pump water into Taylor Slough and in the Everglades National Park.

I wonder what the argument was 14 years ago about changing precedent. People want to refer to precedent. The reality is that Congress does what the Congress believes is necessary to carry out an important project. I think it is pretty clear. In fact, my colleagues who oppose this cost share have indicated they are going to support the resolution, or support the act; therefore, I think, accepting the notion of the significance and importance of what we are doing. And therefore it is reasonable for the Senate to determine on this particular project because of its unusual, unique circumstances, that somehow we should, in fact, have a 50–50 cost share.

I do not find that stunning, and I am not impressed with the fact that for the last 14 years which some want to refer to that there has been a precedent established. There are all kinds of indications that we have had different cost shares, to the extent that we find in some areas the Federal Government is picking up 100 percent of the cost of operation and maintenance.

I again say to my colleagues, I hope they will support Senator GRAHAM and I and Senators SMITH and BAUCUS and defeat this amendment.

Mr. SMITH of New Hampshire. Mr. President, I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we all want to protect the Everglades. I don't think there is a Senator here who does not want to substantially protect and restore the Everglades.

How do we do it? What is the most fair, most equitable way to restore the Everglades? I think it is important to remember we cannot let perfection be the enemy of the good. There is no perfect solution. But there are good solutions. The committee has crafted a good solution.

It is true, as the Senator from Virginia and the Senator from Ohio are pointing out, we are breaking precedent. It is true. The provisions of the bill do provide for Uncle Sam to pay 50 percent of the operation and maintenance cost of this very large and very important project. That is true. I share many of the concerns of the Senators, the potential slippery slope; what is this going to lead to? Why are we breaking precedent here? It is a 14-year precedent, I think. It has been some time. What is a Federal interest? Sometimes it is hard to define what a Federal interest is.

But just as there are more Federal dollars going in for operation and maintenance, on the other side of the equation we are also breaking another precedent; that is, the State is putting up more of the construction costs. Ordinarily the State would have to put up about 35 percent of the construction costs. It is a big project, about $8 billion. Florida has decided to put up the full 50 percent. So they are paying more than they ordinarily would. The U.S. Government will be paying more than it ordinarily would in operation and maintenance costs.

This arrangement may not be perfect. But we are dealing with an extraordinary, special situation, and that is the Everglades. All of us in America feel a part of the Everglades. Certainly, the Floridians feel more closely attached to the Everglades, but I think the rest of us in this country have a feeling about it. It is part of America, a special part of America we want to protect and restore as best we can. So I say we should stick with the approach the committee has come up with after a lot of hard work, and a lot of give and take.

In addition, I might point out 50 percent of the benefits go to parks, Federal parks, Federal land. There are about 18,000 square miles involved in the Everglades restoration. About 9,000 square miles of that is Federal lands; 9,000 is non-Federal lands. So it seems to me a 50–50 operation and maintenance cost share—it is rough justice. It is about right: 9,000 Federal, 9,000 non-Federal, 50–50; at a time when the State of Florida also is putting up more than its usual share for construction.

So this has been a good debate. In future years, when we are faced with similar questions, I know the Senator from Virginia and the Senator from Ohio are going to be front and center saying: Uh-oh, here we go again. Remember that time in September 2000? And they will be making good points. But I believe one has to make a decision. The decision is now before us to proceed with the bill and not adopt the amendment offered by my good friend, recognizing they made good points, but I do not agree those points are sufficiently valid to warrant passage of their amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Will the Senator yield for a question on my time?

Mr. BAUCUS. I yield.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. In those few moments when I am able to take a vacation, I like to go to your State.

Mr. BAUCUS. You go often and I appreciate it.

Mr. WARNER. I started there as a firefighter in 1943.

Mr. BAUCUS. You did, and you told many stories about how proud you are of that.

Mr. WARNER. I was a 15-year-old boy. But what are you going to tell the people in Billings, Missoula, Livingston? There is lots of Federal land out there.

What percentage of your State is Federal land?

Mr. BAUCUS. I tell you, we are very proud of it.

Mr. WARNER. It is a high percentage.

Mr. BAUCUS. I will tell them this is a good precedent for Montana.

Mr. WARNER. You better go back and undo some of the things we have done in the last 14 years and readjust the cost sharing.

I say to my friend, I don't understand it. The State of Florida has to pay 50 percent rather than 35 percent. I will tell you why. It is because you have so many collateral projects, wastewater and other things. But if that was the problem, why didn't you stick in the committee to the 35 percent and leave the cost sharing as it was and not change the law?

Mr. BAUCUS. I think the answer to that, if I might answer my friend, is, again, a sort of rough justice. The State of Florida wants to be a partner in this thing.

Mr. WARNER. We shifted from marriage to partner, Mr. President.

Mr. BAUCUS. It is not lopsided. There is a slight tilt in favor of the State of Florida, and I mean it is slight. It is not really out of bounds. But the Everglades is really special. It is a national treasure. I think we should help restore the Everglades.

Mr. WARNER. I thank my friend. I wouldn't want to go back to Virginia and say to my community they are more special than they are.

But one of the interesting things, if I may add for a minute, where are the environmental organizations, the watchdogs who are the first to come up? They are standing by in absolute silence as to the change of this law which they helped us put in place in 1986, and again in 1996. It is just silence across the land because of the romance and the mystique of this magnificent Everglades.

I say to those organizations: My little lakes, my little streams in Virginia are just as important. And the people of Virginia are paying to clean up the water going into those streams and lakes, rivers and dams, not the Federal Government.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I yield time to my friend from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Will the Senator from Montana yield for a question?

Mr. BAUCUS. Yes, on the Senator's time.

Mr. VOINOVICH. The cost sharing on municipal waters is 100 percent local. Does the Senator agree?

Mr. BAUCUS. That's correct, ordinarily.

Mr. VOINOVICH. I have many areas of my State that need to upgrade their water supply. They would love to have the Federal Government pick up the tab for part of it.

Mr. BAUCUS. That is correct, as do all States.

Mr. VOINOVICH. As mayor of Cleveland, we had to increase water rates 300 percent in order to do the job we needed to do and we didn't get any money from the Federal Government. I think it is really important to recognize that 20 percent of this total cost is municipal water supply. We are paying for the cost of the municipal water supply. They are avoiding some $1.6 billion of cost for this municipal water. That is an enormous contribution.

If you subtract out that $1.6 billion from Florida's share on it, it works out to be about 35–65, so that the argument, 50–50, and therefore we ought to do 50 percent of the operation and maintenance I do not think is as relevant as it might be if it was really 50–50.

Mr. BAUCUS. Might I respond to the Senator?

Mr. VOINOVICH. Yes.

Mr. BAUCUS. I heard what you are saying, but I think you heard the Senator from Florida, both Senators, very extensively explain how it is the Corps project, the original Everglades project, which I think cost about $3 billion in today's dollars to build, that caused a lot of the pollution problems.

Here we are coming up with a restoration of the Everglades which includes restoration of waters, municipal waters included, which otherwise would be degraded because of the original Corps project or because of the costs and pollution problems associated with that project.

Mr. VOINOVICH. The point is, I am not referring to wastewater. I am talking about public water supply which is very important to developing any State. You have people coming in, and you need a public water supply. In order to provide it, you have to go to the local people, the ratepayers, and say: Come up with the money. And the Federal Government does not participate.

In this project, we are saying to the State of Florida: If you have future municipal water needs, 20 percent of this project is for that. It is an equivalent of $1.6 billion, and you are going to be saving that cost in the future.

Mr. BAUCUS. I understand that, but, again, the same principle applies to municipal water as I explained applies to wastewater.

Mr. VOINOVICH. We do not agree on that.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Fifteen minutes.

Mr. SMITH of New Hampshire. Mr. President, during the course of the debate on this amendment, I heard several statements made—I am sorry my colleague from Virginia is not on the floor at the moment—about precedent-breaking and about what the law says. We have heard all these representations about the law.

I have the law in my hand, and I am going to read from it word for word. This is the Water Resources Development Act of 1986, which has been cited a number of times, that somehow we are breaking precedent, violating law, or not maintaining the law with what we are doing in the Everglades.

Section 906(e). There are three criteria mentioned here in terms of construction, and then I will go to O&M:

(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the first costs of such enhancement—

In this case construction—

shall be a Federal cost when—

(1) such enhancement provides benefits that are determined to be national. . . .

Everybody in this Chamber today has called the Everglades a national treasure, including those proponents of this amendment.

(2) such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of Interior. . . .

We have 68 endangered or threatened species in the Everglades.

(3) such activities are located on lands managed as a national wildlife refuge.

We have 16 national wildlife refuges in the Everglades ecosystem.

Here is the line which is absolutely the opposite of what has been said on the Senate floor all afternoon on this amendment. Listen carefully. This is the O&M portion:

When benefits of enhancement do not qualify under the preceding sentence, 25 percent of such first costs of enhancement shall be provided by non-Federal interests under a schedule of reimbursement. . . . The non-Federal share of operation, maintenance . . . of activities to enhance fish and wildlife resources shall be 25 percent.

If the non-Federal portion is 25 percent, the Federal portion should be 75 percent. All we are asking for in this legislation is a 50 percent Federal portion. We are not violating any law. We are absolutely following, to Florida's detriment, if one wants to take that position since they could do 75–25; we are doing 50–50.

It is very important my colleagues understand. No precedent is being broken. No law is being ignored or violated. We are working within the law under this provision, up to 75 percent Federal share when those three criteria of construction I just mentioned are met. We have met all three of those. We do not even have to meet them all. It is ''or.'' We met all three. As a result of that, we can go up to 75 percent. We have gone to 50 percent in the Federal share. There is a compelling reason to do this. It is fair, and it is within the law.

I will conclude with a few more points. If one looks at the so-called normal WRDA legislation, 65 percent Federal—35 percent State on construction—we are doing 50–50 with the Everglades—that is a 15-percent reduction in the Federal cost. If we take that 15-percent reduction—Senator MACK referred to this already—that is about $1.2 billion the Federal Government is saving on the construction portion.

The question is, If we take that $1.2 billion and offset it, how much O&M can we get out of that? Senator MACK thought it was around 20 years. So there are 20 years of O&M just from the savings on that particular part of the construction.

All my colleagues need to understand, this is a deal-breaking amendment. This amendment would basically take down the entire Everglades proposal, in my view, and WRDA, because to go from the 50–50 position, which has been delicately negotiated and has stayed within the law and stayed within the precedent, contrary to what has been said, would be a deal breaker. That would be a tragedy, in my view, with the greatest respect for the proponents because they feel strongly about this. I do not want to be breaking precedent or violating law and will not.

I want, first, my colleagues to know after this project is constructed, it is the responsibility of the non-Federal interests to operate and maintain it. In the Everglades provision, 50–50 O&M—I do not think that is out of the ordinary; it is within the law, as I said.

The Federal Government owns and manages about 50 percent of the lands that will benefit from this restoration project. Fifty percent is federally owned. For realizing 50 percent of the benefits, it is not unreasonable we should put up 50 percent of the costs. We could do 75 under the law; we are doing 50. There are four national parks, as I indicated before, 16 national wildlife refuges, 1 national marine sanctuary, and 21 federally managed properties, or 5 million acres of federally owned and managed lands all in the south Florida ecosystem.

I do not mean to imply that other projects are not important, but this project has plenty of Federal interest.

The level of the investment being put forth by the State is unprecedented, and they put it up early, to their credit. They put money aside right from

the beginning. We asked Governor Bush and the legislature to do that. They did it and did it quickly and willingly.

The Federal Government was responsible for damaging the Everglades, as has been pointed out. We did it. The Federal Government did it in 1948. That is another aspect of this that needs to be considered. We must look at what we did. We did the damage, not knowingly or not knowing how badly it was going to affect the Everglades, but we did it, and therefore we have an obligation to correct it. That should impact that figure of 50–50.

Do we want to ensure our investment in the restoration effort is preserved for future generations? The answer is unequivocally yes.

Do we believe the restoration project is an equal partnership between the Federal Government and the State of Florida? The answer is yes, absolutely. Florida does, too.

Do we want to impose on Florida the burden for maintaining fresh flows of water in the quality and quantity needed by our Federal trust resources? I do not think so. Our properties are our responsibility, and we should maintain them. That is not unreasonable.

The Everglades provision in the managers' amendment is supported by the administration, supported by the State of Florida, supported by two Native American tribes impacted by the restoration, and supported by industry groups and environmentalists, and they do not want to risk fracturing that delicate coalition of support.

Mr. President, I ask unanimous consent that a letter from Governor Bush of Florida in opposition to this amendment and a letter from several environmental groups in opposition, and also a letter from Dawson Associates, which represents a number of industries, be printed in the RECORD.

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

GOVERNOR OF THE STATE OF FLORIDA,
Tallahassee, FL, September 19, 2000.

Hon. BOB SMITH,
Chairman, Environment and Public Works Committee, Washington, DC.

DEAR MR. CHAIRMAN: Florida awaits with much anticipation Congress' authorization of the plan to restore America's Everglades. Our optimism is derived in large measure from the demonstrated leadership in the Senate, particularly your efforts and those of Senator Mack and Senator Trent Lott and his leadership team. We are also hopeful that, with time running out, the White House will hold together the bipartisan nature of this effort by encouraging minority members to keep focused on the historic nature of the opportunity before them.

Clearly, with just a few legislative days remaining, a key to success will be limiting efforts to revisit some of the fundamental agreements that have now carried us so far. Among these agreements is the unprecedented equal cost sharing arrangement between the federal government and our state.

This true and equal partnership creates all of the right incentive for making wise, cost-effective decisions as the project proceeds through construction, operation and maintenance. An equal and shared interest between the state and federal governments ensures that cost control remains a shared goal, and that design and construction decisions are made based on what will provide the greatest long-term efficiencies. No party will benefit from attempting to shift costs forward or backward for short-term advantage. Everybody, most importantly the taxpayers, wins if there is mutual benefit in controlling overall costs for the life of the project.

The current 50–50 cost sharing formula for construction, operation and maintenance of the Comprehensive Everglades Restoration Plan is far superior to the conventional funding formulas used for more typical Water Resource Development Act projects. Florida, by paying half of the project construction costs, will save the federal treasury nearly $2 billion. This up front savings to the federal government is equivalent to more than 20 years of the projected operation and maintenance costs.

Beyond the sound fiscal arguments for an equal partnership, there are also important practical and management benefits. All of the diverse interest that have rallied around the bill that is now before the Congress recognize the delicate political balance that has been a struck regarding the management and allocation of water resources in the South Florida ecosystem after the construction project is complete. Clearly the maintenance of this balance is best protected if there are equal commitments from the state and the federal government for the ongoing operation and maintenance of the project.

I respectfully urge you to remain alert to the importance of this full and equal partnership between the state and federal governments. Not only is this partnership formula fiscally and politically prudent, it is also critical to maintenance to maintaining the diverse and broad-based support that the bill before you has earned. Please let me know if you believe that this agreement is ever in jeopardy in the critical days ahead as this Congress prepares to make environmental history.

Sincerely,

JEB BUSH.

1000 FRIENDS OF FLORIDA, AUDUBON OF FLORIDA, CENTER FOR MARINE CONSERVATION, THE EVERGLADES FOUNDATION, THE EVERGLADES TRUST, NATIONAL AUDUBON SOCIETY, NATIONAL PARKS CONSERVATION ASSOCIATION, NATURAL RESOURCE DEFENSE COUNCIL, SIERRA CLUB, WORLD WILDLIFE FUND,
September 19, 2000.

Hon. BOB SMITH,
Chairman, Senate Environmental and Public Works Committee, Washington, DC.

Hon. MAX BAUCUS,
Ranking Member, Senate Environmental and Public Works Committee, Washington, DC.

DEAR SENATOR SMITH AND SENATOR BAUCUS: We are writing to express our opposition to the Voinovich amendment to H.R. 2796, the Water Resources Development Act of 2000, that would eliminate the state-federal operations and maintenance (O&M) cost share for the Comprehensive Everglades Restoration Plan (CERP).

S. 2796 presently provides a 50–50 cost share between the State and Federal government. The Voinovich amendment would make the State of Florida pay the entire cost. The Voinovich amendment ignores the fact that this is no ordinary water project because the taxpayer is a primary beneficiary of the project.

Within the project area there is a unique and compelling federal interest that justifies a 50–50 state/federal cost share for operations and maintenance. The project area includes four National Parks, 16 National Wildlife Refuges, and one National Marine Sanctuary that comprise five million acres of federally owned and managed lands—50% of the remaining Everglades.

In addition, approval of the Voinovich amendment would likely yield two results; both of which would severely jeopardize the likelihood of enacting Everglades Restoration legislation this year: First, the State could withdraw its support for the bill leaving this a project without a non-federal sponsor. Or, the State could seek new modifications to reflect the diminished federal commitment to restoration of America's Everglades, a move that would send the Everglades back to the drawing board with no time left on the clock.

Therefore, we respectfully request that you vote against the Voinovich Everglades cost share amendment to S. 2796.

Thank you for your consideration of our views.

Sincerely,

Nathaniel Reed, Chairman, 1000 Friends of Florida.

David Guggenheim, Vice President for Conservation Policy, Center for Marine Conservation.

Tom Rumberger, Chairman, The Everglades Trust.

Mary Munson, Director, South Florida Programs, National Parks Conservation Association.

Frank Jackalone, Senior Field Representative, Sierra Club.

Stuart Strahl, Ph.D., Executive Director, Audubon of Florida.

Mary Barley, Chair, The Everglades Foundation.

Tom Adams, Director of Government Affairs, National Audubon Society.

Bradford H. Sewell, Senior Project Attorney, Natural Resources Defense Council.

Shannon Estenoz, Director, South Florida/Everglades Program, World Wildlife Fund.

DAWSON ASSOCIATES, INC.,
Washington, DC, September 19, 2000.

Senator BOB SMITH,
Chairman, Committee on Environment and Public Works, Washington, DC.

DEAR CHAIRMAN SMITH: The coalition of Florida agriculture, water utilities, and homebuilders is convinced that without Federal participation in the costs of operation, maintenance, repair, replacement, and rehabilitation activities associated with the Comprehensive Everglades Restoration Plan (CERP), Everglades restoration will never be implemented. Governor Bush's Commission for the Everglades has taken the position that if the Federal government is to be a full and equal partner in restoration, it should share in all of the associated costs. Furthermore, it is certain that the Florida Legislature will not supply the level of funding needed to construct this plan if they are going to have to pay the full cost of operation over the life of the project.

The CERP is primarily a plan to restore and protect Federal properties, and the development of the plan has been dominated by the federal agencies, especially the Department of Interior. The restoration of a unique ecological system of world significance dramatically and fundamentally distinguished the purposes of the Comprehensive Plan from those of other Army Civil Works projects.

Furthermore, the Army Corps of Engineers indicated to stakeholders throughout the planning process that it would seek cost sharing for all modification over their life cycle. This commitment eliminated the biases in project decision-making that result when all costs are not treated in the same way. Affirming this commitment in the authorization will ensure that project design

decisions will continue to be based on cost-effectiveness alone.

Sincerely,

ROBERT K. DAWSON,
President.

COALITION MEMBERS

Florida Citrus Mutual (Mr. Ken Keck, Director for Government Affairs).

Florida Farm Bureau (Mr. Carl B. Loop, Jr., President).

Florida Home Builders Association (Mr. Keith Hetrick, General Counsel).

The American Water Works Association, Florida Section Utility Council (Mr. Fred Rapach, Chairman).

Florida Chamber (Mr. Chuck Littlejohn, Government Affairs).

Florida Fruit and Vegetable Association (Mr. Mike Stuart, President).

Southeast Florida Utility Council (Mr. Vernon Hargrave, Chairman).

Gulf Citrus Growers Association (Mr. Ron Hamel, Executive VP).

Florida Sugar Cane League (Mr. Phil Parsons, Environmental Counsel).

The Florida Water Environmental Association Utility Council (Mr. Fred Rapach, Chairman).

Sugar Cane Growers Cooperative of Florida (Mr. George Wedgworth, President).

Florida Fertilizer and Agri-chemical Association (Ms. Mary Hartney, President).

Mr. SMITH of New Hampshire. Mr. President, in conclusion, we have an opportunity to rectify a terrible mistake we made. We did it with good intentions. But we made a mistake. This is what we need to do. It is our responsibility now to do that. The Everglades provision in the managers' amendment is supported by these groups.

I urge my colleagues to preserve that Federal-State partnership in the Everglades restoration, to preserve this 50–50 O&M, and to reject this amendment because, again, I believe to pass this amendment would break the deal that we have already worked out so delicately among so many groups, No. 1, and, No. 2, it would be unfair. It would not be consistent with the law, WRDA 86, and it would not, in my view, be consistent with the precedent.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. WARNER. I yield such time as the Senator from Ohio may require. But before doing so, I ask for the yeas and nays on the Warner amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. VOINOVICH. Mr. President, I would like to comment on the remarks of the chairman of my committee for whom I have a great deal of respect. I would beg to differ in terms of the interpretation of what this water restoration project comes under.

This is not a fish and wildlife enhancement under 906(e). This is an environmental restoration under section 103 of WRDA 1986, as amended, which basically calls for: 100 percent of the operation, maintenance, replacement and rehabilitation costs for projects are to be paid by the local participant in the project.

Last, but not least—and, again, with all due respect to my chairman—as a former Governor of Ohio, I can tell you that if this amendment is adopted, the Governor of Florida is not going to walk away from this wonderful legislation that is going to help restore the Everglades and commit the Federal Government to—based on our hearing this week—half of some $14 billion.

If anyone is going to vote against this amendment because they think it is a deal breaker, in my opinion, it is not a deal breaker. This bill will pass. If this amendment is adopted, the bill is still going to pass, and we will move on with this project.

The PRESIDING OFFICER. Who seeks time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to accommodate the distinguished chairman of our committee to facilitate the vote, which would also accommodate a number of our colleagues.

We have had a very good debate. The issue before the Senate is very succinct and simple. We have had a body of law for 14 years. That law, with reference to this specific project, was reviewed in 1996. And explicitly, the Congress, after reviewing it, stated the following: ''The operation and maintenance of projects carried out under this section''—and that section dealt with the Florida Everglades—''shall be a non-Federal responsibility.'' So we are now about to vitiate 14 years of law.

I say to my colleagues, you will have to go back and explain to your constituents how all the projects in that 14-year period are now operation and maintenance being funded by the States, and that the budget for the projects prior to 1986 is underfunded by $440 million in this one fiscal year.

So I think it is a very bad precedent for this Congress to vitiate 14 years of law, and particularly when it was reviewed specifically with regard to this project just 4 years ago and explicitly written into law that the operation and maintenance would be entirely the responsibility of the State of Florida.

I yield the floor and yield back my time.

Mr. SMITH of New Hampshire. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes.

Mr. SMITH of New Hampshire. I am prepared to yield that back, but Senator LEVIN has asked for time to make a comment.

I yield 1 minute to the Senator from Michigan.

Mr. LEVIN. I thank the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I understand that there is a managers' package of amendments which have been cleared, and that one of those amendments was that of my colleague from Michigan, Senator ABRAHAM.

I had some concerns about that, which I have not had a chance yet to share with Senator ABRAHAM. I think I will be able to work this out with him, but I have not yet had the opportunity.

I understand now that amendment would be withheld from the managers' package until we can get back with the managers about that subject.

So if there is a managers' package that is offered tonight, it would not include that amendment?

Mr. SMITH of New Hampshire. The Senator is correct. We are going to try to offer a managers' package tonight. It will not include that amendment, to give the two Senators from Michigan the opportunity to work that out.

Mr. LEVIN. I thank the Senator for that. I will be in touch with Senator ABRAHAM in the hopes and belief, too, we will be able to work something out on it.

I thank my friend.

Mr. SMITH of New Hampshire. Mr. President, I now yield back all time on my side on the pending amendment.

Before the vote begins, I announce, on behalf of the majority leader, that following this vote on this amendment, there will be no further votes this evening.

Mr. President, I ask unanimous consent that the final passage vote for WRDA occur at 4:50 p.m. on Monday, and that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to Warner amendment No. 4165. The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO) is necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

The result was announced—yeas 24, nays 71, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—24

Allard	Helms	Roberts
Bunning	Hutchinson	Sessions
Burns	Hutchison	Shelby
Campbell	Inhofe	Specter
Cochran	Kyl	Stevens
Gramm	McConnell	Thomas
Grassley	Murkowski	Voinovich
Hagel	Nickles	Warner

NAYS—71

Abraham	Craig	Harkin
Ashcroft	Daschle	Hatch
Baucus	DeWine	Hollings
Bayh	Dodd	Inouye
Bennett	Domenici	Jeffords
Biden	Dorgan	Johnson
Bingaman	Durbin	Kennedy
Bond	Edwards	Kerrey
Breaux	Enzi	Kerry
Brownback	Feingold	Kohl
Bryan	Fitzgerald	Landrieu
Byrd	Frist	Lautenberg
Chafee, L.	Gorton	Leahy
Cleland	Graham	Levin
Collins	Grams	Lincoln
Conrad	Gregg	Lott

Lugar	Reid	Smith (OR)
Mack	Robb	Snowe
McCain	Rockefeller	Thompson
Mikulski	Roth	Thurmond
Miller	Santorum	Torricelli
Moynihan	Sarbanes	Wellstone
Murray	Schumer	Wyden
Reed	Smith (NH)	

NOT VOTING—5

Akaka	Crapo	Lieberman
Boxer	Feinstein	

The amendment (No. 4165) was rejected.

Mr. SMITH of New Hampshire. I move to reconsider the vote.

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

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

AMENDMENTS NOS. 4166, 4167, 4168, 4169, 4170, 4171, 4172, AND 4173, EN BLOC

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the amendments to S. 2796 currently at the desk, be accepted en bloc. These amendments have been agreed to by the minority.

The PRESIDING OFFICER. The clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes amendments Nos. 4166 through 4173, en bloc.

The amendments are as follows:

AMENDMENT NO. 4166

(Purpose: To direct the Corps of Engineers to give expedited consideration to the completion of a study on renourishment of certain beaches in North Carolina)

At the appropriate place in title III, insert the following:

SEC. ___. BOGUE BANKS, CARTERET COUNTY, NORTH CAROLINA.

(a) DEFINITION OF BEACHES.—In this section, the term ''beaches'' means the following beaches located in Carteret County, North Carolina:

(1) Atlantic Beach.

(2) Pine Knoll Shores Beach.

(3) Salter Path Beach.

(4) Indian Beach.

(5) Emerald Isle Beach.

(b) RENOURISHMENT STUDY.—The Secretary shall expedite completion of a study under section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) on the expedited renourishment, through sharing of the costs of deposition of sand and other material used for beach renourishment, of the beaches of Bogue Banks in Carteret County, North Carolina.

AMENDMENT NO. 4167

(Purpose: To provide the Corps of Engineers the authority to accept and expend funds provided by public entities to process permits required by federal environmental statutes)

SEC. . (a) The Secretary, after public notice, may accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits under the jurisdiction of the Department of the Army.

(b) In carrying out this section, the Secretary shall ensure that the use of such funds as authorized in subsection (a) will result in improved efficiencies in permit evaluation and will not impact impartial decision making in the permitting process.

AMENDMENT NO. 4168

The Secretary shall conduct a study to determine the project deficiencies and identify the necessary measures to restore the project for Cliff Walk in Newport, Rhode Island to meet its authorized purpose.

AMENDMENT NO. 4169

The Secretary shall conduct a reconnaissance study to determine the Federal interest in dredging the Quonset Point navigation channel in Narragansett Bay, Rhode Island.

AMENDMENT NO. 4170

(Purpose: To provide assistance for efforts to protect and improve the Missouri River in the State of North Dakota)

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 4171

(Purpose: To direct the Secretary of the Army to establish a program to market dredged material)

At the appropriate place, insert the following section:

SEC. . SHORT TITLE.

This section may be cited as the ''Dredged Material Reuse Act''.

SEC. . FINDING.

Congress finds that the Secretary of the Army should establish a program to reuse dredged material—

(1) to ensure the long-term viability of disposal capacity for dredged material; and

(2) to encourage the reuse of dredged material for environment and economic purposes.

SEC. . DEFINITION.

In this Act, the term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

SEC. . PROGRAM FOR REUSE OF DREDGED MATERIAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a program to allow the direct marketing of dredged material to public agencies and private entities.

(b) LIMITATIONS.—The Secretary shall not establish the program under subsection (a) unless a determination is made that such program is in the interest of the United States and is economically justified, equitable, and environmentally acceptable.

(c) REGIONAL RESPONSIBILITY.—The program described in subsection (a) may authorize each of the 8 division offices of the Corps of Engineers to market to public agencies and private entities any dredged material from projects under the jurisdiction of the regional office. Any revenues generated from any sale of dredged material to such entities shall be deposited in the U.S. Treasury.

(d) REPORTS.—Not later than 180 days after the date of enactment of this Act, and annually thereafter for a period of 4 years, the Secretary shall submit to Congress a report on the program established under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act $2,000,000 for each fiscal year.

AMENDMENT NO. 4172

On page 49, line 1, insert a comma between ''assessment'' and ''community''.

AMENDMENT NO. 4173

At the appropriate place insert:

SEC. ___. NATIONAL ACADEMY OF SCIENCES STUDIES.

(a) DEFINITIONS.—In this section:

(1) ACADEMY.—The term ''Academy'' means the National Academy of Sciences.

(2) METHOD.—The term ''method'' means a method, model, assumption, or other pertinent planning tool used in conducting an economic or environmental analysis of a water resources project, including the formulation of a feasibility report.

(3) FEASIBILITY REPORT.—The term ''feasibility report'' means each feasibility report, and each associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project.

(4) WATER RESOURCES PROJECT.—The term ''water resources project'' means a project for navigation, a project for flood control, a project for hurricane and storm damage reduction, a project for emergency streambank and shore protection, a project for ecosystem restoration and protection, and a water resources project of any other type carried out by the Corps of Engineers.

(b) INDEPENDENT PEER REVIEW OF PROJECTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall contract with the Academy to study, and make recommendations relating to, the independent peer review of feasibility reports.

(2) STUDY ELEMENTS.—In carrying out a contract under paragraph (1), the Academy shall study the practicality and efficacy of the independent peer review of the feasibility reports, including—

(A) the cost, time requirements, and other considerations relating to the implementation of independent peer review; and

(B) objective criteria that may be used to determine the most effective application of independent peer review to feasibility reports for water resources projects, including but not limited to projects for navigation, flood control, hurricane and storm damage reduction, emergency streambank and shore protection, and ecosystem restoration and protection.

(3) ACADEMY REPORT.—Not later than 1 year after the date of a contract under paragraph (1), the Academy shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report that includes—

(A) the results of the study conducted under paragraphs (1) and (2); and

(B) in light of the results of the study, specific recommendations, if any, on a program for implementing independent peer review of feasibility reports.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,000,000, to remain available until expended.

(c) INDEPENDENT PEER REVIEW OF METHODS FOR PROJECT ANALYSIS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall contract with the Academy to conduct a study that includes—

(A) a review of state-of-the-art methods;

(B) a review of the methods currently used by the Secretary;

(C) a review of a sample of instances in which the Secretary has applied the methods identified under subparagraph (B) in the analysis of water resources projects, including but not limited to projects for navigation, flood control, hurricane and storm damage reduction, emergency streambank and shore protection, and ecosystem restoration and protection; and

(D) a comparative evaluation of the basis and validity of state-of-the-art methods identified under subparagraph (A) and the methods identified under subparagraphs (B) and (C).

(2) ACADEMY REPORT.—Not later than 1 year after the date of a contract under paragraph (1), the Academy shall submit to the

Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report that includes—

(A) the results of the study conducted under paragraph (1); and

(B) in light of the results of the study, specific recommendations for modifying any of the methods currently used by the Secretary for conducting economic and environmental analyses of water resources projects.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000, to remain available until expended.

Mr. BINGAMAN. Mr. President, I rise today to speak for a few minutes about my amendment in the managers' package to the Water Resources Development Act of 2000. My amendment is needed to allow the Army Corps of Engineers to continue to work on a feasibility study to alleviate the chronic flooding in the Southwest Valley of Albuquerque, New Mexico.

First, I want to thank the committee chairman, Senator SMITH, the distinguished ranking member, Senator BAUCUS, and Chairman VOINOVICH, as well as their fine staffs for all their good work on WRDA2000 (S. 2796).

For a number of years the Southwest Valley area of Albuquerque in my state has been prone to flooding after major rainstorms. The flooding has caused damage to irrigation and drainage structures, erosion of roadways, pavement, telephone and electrical transmission conduits, contaminated water and soil due to overflowing septic tanks, damaged homes, businesses, and farms, and presented hazards to automobile traffic. In 1997, Bernalillo County approached the Army Corps of Engineers to request a reconnaissance study of the chronic flooding problems.

The study area encompassed 17.8 square miles of mostly residential neighborhoods along the banks of the Rio Grande in the Southwest Valley and the 50 square miles on the West Mesa, including the Isleta Pueblo, that drain into the valley. The reconnaissance study began in March 1998 and is now completed.

The conclusions of the reconnaissance study define the magnitude of the continuing flooding problem in the Southwest Valley. The study also established a clear federal interest in the drainage project, found a positive cost to benefit ratio for the project, and identified work items necessary to begin designing a range of solutions to alleviate the chronic flooding problems in the valley.

In 1999, based on the positive findings of the reconnaissance study, the Environment and Public Works Committee authorized the Army Corps of Engineers to conduct a full study to determine the feasibility of a project for flood damage reduction in Albuquerque's Southwest Valley. The authorization is contained in section 433 of the Water Resources Development Act of 1999 (P.L. 106–53). I want to thank the EPW committee for authorizing this much needed feasibility study. The study began in March 1999 and is expected to be completed in February 2002.

Currently, Bernalillo County, the Albuquerque Metropolitan Arroyo Flood Control Authority and the Corps are working cooperatively on the feasibility study. Last year, the administration requested, and the Congress appropriated, $250,000 in Federal funding for the feasibility study. This year, the request was for $330,000. I want to thank the Appropriations Committees in the House and Senate for again providing the full amount requested.

Last July I had an opportunity to meet with the engineers from the Corps, the County, and AMAFCA to get an update on the study and to tour the areas in the Southwest Valley that are subject to chronic flooding. At the end of the tour, the Corps indicated to me that based on the initial results of the feasibility study, the flooding there was quite severe but the project did not seem to meet the Corps' required flow criterion of 1800 cubic feet per second for the 100-year flood. These flow criteria are outlined in the Engineering Regulations established for the Corps. Because of the obvious severity of the flooding, the engineers requested a legislative waiver of the regulations. Without a waiver, the Corps could not continue as a partner in the project. They also indicated the Corps' regulations do not contain any provision to waive the peak discharge criterion.

I'd like to take a few moments to describe briefly the unique situation in the Southwest Valley that necessitates a waiver of the Corps' standard regulations. The land along the west side of the Rio Grande is essentially flat. The river is contained by large earthen levees, which were built for flood control. When a river is contained this way by levees, the sediment accumulates in the river bed, slowly raising the level of the river. Of course, if there were no levees, when sediment builds up, the river would simply change course to a lower level. However, over the years, as the sediment has continued to accumulate in the Rio Grande, the level of the river within the levees is now higher than the surrounding land. Thus, when there are heavy rains during the monsoon season, the runoff has nowhere to go—it simply flows into large pools on the valley floor, flooding homes and farms. The water can't flow uphill into the river, so it stays there until it either evaporates or is pumped up and hauled away.

If the flood water sits in large pools and isn't flowing, it clearly can't meet any criterion based on the flow rate of water. Indeed, given the unique nature of the flooding in the Southwest Valley, most areas subject to chronic flood damage do not meet the Corps' peak discharge criterion.

During my visit in July, the three partners in the feasibility study specifically asked me for help in obtaining a waiver of the Corps' technical requirements to deal with this special situation. My amendment provides the necessary waiver the Corps needs to continue to work in partnership with the county and AMAFCA on this project.

This is not a new authorization; Congress authorized this study last year. My amendment is a simple technical fix to the existing authorization. I do believe the unique situation in Bernalillo County warrants a waiver of the Corps' standard regulations, and I thank the committee for accepting my amendment.

SAVINGS CLAUSE REPORT LANGUAGE

Mr. BAUCUS. Mr. President, as part of the manager's amendment we amend section (h)(3)(B) of the bill as reported that explains what the programmatic regulations should contain. What impact does amending this section have on the report language that accompanies this section.

Mr. SMITH. I am very glad that you asked that question. First let me explain what subsection (h)(3) does. Subsection (h)(3) requires the issuance of programmatic regulations to ensure that the goals and purposes of the Plan are achieved by guiding the implementation of the project implementation reports.

Confusion was raised due to the wording that we used in the bill as reported. In order to clarify section (h)(3)(B)(i), we deleted the words ''provide guidance.'' Despite the change in the manager's amendment, the report language for this section is still relevant, and reflects the committee's interpretation of this section. It is still the committee's intent that in developing the programmatic regulations, the Federal and State partners should establish interim goals-expressed in terms of restoration standards-to provide a means by which the restoration success of the plan may be evaluated through the implementation process. The restoration standards should be quantitative and measurable at specific points in the plan implementation.

Mr. BAUCUS. thank you for the clarification.

FLORIDA CONSUMPTIVE USE PERMITTING PROCESS

Mr. BAUCUS. In the manager's amendment we modified the agreement section of the bill. Am I correct that the purpose of this section is to require the State of Florida and the President of the United States to enter into a binding agreement requiring Florida to manage its consumptive use permitting process in such a manner that the State will be able to deliver the water made available by the plan for the natural system to ensure restoration.

Mr. SMITH of New Hampshire. That is correct. Furthermore, the plan should include an agreemen that the State will not pre-allocate any water generated by the plan for consumptive use or otherwise make this water unavailable by the State. This agreement is extremely is extremely important, as are the programmatic regulations,

in ensuring that the needs of the natural system are met.

Mr. BAUCUS. Thank you for the clarification.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 4166 through 4173, en bloc) were agreed to.

Mr. SMITH of New Hampshire. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BREAKENRIDGE FLOOD REDUCTION PROJECT

Mr. GRAMS. Mr. President, I would like to engage the distinguished chairman of the Environment and Public Works Committee, in a brief colloquy on an extremely important flood reduction project. As the Chairman may recall, I have been a strong proponent of the ongoing Breckenridge flood reduction project in Breckenridge, Minnesota. I am pleased that the Chairman has agreed that this existing flood control project should continue to proceed expeditiously. As a result of the 1997 floods, the city of Breckenridge experienced over $30 million in flood related damages. That flood cost the Federal Government millions of dollars in expenditures for advanced measures for flood fighting, flood emergency actions during the flood, and post-flood clean-up and recovery efforts at Breckenridge.

After the 1997 flood, the city has taken numerous actions to protect themselves from future catastrophic flooding. Such actions include the acquisition of many flood prone properties; local design and construction of new local flood levees at selected areas; initiation of a partnership between the Corps of Engineers, the city, and the State of Minnesota for a cost-shared Section 205 Feasibility Study to define an implementable Federal flood reduction project.

The city of Wahpeton, North Dakota is located immediately across the Red and Bois de Sioux Rivers from Breckenridge and is therefore strongly inter-related from a hydraulic and social perspective. Wahpeton has also entered into a separate cost-shared Section 205 flood reduction study for protecting their city. The flood protection plans now formulated for Wahpeton and Breckenridge are interdependent with each project relying on flood control features to be implemented by their sister city. If Wahpeton moves forward before Breckenridge, then Breckenridge could experience even more flooding. The two projects should proceed together. Therefore, in order for either project to move forward through completion these separate Federal flood reduction projects must both be constructed expeditiously. The timing associated with construction of each project will affect the implementation options and costs for each project.

I would like to continue to work with the Chairman as this bill goes to conference in providing further assurances that this existing flood control project be constructed as quickly as possible so that the city of Breckenridge can be protected from future flooding.

Mr. WELLSTONE. Mr. President, I want to echo the words of my colleague from Minnesota and thank my colleagues, the Chairman and ranking members of the Environment and Public Works Committee for their attention to the needs of the residents of Breckenridge, Minnesota and this much needed flood control project. We have come a long way since the floods of 1997, when I visited the community to witness first hand the devastation. Since then the city of Breckenridge has been working closely with the Army Corps of Engineers and the Minnesota Department of Natural Resources to design a comprehensive flood control plan to protect the community from future losses. I am pleased that the Senate WRDA bill will include authorization for this much needed flood control project.

Mr. SMITH of New Hampshire. Mr. President, I am pleased to be able to accommodate the Senators' request and provide $21 million in authorized language for this existing and ongoing flood reduction project. I know how important this project is to the citizens of Breckenridge, Minnesota, and hope the construction can begin expeditiously.

Mr. GRAMS. Mr. President, I thank my colleague for his assistance.

ADAPTIVE ASSESSMENT AND MONITORING

Mr. GRAHAM. Mr. President, I rise to speak today about the Adaptive Assessment and Monitoring section of this legislation with my colleagues from Florida and New Hampshire. This is one of the most critical aspects of this legislation which builds in a feedback loop for the Army Corps and the South Florida Water Management District and ultimately, the Congress, to incorporate new information into Plan authorization, design and execution. I would encourage the Corps, under the authority and appropriations provided for the Comprehensive Everglades Restoration Plan [CERP], to coordinate with appropriately qualified outside institutions, both nationally and internationally, to conduct independent scientific assessments and monitoring as part of the Adaptive Assessment and Monitoring Program. I also believe that one of the most important elements of Everglades restoration will be technology transfer to other ecosystems. I recommend that the Corps continue its partnerships with appropriately qualified outside institutions, both nationally and internationally, to distribute lessons-learned from this experience.

Mr. MACK. I echo the sentiments of the Senator from Florida about the Adaptive Assessment and Monitoring Program. As this is a long-term plan spanning almost 25 years in execution, it stands to reason that research will yield new information and technology changes will yield new solutions. The Adaptive Assessment and Monitoring Program is critical to ensuring that this new information is incorporated into our planning process for this project. The type of collaboration described by my colleague from Florida will ensure that resources are wisely spent by utilizing and expanding monitoring programs already in operation.

Mr. SMITH of New Hampshire. I thank my colleagues from Florida for bringing these issues to my attention, and I agree with my colleagues that the Corps of Engineers should take advantage of the expertise of appropriately qualified outside institutions, both nationally and internationally, in the Adaptive Monitoring and Assessment Program authorized under this legislation.

INDIAN TRUST DOCTRINE PROVISION

Mr. BAUCUS. Section (h)(2)(C) of Title VI of S. 2796 states, ''in carrying out his responsibilities under this subsection with respect to the restoration of the South Florida ecosystem, the Secretary of the Interior shall fulfill his obligations to the Indian trust tribes in South Florida under the Indian Trust Doctrine as well as other applicable legal obligations.'' Is the intent of this provision to ensure that the Secretary of the Interior give full and equal consideration to all his legal responsibilities?

Mr. SMITH. The Senator is correct. The intent of this provision is to ensure that the Secretary of the Interior, in carrying out his responsibilities as authorized by this Act, shall fully and equally consider all of his legal responsibilities including, but not limited to the Indian Trust Doctrine, Everglades National Park, Biscayne National Park, Big Cypress National Preserve, the National Park System, the National Wildlife Refuge System, Migratory Bird Treaty, and the Endangered Species Act.

Mr. BAUCUS. I thank the Chairman.

CLARIFICATION OF INTENT OF THE SAVINGS CLAUSE

Mr. BAUCUS. Mr. President, I would like to ask the Chairman of the Senate Environment and Public Works Committee to clarify the intent of the Savings Clause provision included in subsection (h)(5) section of 601 of S. 27976, as modified by the manager's amendment.

Mr. SMITH. I would be happy to clarify.

Mr. BAUCUS. It is my understanding that the Savings Clause was intended to provide that until a new source of water supply of comparable quantity and quality is available to replace any water supply to be lost as a result of implementation of the Plan, the Secretary of the Army and the non-federal sponsor shall not eliminate or transfer existing legal sources of water.

Mr. SMITH. That is my understanding as well.

Mr. BAUCUS. Am I correct in saying with respect to flood control, the Savings Clause was intended to ensure that implementation of the Plan will

not result in significant adverse impact to any person with an existing, legally recognized right to a level of protection against flooding, including flood protection for the natural system?

Mr. SMITH. The Senator is correct.

Mr. BAUCUS. Furthermore, I understand that the Savings Clause provision was not intended to allow the U.S. Army Corps of Engineers to redirect to the natural system water from the human environment of unsuitable quality or quantity in an effort to provide the flood protection guaranteed in the section?

Mr. SMITH. Yes, that is my understanding of the intent of the Savings Clause as well.

Mr. BAUCUS. I thank the Senator for his assistance in clarifying the intent of this provision.

WATERBURY DAM

Mr. LEAHY. Mr. President, I want to thank my distinguished colleagues, Senators BAUCUS and SMITH, for their hard work on the Water Resources Development Act of 2000. I am especially grateful for their inclusion of a provision in this bill that will ultimately expand the successful federal, state, and local partnerships restoring the highest water quality in the Lake Champlain watershed.

One project that we could not come to full agreement on before this bill's passage, however, was authorization for the repair of the Waterbury Dam. Our lack of final language was in a large part due to the absence of a final Dam Safety Assurance Program Evaluation Report from the Army Corps of Engineers, a final draft of which was sent to ACE Headquarters for review on August 24, 2000.

The Waterbury Dam was built by the Army Corps of Engineers in 1935 and holds 1.23 billion cubic feet of water in its reservoir. Were the dam to fail, this volume of water would ultimately submerge and destroy the entire corridor of cities and towns downstream in the Winooski River valley. Thousands of lives would be lost. Hundreds of thousands of acres would be completely devastated.

Unfortunately, increasingly serious cracks and seepage in Waterbury Dam's structure were recently discovered and have heightened concerns that the dam could, in fact, fail. The State of Vermont and the Army Corps went into action and drew down the water level to alleviate pressure on the dam. The Corps carried out an assessment this summer to further characterize immediate repair needs. There is strong evidence that these cracks are, in fact, the result of initial design flaws and the Corps work today follows two previous instances—one in 1956–8 and one in 1985—when the Army Corps of Engineers had full authority to make needed dam modifications.

I understand that the Army Corps of Engineers is expediting the review of the Dam Safety Assurance Report for the Waterbury Dam. I am grateful to Senators SMITH and BAUCUS for their understanding that the final report may contain important information relevant for authorization of the project.

I look forward to working with my distinguished colleagues, Senators SMITH and BAUCUS, once the report is finalized and is able to guide our plans for Waterbury Dam repair.

Mr. SMITH of New Hampshire. I realize that Waterbury Dam repair is a pressing need for the state of Vermont and will carefully analyze the final report when it is released from the Army Corps of Engineers.

Mr. BAUCUS. I join Chairman SMITH in recognizing the need for repairs to Waterbury Dam in Vermont.

Mr. INHOFE. Mr. President, there is an issue that needs to be addressed in WRDA that is not addressed by this bill. On June 12, 2000, the Administration sent us a report on the management of the Corps of Engineers' hopper dredge fleet. It says that efforts initiated by Congress in WRDA 96 have been successful. That legislation moved more of the routine maintenance dredging to the private sector and increased the Corps emergency response capability. In their report, the Corps recommended a plan that would move a little more work to the private sector while rehabilitating the oldest federal hopper dredge for emergency response purposes. While it may be questionable whether or not the benefit of this federal investment is worth the cost, I am willing to implement the Corps recommendations in order to get the management and emergency response improvements that are described in the report to Congress. After receiving the report, I requested legislative language from the Corps that they provided to me. I have been attempting to work with interested members to get this language, or possibly other compromise language, adopted in this legislation. I do not understand why the Corps recommendation is not considered a victory by the supporters of this federal dredge. The Corps strongly believes that their recommendation is a win-win for the nation's ports and the ports along the Delaware River as well as the nation's taxpayers. While I am not offering an amendment here today, I want my colleagues to know that this is an issue that I am going to pursue. I hope that we will be able to work something out in the conference committee. Thank you very much. I look forward to working with my colleagues on this important national issue.

Mr. FEINGOLD. Mr. President, there is a clear need for Independent Review of Army Corps of Engineers' projects. During debate on this bill I was prepared to offer an amendment on Independent Review. It was drawn from similar provisions in a larger piece of Corps Reform legislation sponsored by my Wisconsin colleague in the other body (Mr. KIND). My interest in an Independent Review amendment was shared by the Minority Leader (Mr. DASCHLE) and the Senator from California (Mrs. BOXER) and a number of taxpayer and environmental organizations. including: the League of Conservation Voters, American Rivers, Coast Alliance, Earthjustice Legal Defense Fund, Izaak Walton League of America, Natural Resources Defense Council, Sierra Club and Taxpayers for Common Sense.

I believe that the Senate should act right now to require Independent Review in this Water Resources Development Act, but the Senate is apparently not ready to take that step. Nevertheless, in response to my initiative, the bill's managers (Senator SMITH and Senator BAUCUS) have adopted an amendment as part of their Manager's Package which should help get the Authorizing Committee, the Environment and Public Works Committee, the additional information it needs to develop and refine legislation on this issue through a one year study by the National Academy of Sciences (NAS) on peer review. As part of the discussions with the Senator from New Hampshire (Mr. SMITH) and the Senator from Montana (Mr. BAUCUS) over the amendment I intended to offer, they have agreed that as the NAS conducts its review, they will hold hearings on the issue of Corps reform and on a bill which I will introduce next Congress that will include Independent Review. I want to make certain that an NAS study does not become an excuse not to do anything on Corps reform for a year. Therefore, I have not opposed that study, and its completion will eliminate one argument against enacting serious Corps reform. The managers understand my concern in this regard, and are interested in moving forward on reforms, and have agreed to my request for hearings. It is my hope that through hearings the NAS study and my bill can dovetail nicely so that we have a fully vetted bill which can then be fined tuned by the NAS recommendations. The agreement we have made provides the best chance to pass a serious reform bill in the next year, rather than reach deadlock.

I appreciate the efforts that the Managers of this bill have taken to bring this bill to the floor in the closing days of this Senate. I know that many of these Corps projects are extremely important to many of our constituents. However, Mr. President, in light of the attention and concern that the replacement of the Upper Mississippi locks has had in my own home state, I felt it that it was important that the issue of establishing additional oversight and review of Corps projects be raised in the context of this year's Water Resources bill, and that we begin down the road to passage of Corps reform legislation. Today we are closer to that goal than we were yesterday.

As last week's five part series on the Corps of Engineers which ran in the Washington Post last week highlighted, the ongoing construction and maintenance of Corps dams, navigation

channels, and flood control structures, and other water development projects dramatically alter the nation's landscapes. Michael Grunwald's Sunday, September 10, 2000 story made this point very clear that the debate over whether the Corps:

. . . should grow or shrink, and how much it should shift its focus from construction projects to restoration project. . .may not be the sexiest of Beltway brawls, but it will have a dramatic effect on America. Corps levees and floodwalls protect millions of homes, farms and businesses. Its coastal ports and barge channels carry 2 billion tons of freight annually. Its dams generate one-fourth of America's hydroelectric power. Its water recreation sites attract more visitors than the National Park Service's. Its land holdings would cover Vermont and New Hampshire. But the Corps may have its greatest impact on nature . . . So the future direction of the Corps will help determine the future health of America's environment.

Furthermore, this major government program costs federal taxpayers billions of dollars each year, and unfortunately, there have been times when economically unjustified activities have made it through to construction. While there are heartening signs of reform in the Corps Civil Works program, Congress should be working to create an independent process to help affirm when the Corps gets it right and help to provide a means for identifying problems before taxpayer funded construction investments are made. Today we begin that work in earnest.

Mr. President, I feel that requiring independent review of large and controversial Corps projects is a practical first step down the road to a reformed Corps of Engineers. Independent review would catch mistakes by Corps planners, deter any potential bad behavior by Corps officials to justify questionable projects, and would provide planners desperately needed support against the never ending pressure of project boosters. Those boosters, Mr. President, include Congressional interests, which is why I believe that this body needs to champion reform—to end the perception that Corps projects are all pork and no substance. As Mike Grunwald's article on Monday, September 11, 2000 states:

Water projects are a traditional coin of the realm on Capitol Hill, offering members of Congress jobs, contracts and other benefits for their constituents and campaign contributors —as well as ribbon cutting opportunities for themselves. In fact, the Corps budget consists almost entirely of projects requested by individual lawmakers, then approved by the Corps; the agency has almost no discretionary funds of its own.

I wish it were the case, Mr. President, that I could argue that additional oversight were not needed, but unfortunately, I see that there is need for additional scrutiny. In the Upper Mississippi there is troubling evidence of abuse. There is troubling evidence from whistleblowers that senior Corps officials, under pressure from barge interests, ordered their subordinates to exaggerate demand for barges in order to justify new Mississippi River locks. This is a matter which is still under investigation, and I hope that no evidence of wrongdoing will ultimately be found. Adequate assessment of the environmental impacts of barges is also very important. I am also concerned that the Corps' assessment of the environmental impacts of additional barges does not adequately assess the impacts of barge movements on fish, backwaters and aquatic plants. We should not gamble with the environmental health of the river. If we allow more barges on the Mississippi, we must be sure the environmental impacts of those barges are fully mitigated.

I am raising this issue principally because I believe that Congress should act to restore trust in the Corps if we are going to complete an unbiased assessment of navigation needs. The first step in restoring that trust is restoring the credibility of the Corps' decision-making process. We must remove the cloud hanging over the Corps. There is a basic conflict of interest here, and Mike Grunwald's story on Wednesday, September 11, 2000, again in the Washington Post, makes this clear:

The same agency that evaluates the proposed water projects gets to work on the ones it deems worthwhile. If the analysis concludes that the economic costs of a project outweigh its benefits, or that the ecological damage of a project is too extreme, then the Corps loses a potential job.

Unfortunately, Mr. President, Congress now finds itself having to reset the scales to make economic benefits and environmental restoration co-equal goals of project planning. Our rivers serve many masters—barge owners as well as bass fisherman—and the Corps' planning process should reflect the diverse demands we place on them. I want to make sure that future Corps projects no longer fail to produce predicted benefits, stop costing more than the Corps estimated, and do not have unanticipated environmental impacts. In the future, we must monitor the result of projects so that we can learn from our mistakes and, when possible, correct them. We should impose a system of peer review as soon as possible and consider other comprehensive reforms. In a first step toward full evaluation of projects, I have committed myself to making Corps reform a priority in the next year and in the 107th Congress. The agreement we have reached today ensures that this Senate will also make it a priority.

MORNING BUSINESS

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent there be a period for the transaction of routine morning business, with Senators permitted to speak up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered. *****-*****--Name: -Payroll No. -Folios: -Date: -Subformat:

THE AMERICAN RED CROSS NATIONAL BLOOD APPEAL

Mr. THURMOND. Mr. President, we are currently facing one of the worst blood shortages in history, and I implore the citizens of this fine nation to volunteer to be a blood donor. Across the country hospitals are having to postpone life saving operations because of the lack of blood. Just the other day, the Medical University of South Carolina in Charleston had to postpone a liver transplant because it lacked the necessary blood supply to perform the surgery. This is simply not acceptable.

On September 19, 2000, Dr. Bernadine Healy, president and CEO of the American Red Cross, made the following statement stressing the critical need for blood donations. I feel that it is essential that we heed Dr. Healy's advice, and I ask unanimous consent that her statement be printed in the RECORD.

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

STATEMENT BY DR. BERNADINE HEALY, SEPTEMBER 19, 2000, AMERICAN RED CROSS BLOOD SUPPLY PRESS CONFERENCE

At this moment, the nation's blood supply is in critically short supply. We could not practice modern medicine without blood. Right now, the medical care of patients is being altered, postponed or canceled because the blood they need is not available. This silent savior in many medical emergencies is in short supply.

Blood is a critical link in the chain of health care nationwide. Together, the American Red Cross and the hundreds of independent blood centers maintain the strength of that link providing blood to patients in need. But that link is weak, and the chain of caring is being stretched to its limit.

Our role as blood bankers is an important one and we take our responsibilities very seriously. Every donor provides a generous gift of life and we recognize that gift as part of a precious national resource. We are now facing a time when the demand for this resource has grown such that it is outpacing our ability to provide adequate supplies.

In August 1999, the Red Cross collected about 16,700 units of blood per day. In August 2000, we collected nearly 17,300 units of blood daily—an increase of 3 percent. However, while collections have increased, so too has distribution. In August 1999, we distributed more than 14,700 units of blood each day. In August 2000, we distributed nearly 17,000 units each day, a 14 percent increase for that one month.

The American Red Cross believes we need a three-day inventory available—about 80,000 units—which enables us to provide an uninterrupted supply of blood to patients in need. However, for the entire summer, the Red Cross has operated on little more than a two-day supply.

Last Friday, our national inventory plummeted to 36,000 units of blood, and we consider 50,000 units to be a critical inventory level. Thirty-four of our thirty-six blood regions nationwide are in urgent need of blood donations. Many of our regions are being forced to ask local hospitals to postpone elective surgeries, especially if the patient in question has type 0 blood because the demand is greatest for this type.

An increase in the population, aging, growing numbers of medical procedures and more complex surgeries that were not possible years ago have contributed to this increase in demand. Patient undergoing chemotherapy and infants in neonatal care need blood. So do accident victims and those undergoing transplants. Blood is always, everywhere in need.

The American Red Cross is implementing increased donor recruitment initiatives to help offset these trends including:

1. Scheduling more blood drives, as well as expanding the hours of existing blood drives;

2. Pilot-testing an Internet-based system to enable people to schedule blood donation appointment online;

3. Utilizing aggressive telemarketing and direct-mail campaigns to encourage previous blood donors to come back and schedule an appointment;

4. Paying for advertising and working with the news media in markets nationwide to get this critical message to potential donors;

5. Establishing a pilot ''urban blood donor center'' in Chicago to make it easier for people working in downtown areas to donate blood during the business day.

We are excited about these new efforts and hope that they will allow us to reach more prospective donors than ever before. However, the fact remains that we need help now to address the current blood shortage. I want to encourage everyone, from students returning to school, to people who haven't donated blood in a while to call 1–800–GIVE–LIFE today to schedule an appointment. We need you now. Don't forget, 1–800–GIVE–LIFE.

THE HAGUE CONVENTION ON PROTECTION OF CHILDREN

Mr. HELMS. Mr. President, countless Americans will welcome the news that the Senate last night ratified the Treaty of the Hague Convention on Protection of Children and cooperation in Respect of Intercountry Adoption. This Treaty was approved by our Foreign Relations Committee in April.

In addition, the Senate also approved unanimous final passage of the Intercountry Adoption Implementation Act—which was likewise unanimously approved by the House of Representatives this past Monday.

I offered the Intercountry Adoption Implementation act a year ago—along with Senator LANDRIEU, because this legislation will provide, for the first time, a rational structure for intercountry adoption.

Mr. President, this significant legislation is intended to build some accountability into agencies that provide intercountry adoption services in the United States while strengthening the hand of the Secretary of State in ensuring that U.S. adoption agencies engage in an ethical manner to find homes for children.

In addition, Mr. President, both the Senate and the House agreed that sole responsibility for implementing the requirements of the Hague Convention, rests with the U.S. Secretary of State. Although, some advocated early on, a role for various government agencies, I believe that spreading responsibility among various agencies would have undermined the effective implementation of the Hague Convention.

Mr. President, passage of this significant legislation would not have been possible without the assistance from several talented people in both the Senate and House.

In particular, of course, I extend my sincere appreciation to Senator LANDRIEU (and her staff). Senator LANDRIEU and I have worked together on issues of adoption since her arrival in the Senate in 1997.

Senator BIDEN, ranking minority member of the Foreign Relations Committee, has been exceedingly helpful (as has his staff) in finalizing the Intercountry Adoption Implementation Act.

It's always a privilege to work with our colleagues in the House—and especially regarding passage of this Act. The Honorable BILL GILMAN, the distinguished chairman of the House International Relations Committee; Congressman SAM GEJDENSON, ranking minority member on the House International Relations; Congressmen DAVE CAMP and WILLIAM DELAHUNT; and, last but by no means least, my good friend, Congressman RICHARD BURR—who offered the original Senate companion bill in the House.

From my own Senate family, the former legislative counsel for the Foreign Relations Committee (now counsel for Senate Intelligence), Patricia McNerney; and Michele DeKonty, the very special lady who, in every sense, my right-hand lady.

Mr. President, this legislation now goes to President Clinton. I am hopeful that ratification and implementation of the Hague Convention will encourage more intercountry adoptions, while protecting all who are involved in the process.

DELAYS IN SENATE CONFIRMATION OF JUDICIAL NOMINEES

Mr. LEAHY. Mr. President, I regret to report to the Senate that the last confirmation hearing for federal judges held by the Judiciary Committee was in July. Throughout August and now into the third week in September, there have been no additional hearings held or even noticed. By contrast, in 1992, the last year of the Bush Administration, a Democratic majority in the Senate held three confirmation hearings in August and September and continued to work to confirm judges up to and including the last day of the session.

I also regret that the Judiciary Committee's inaction on judicial nominations has led to Senators object to Senate committees continuing to meet on other matters when the Senate is in session. The matter is most acute with regard to the numerous vacancies on our Courts of Appeals and the qualified women and men who have been stalled before this Committee.

This Judiciary Committee has reported only 3 nominees to the Courts of Appeals all year. We have held hearings without even including a nominee to the Courts of Appeals and denied a Committee vote to two outstanding nominees who succeeded in getting hearings. I certainly understand the frustration of those Senators who know that Roger Gregory, Helene White, Bonnie Campell and others should be considered by this Committee and voted on by the Senate without additional delay.

Currently there remain more judiciary vacancies than there were when Congress adjourned in 1995. We have not even kept up with attrition over that last 5 years. Earlier this week, Senator HATCH joined with me and a dozen other Senators to introduce the Federal Judgeship Act of 2000. That legislation incorporates recommendations of the Judicial Conference of the United States to authorize 70 judgeships in addition to the 64 current vacancies within the federal judiciary. If those additional judgeships were taken into account, the so-called ''vacancy rate'' would be over 13 percent with over 130 vacancies.

We can make quick progress when we want to do so. The last group of nominees considered by the Judiciary Committee included three who were nominated on a Friday, had their hearing the next week and were approved and reported to the Senate within 6 days.

By contrast, we still have pending without a hearing qualified nominees like Judge Helene White of Michigan. She has been held hostage for over 45 months without a hearing. She is the record holder for a judicial nominee who has had to wait the longest for a hearing and her wait continues without explanation to this day.

We still have pending before the Committee, the nomination of Bonnie Campbell to the Eighth Circuit. Ms. Campbell had her hearing last May, but the Committee refuses to consider her nomination, vote her up or vote her down. Instead, there is the equivalent of an anonymous and unexplained secret hold. Bonnie Campbell is a distinguished lawyer, public servant and law enforcement officer. She was the Attorney General for the State of Iowa and the Director of the Violence Against Women Office at the United States Department of Justice. And she enjoys the full support of both of her home State Senators, Senator HARKIN and Senator GRASSLEY. I commend Senator HARKIN for his remarks on Ms. Campbell's nomination earlier today. I understand his frustration and believe that this Senate's failure to act on this highly qualified nominee is without justification.

We still have pending without a hearing the nomination of Roger Gregory of Virginia and Judge James Wynn of North Carolina to the Fourth Circuit. Were either of these highly-qualified jurists confirmed by the Senate, we would be finally acting to allow a qualified African American to sit on that Court for the first time. We still have pending before the Committee the nomination of Enrique Moreno to the Fifth Circuit. He is the latest in a succession of outstanding Hispanic nominees by President Clinton to that Court, but he too is not being considered by the Committee or the Senate.

Let me return briefly to the nomination of Roger Gregory. The Chairman of the Judiciary Committee indicated

in his recent op-ed in the Wall Street Journal that the reason Roger Gregory would not be confirmed is because the Administration refused to consult with his home State Senators. In fact, this nomination is supported by both Virginia Senators, both Senator WARNER and Senator ROBB. Indeed, Senator ROBB made a forceful statement on behalf of this just a few days ago. In response to that assertion in the Wall Street Journal, the Counsel to the President sent a letter to the editors of that paper that corrected the misstatement. I ask unanimous consent that a copy of that letter be included in the RECORD at the end of my remarks.

The Chairman also suggested that it was too late in the session to move on these nominations. In addition to the recent examples I already noted, nominees now on the Senate calendar awaiting action after being before the Judiciary Committee for less than one week, there is the example of the hearing held last week by the Government Affairs Committee on two District of Columbia Superior Court judges, who one was nominated on May 1 and the other was nominated on June 26. Another example of the ability of the Senate to act is the September 8 confirmation of James E. Baker to the U.S. Court of Appeals for the Armed Forces. Of course, the Republican candidate for the presidency has said that nominations should be acted upon within 60 days. Of the 42 judicial nominations currently pending, 33 have been pending from 60 days to 4 years without final action, including Roger Gregory.

Finally, there is the contrasting example of responsible action by the Democratic majority in 1992 on the nomination of Timothy Lewis to the Third Circuit. Tim Lewis was nominated on September 17. By September 17, Roger Gregory had already been pending for well over 60 days. Tim Lewis was accorded a hearing on September 24, was voted on by the Committee on October 7, and was confirmed by the Senate on October 8, before it adjourned for rest of the campaign before the presidential election that year.

I note for the Senate that there continue to be multiple vacancies on the Third, Fourth, Fifth, Sixth, Ninth, Tenth and District of Columbia Circuits. With 22 current vacancies, our appellate courts have nearly half of the total judicial emergency vacancies in the federal court system. I note that the vacancy rate for our Courts of Appeals is more than 11 percent nationwide. If we were to take into account the additional appellate judgeships included in the Hatch-Leahy Federal Judgeship Act of 2000 and requested by the Judicial Conference to handle their increased workloads, the vacancy rate would be 16 percent.

Pending before the Committee are a dozen nominees to the Federal Courts of Appeals who are awaiting a hearing. They include Judge Helene White of Michigan, who is now the longest pending judicial nomination at over 45 months without even a hearing; Barry Goode, whose nomination to the Ninth Circuit was the subject of numerous statements by Senator FEINSTEIN and who has been pending for over two years; Allen Snyder, another well-respected and highly-qualified nominee who got a hearing but no Committee vote although he received the highest rating from the ABA, enjoys the full support of his home state Senators, and had his hearing on May 10, 2000. There are and have been many others, including a number of qualified minority nominees whom I have been speaking about throughout the year, including Kathleen McCree Lewis of Michigan, Enrique Moreno of Texas and Roger Gregory of Virginia.

Let us compare to the year 1992, in which a Democratic majority in the Senate confirmed 11 Court of Appeals nominees during a Republican president's last year in office among the 66 judicial confirmations for the year. In 1992, the Committee held 15 hearings—twice as many as this Committee has found time to hold this year. The Judiciary Committee has held hearings on only five Court of Appeals nominees all year and has refused to vote on two of those. In the last 10 weeks of the 1992 session, the Committee held four hearings and all of the nominees who had hearings then were confirmed before adjournment. In the last 10 weeks of the 1992 session, we confirmed 32 judicial nominations.

What is most significant about the recent trend of judicial vacancies and vacancy rates is that the vacancies that existed in 1993, even after the creation of 85 new judgeships in 1990, had been cut almost in half in 1994, when the rate was reduced to 7.4 percent with 63 vacancies at the end of the 103rd Congress. We continued to make progress even into 1995. In fact, the vacancy rate was lowered to 5.8 percent after the 1995 session, and before the partisan attack on federal judges began in earnest in 1996 and 1997.

Progress in the reduction of judicial vacancies was reversed in 1996, when Congress adjourned leaving 64 vacancies, and in 1997, when Congress adjourned leaving 80 vacancies and a 9.5 percent vacancy rate. No one was happier than I that the Senate was able to make progress in 1998 toward reducing the vacancy rate. I praised Senator HATCH for his effort. Unfortunately, the vacancies have since grown again.

During Republican control it has taken two-year periods for the Senate to match the one-year total of 101 judges confirmed in 1994, when we were on course to end the vacancies gap. Nominees like Judge Helene White, Barry Goode, Judge Legrome Davis, and J. Rich Leonard, deserve to be treated with dignity and dispatch—not delayed for two and three years. We are still seeing outstanding nominees nitpicked and delayed to the point that good women and men are being deterred from seeking to serve as federal judges. Nominees practicing law see their work put on hold while they await the outcome of their nominations. Their families cannot plan. They are left to twist in the wind. All of this despite the fact that, by all objective accounts and studies, the judges that President Clinton has appointed are a moderate group of judges, rendering moderate decisions, and certainly including far fewer ideologues than were nominated during the Reagan Administration.

With respect to the Senate's treatment of nominees who are women or minorities, I remain vigilant. I have said that I do not regard Senator HATCH as a biased person. I have also been outspoken in my concern about the manner in which we are failing to consider qualified minority and women nominees over the last several years. From Margaret Morrow, Margaret McKeown and Sonia Sotomayor, through Richard Paez and Marsha Berzon, and including Judge James Beatty, Jr., Judge James Wynn, Roger Gregory, Enrique Moreno and all the other qualified women and minority nominees who have been delayed and opposed over the last several years, I have spoken out. The Senate will never remove the blot that occurred last October when the Republican Senators emerged from a Republican Caucus to vote lockstep against Justice Ronnie White to be a Federal District Court Judge in Missouri.

The Senate should be moving forward to consider the nominations of Judge James Wynn, Jr. and Roger Gregory to the Fourth Circuit. Fifty years has passed since the confirmation of Judge Hastie to the Third Circuit and still there has never been an African-American on the Fourth Circuit in the history of that Circuit. The nomination of Judge James A. Beaty, Jr., was previously sent to us by President Clinton in 1995. That nomination was never considered by the Senate Judiciary Committee or the Senate and was returned to President Clinton without action at the end of 1998. It is time for the Senate to act on a qualified African-American nominee to the Fourth Circuit. President Clinton spoke powerfully about these matters at the NAACP Convention. We should respond not be misunderstanding or mischaracterizing what he said, but instead taking action on these well-qualified nominees.

In addition, the Senate should act favorably on the nominations of Enrique Moreno to the Fifth Circuit. Mr. Moreno succeeded to the nomination of Jorge Rangel on which the Senate refused to act last Congress. These are well-qualified nominees who will add to the capabilities and diversity of those courts. In fact, the Chief Judge of the Fifth Circuit declared that a judicial emergency exists on that court, caused by the number of judicial vacancies, the lack of Senate action on pending nominations, and the overwhelming workload.

I continue to urge the Senate to meet its responsibilities to all nominees, including women and minorities. That highly-qualified nominees are being needlessly delayed is most regrettable. The Senate should join with the President to confirm well-qualified, diverse and fair-minded nominees to fulfill the needs of the federal courts around the country.

I ask unanimous consent that an article for the Wall Street Journal be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 12, 2000]

'RACIAL DIVISION' CHARGE IS UNTRUE

In ''Senate Isn't Guilty of Racism In Confirming Judges,'' Sen. Orrin Hatch states that in recent weeks the president has ''nominated numerous minorities for federal judgeships without consulting home-state senators'' (editorial page, Sept. 5). This is simply untrue. The administration has adhered to its practice of consulting with home-state senators prior to nominating judicial candidates, and it did so with the two nominees Sen. Hatch mentioned by name.

One of those, Roger Gregory, an accomplished African-American attorney from Virginia, was nominated for the Fourth Circuit at the end of June. Sen. Hatch says the president moved a judgeship from North Carolina to Virginia in order to make the nomination, but the seat for which Mr. Gregory was nominated has not been filed before, nor allocated to any particular state in the Fourth Circuit. Moreover, Roger Gregory has the strong support of both of his home-state senators (who were indeed consulted prior to nomination). Democratic Sen. Chuck Robb recommended Mr. Gregory to the president and has been working tirelessly on Mr. Gregory's behalf. Republican Sen. John Warner has joined Sen. Robb in requesting that Sen. Hatch give Mr. Gregory a hearing.

The Fourth Circuit, which hears cases from Maryland, North Carolina, South Carolina. Virginia and West Virginia, has the largest African-American population of any circuit in the country. Yet it has never had an African-American judge. It is extraordinary to suggest that the president's nomination of a highly qualified candidate who has the support of both home-state senators is part of some effort to ''generate racial divisions.'' Rather than make such claims, the Republican leadership should demonstrate its color-blind bipartisanship by promptly confirming Roger Gregory.

Indeed, the Senate has a great deal more work to do on judges. Sen. Hatch states that in 1994 the administration had argued that a ''7.4%'' vacancy rate in the judiciary was equivalent to full employment. Using that figure, he suggests that the administration has no basis for complaining about vacancies, because the vacancy rate is now close to that level. But the figure cited by the administration in 1994 was actually 4.7%. To attain even this modest goal, the Senate would need to reduce judicial vacancies to 40. That is, the Senate would need to confirm an additional 24 nominees this year. We look forward to working with the Senate Republicans to achieve this goal.

BETH NOLAN,
Counsel to the President,
The White House.

Washington.

FAST AND SIMPLE SHORTCUT TAX ACT

Mr. GREGG. Mr. President, I rise today as an original cosponsor of this innovative and much-needed piece of legislation, the Fair and Simple Shortcut Tax (FASST) Act, which would streamline the process of paying federal taxes for millions of Americans. I am very pleased to join Senator DORGAN in introducing this important legislation.

The current Federal tax code is a tangle of requirements, deductions, credits, and other regulations that only a few lawyers and accountants fully understand. Still, we expect the average American citizen, under penalty of law, to have a complete grasp of all their tax obligations and to pay them in full and on time. The complexity of the current tax code has made it a burden to pay ones's tax obligations. This burden must be alleviated.

The good news is that we can do something to simplify the tax code for the millions of Americans who do not have complicated investment or corporate income and for whom paying taxes should be as easy and painless as possible. The FASST Act offers a voluntary tax plan which would simplify the filing process for millions Americans. It also provides much needed tax relief through the elimination of the marriage penalty, a tax which actually punishes people for getting married.

The FASST Act would provide a single, low tax rate of 15 percent for taxpayers who earn up to $100,000 per year in wages and receive no more than $5,000 in income from capital gains, interest, and dividends. A taxpayer who chooses to participate in this program would not receive a tax return, nor would he have to pay the federal government on April 15th because too little in taxes was deducted from his payroll. Instead, the employee would elect to fill out a modified W–4 form at work whereby his employer would withdraw the exact tax obligation at the single low rate of 15 percent. What a relief it would be for those folks who qualify to be free from the yearly burden of trying to decipher the federal tax code.

Taxpayers who elect to participate in this program would still benefit from the current standard tax deduction, as well as personal exemptions, child care credits, the Earned Income Tax Credit and a deduction for home mortgage interest expenses and property taxes. Thus, employees would experience the best of both worlds—the current tax system's generous deduction and credit system for working families, as well as a simplified tax system. This bill also provides generous savings incentives by exempting up to $5,000 of all interest, dividends and capital income from taxes.

Taxpayers who do not participate in the FASST program would also benefit from provisions in the FASST Act. First, this act reduces the marriage penalty, and provides an exemption from the Alternative Minimum Tax for many sole proprietors and small businesses. In addition, all taxpayers would be eligible to receive a 50 percent credit for up to $200 in tax preparer expenses if they file their taxes electronically. And again, there is a substantial incentive for savings and investment as up to $500 of dividend and interest income is exempt for individuals. The FASST Act is good for all taxpayers.

I believe that the FASST Act provides much needed reform to our tax system. Our current federal tax code is immense, complex, and confusing. It has become a burden on the American taxpayer. The FASST Act takes a much-needed first step toward providing a simpler, friendlier means of collecting taxes from our hard-working citizens. I am pleased to join with my fellow Senators from North Dakota and Illinois in introducing the Fast and Simple Shortcut Tax Act today.

VICTIMS OF GUN VIOLENCE

Mr. LEVIN. Mr. President, for the last several months, many of us here in the Senate have been urging our colleagues to pass sensible gun laws. Each year, more than 30,000 Americans are killed by gunfire (an average of 10 children and adolescents and 74 adult Americans each day) and until we act, thousands more will be lost to gun violence.

Those of us who are committed to this issue have pledged to read the names of some of those who have lost their lives to gun violence in the past year.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

September 21, 1999:

Colden Hurt, 28, Baltimore, MD;

Troy Jones, 32, Washington, DC;

Billy Peaks, 23, Chicago, IL;

Roland Shepard, 56, Philadelphia, PA;

Charles Walker, 17, St. Louis, MO;

Omar Williams, 24, Memphis, TN;

Jessie Williamson, 42, Memphis, TN.

We cannot allow such senseless gun violence to continue. The deaths of these people are a painful reminder to all of us that we need to enact sensible gun legislation today.

OBJECTION TO CHANGES IN FALSE CLAIMS ACT

Mr. GRASSLEY. I rise today to notify my colleagues that I have notified the Majority Leader that I will object to any changes to the False Claims Act whether in bill or amendment form.

VISA WAIVER PILOT PROGRAM

Mr. LEAHY. Mr. President, I rise today to urge the majority to lift its hold on H.R. 3767, which would permanently authorize the visa waiver pilot

program. I am a cosponsor of the Senate version of this legislation, which will achieve the important goal of making our visa waiver program permanent. We have had a visa waiver pilot project for more than a decade, and it has been a tremendous success in allowing residents of some of our most important allies to travel to the United States for up to 90 days without obtaining a visa, and in allowing American citizens to travel to those countries without visas. Countries must meet a number of requirements to participate in the program, including having extraordinarily low rates of visa refusals. Of course, the visa waiver does not affect the need for international travelers to carry valid passports.

The visa waiver pilot program expired on April 30. The House passed legislation to make the program permanent before that deadline. But the Senate failed to meet this deadline, and the Administration was forced to extend it administratively. Since then, the Senate has missed deadline after deadline, and has had to rely on the grace of the Administration for this program—which is relied upon by thousands of American travelers every year—to continue.

Every Democratic Senator has cleared this bill. But the majority has refused to clear it, even five months after it passed the House and the statutory authorization for this program expired. Earlier in the year, some members had substantive concerns about the bill. Those have been rectified. I am unaware of any remaining substantive objections to this legislation, and it is now well past time to pass it. Passing it will not require any floor debate or roll call vote. It simply requires Senators to life their holds.

This is a bill that benefits American travelers from every State and the tourism industry in every State. It is not a Democratic bill or a Republican bill. It is not a regional bill. It is simply a good, common-sense bill that deserves the Senate's support. There has been too much stalling on this bill already—we should act today.

RENAMING OF THE STATE DEPARTMENT HEADQUARTERS IN HONOR OF PRESIDENT HARRY S TRUMAN

Mr. ASHCROFT. Mr. President, tomorrow will be a special day for the State of Missouri. Tomorrow, President Clinton and Secretary of State Madeleine Albright will hold a ceremony to officially rename the U.S. State Department Headquarters as The Harry S Truman Federal Building.

I am pleased to have played a role in the renaming of the State Department in honor of one of Missouri's most famous sons—President Truman. Last spring, I introduced a bill, S. 2416, to designate the headquarters for the Department of State, as the ''Harry S. Truman Federal Building''. The House's companion legislation, H.R. 3639, sponsored by Missouri Congressmen IKE SKELTON and ROY BLUNT, passed the Senate on June 8th and was signed by the President on June 20, 2000. Secretary of State Albright was supportive of this effort from the beginning, and I thank her. In addition, I would like to thank the Senators who cosponsored this bill, Senators BOND, BOXER, BYRD, DEWINE, HAGEL, MOYNIHAN, ROBERTS, and WARNER.

Born in Lamar, Missouri, Harry S Truman was a farmer, a national guardsman, a World War I veteran, a local postmaster, a road overseer, and a small business owner before turning to politics. Through these traditional experiences, he gained the courage, honesty, and dedication to freedom required of a great leader. Joining the Senate in 1935, Truman fought against government waste and saved the U.S. Government $15 billion as Chairman of the Senate War Investigating committee. Ten years later, Harry S Truman became Franklin D. Roosevelt's Vice President. Four short months later, Truman assumed the presidency after Roosevelt's untimely death, and remarked to reporters: ''I felt like the moon, the stars, and all the planets had fallen on me.'' Although Truman might have felt unprepared, he rose to the challenge with typical Missourian resolve and changed the face of history. President Truman went on to become one of the most influential presidents of the modern era. His leadership and character, especially in the area of foreign policy, have earned him well-deserved praise and respect throughout the world. The life, character, and freedom-loving values of this great Missourian are honored by countless millions.

Mr. President, naming the State Department Headquarters building after President Truman is a befitting tribute to his life and his legacy. This is truly a proud moment for the Truman family, the people of Missouri, and all Americans.

COMBATING CHILDHOOD CANCER AND DUCHENNE MUSCULAR DYSTROPHY

Mr. HUTCHINSON. Mr. President, the month of September is Childhood Cancer Awareness Month. Contrary to public perception, cancer is not just an adult disease. Cancer is the second leading cause of childhood deaths, second only to accidents. Cancer strikes 46 children, or two classrooms of children, every school day. In 1975, only 35 percent of children with cancer survived more than five years. Thanks to modern medicine, 70 percent of children diagnosed with cancer survive. Thirty percent, however, do not.

Childhood cancer has a unique set of characteristics and problems which researchers are still trying to find answers to. While most adult cancers result from lifestyle factors, such as smoking, diet, occupational, and other exposure to cancer-causing agents, the causes of most childhood cancers, are not yet known. While adult cancers are primarily those of the lung, colon, breast, prostate and pancreas, childhood cancers are mostly those of the white blood cells (leukemias), brain, bone, the lymphatic system and tumors of the muscles, kidneys and nervous system. Childhood cancers further differ from adult cancers in that they often have spread to other parts of the body by the time they are diagnosed.

Our goal must be to increase funding for research, early detection and treatment, and prevention of childhood cancer. The member institutions of the Children's Oncology Group, C.O.G., provide treatment for up to 90 percent of all children with cancer in North America. The Children's Oncology Group is supported, in part, by federal funds from the U.S. National Cancer Institute and by private funds raised by the National Childhood Cancer Foundation. The National Cancer Institute is slated to receive $3.8 billion in Fiscal Year 2001 for cancer research. Yet childhood cancer is one of many focuses of the NCI's research, and it certainly is not among the top funding priorities.

I have worked with my fellow colleagues on the Senate Health, Education, Labor, and Pensions Committee to raise awareness about the need for greater focus on childhood cancer, and I am delighted that the Senate will today pass legislation to address a number of pressing children's health issues. In particular, I want to thank Senator FRIST, the author of this legislation, for working with me to include language directing the Secretary of Health and Human Services to study environmental and other risk factors for childhood cancers and to carry out projects to improve treatment outcomes among children with cancer —such projects shall include expansion of data collection and population surveillance efforts to include childhood cancers nationally, the development of a uniform reporting system nationwide for reporting the diagnosis of childhood cancers, and support for the National Limb Loss Information Center to address the primary and secondary needs of children with cancer to prevent or minimize the disabling nature of these cancers. By authorizing the Secretary to carry out these functions, we will hopefully get the answers we need to ensure that all children live a healthy, cancer-free life.

Another devastating disease which affects almost exclusively male children, is Duchenne Muscular Dystrophy, DMD. At this time, there is no cure for DMD. Little boys with DMD are most often not diagnosed before the age of two or three years. Most boys with DMD walk by themselves later than average, and then in an unusual manner. They may frequently fall, have difficulty rising from the ground, or difficulty going up steps. Calf muscles typically look over developed or excessively large, while other muscles are poorly developed. Use of a wheelchair

may be occasional at age 9, but total dependence is normally established upon reaching the teen years. Most boys affected survive into their twenties, with relatively few surviving beyond 30 years of age.

I have heard from the parents and grandparents of a little boy in Arkansas who has DMD. His name is Austin and his family is desperately hoping for a cure so they don't have to watch their son and grandson lose his ability to walk. While we are far from finding a cure for DMD, I am hopeful that language that Senator FRIST has graciously worked with me to include in the children's health bill will help Austin and the thousands of other young boys suffering from DMD. Specifically, the Act authorizes the Secretary of Health and Human Services to expand and increase coordination of the activities by the National Institutes of Health with respect to research on muscular dystrophies, including DMD.

In conclusion, we are about to pass incredibly important legislation to address a myriad of children's health issues, including childhood cancer and Duchenne Muscular Dystrophy. Efforts to improve the quality and length of life for millions of children are valuable beyond measure, and I encourage all of my colleagues to work together with me to raise awareness about these devastating diseases and the need to find treatments and cures for the children they affect.

THE INTERCOUNTRY ADOPTION ACT OF 2000

Ms. LANDRIEU. Mr President, it may only be September, but it sure feels like Christmas. For seven years, adoption advocates in the United States and throughout the world have waited for the moment that came late yesterday. In fact, it marked the second time this week that history has been made in these chambers. On Tuesday, this body voted to extend permanent normal trade relations to China and yesterday, we voted to ratify the Hague Convention on Protection of Children and Cooperation in Respect of International Adoption. In doing so, we have joined the international community in, for the first time, recognizing that the ''child for the full, harmonious development of his or her personality, should grow up in a family.'' For the hundreds of thousands of children growing up on the streets and in institutions throughout the world, yesterday's vote marked the hope of a better tomorrow.

I would like to begin my remarks by thanking Chairman HELMS for his extraordinary leadership in passing this historic legislation. There is no doubt in my mind that we would not be celebrating this important moment were it not for him. In the two years since we stood together on this floor and introduced this legislation, he has worked tirelessly to ensure that each of the bill's provisions were aimed at protecting adopted children and their families. I would also like to thank Senator BIDEN, Senator BROWNBACK, Senator KENNEDY, Senator ABRAHAM, Representative GILMAN, Representative GEJDENSON, Representative SMITH and Representative CAMP for their work in moving this bill forward.

I would also like to commend the adoption community at large. In my opinion, this effort is a shining example of what can be accomplished if people are willing to compromise for the greater good. I have said it before and I believe it rings true here, adoption brings people, whether they are Republican, Democrat, conservative, liberal, American, Russian or Chinese, together. United by the belief that all children deserve to grow in the love of a permanent family. Adoption breaks down barriers and helps build families.

Last year international adoption helped 15,744 children to realize their dream of having a family of their own. Not a day goes by when I do not receive a letter or a picture from one of these families telling me what incredible joy adoption has brought to their lives. Not long ago, I attended the naturalization ceremony for about 100 of these families. I distinctly remember looking into the crowd, at the tiny faces of these little ambassadors from Moldova, India, China, Kazakhstan, Russia, Korea, Romania, and thinking that there is no better example of the new era of globalization. With inventions like the Internet, geographic barriers will no longer stand in the way of children finding families. Today, it is possible for a couple from a small town like New Iberia, Louisiana to be connected with a waiting child in Irkustk, Russia. There is no such thing as an unwanted child, just unfound families. We share a collective responsibility to find a home for every child in the world and with yesterday's vote, we acknowledged that we are willing to share in that responsibility.

As the largest receiving country, we have the opportunity to use this legislation and the system it creates to construct an international framework designed to protect the children and families involved in the adoption process. It is time for us to take action to eliminate some of the fraud, abuse and greed that can corrupt the adoption process. Joined by their commitment to protecting the rights of the child, Hague countries can now enjoy the comfort of knowing that each and every adoption will be performed in accordance with the established standards. Adoptive parents can rest easier knowing that there is somewhere they can turn with questions and concerns.

As an adoption advocate and adoptive mother, it has been a very exciting week. In addition to passing this treaty, the House just passed the H.R. 2883, the Adopted Orphans Citizenship Act. This bill grants automatic citizenship for children who are adopted. Unlike a child born to a United States citizen, adopted children are not conferred automatic citizenship by virtue of their adoption. Instead, they must go through a long, complex and costly naturalization process. This is not only unnecessary its unfair. Adopted children should have the same rights as birth children and laws which unfairly discriminate between the two need to be changed. I urge my colleagues to act quickly to pass this legislation.

Yes, Mr. President, it has been a very good week for children in need of homes. Yesterday, President Clinton awarded the second installment of the adoption incentive payments to states who had increased their number of adoptions out of foster care. 46,000 children in foster care found homes through adoption last year. That is a 65 percent increase since 1996.

Although I am excited by the progress we have made, I am still driven by the vision of the children in institutions abroad and the knowledge that over 500,000 children in this country are caught in the foster care drift. We have accomplished a lot, but much remains to be done.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, September 20, 2000, the Federal debt stood at $5,660,515,052,511.42, five trillion, six hundred sixty billion, five hundred fifteen million, fifty-two thousand, five hundred eleven dollars and forty-two cents.

One year ago, September 20, 1999, the Federal debt stood at $5,630,759,000,000, five trillion, six hundred thirty billion, seven hundred fifty-nine million.

Five years ago, September 20, 1995, the Federal debt stood at $4,967,473,000,000, four trillion, nine hundred sixty-seven billion, four hundred seventy-three million.

Ten years ago, September 20, 1990, the Federal debt stood at $3,214,168,000,000, three trillion, two hundred fourteen billion, one hundred sixty-eight million.

Fifteen years ago, September 20, 1985, the Federal debt stood at $1,823,102,000,000, one trillion, eight hundred twenty-three billion, one hundred two million, which reflects a debt increase of almost $4 trillion—$3,837,413,052,511.42, three trillion, eight hundred thirty-seven billion, four hundred thirteen million, fifty-two thousand, five hundred eleven dollars and forty-two cents, during the past 15 years.

ADDITIONAL STATEMENTS

NATIONAL BIBLE WEEK

• Mr. BURNS. Mr. President, I am honored to serve as one of this year's congressional co-chairs for National Bible Week, sponsored by the National Bible Association. This observance occurs during the week of November 19–26, 2000, the week during which Thanksgiving Day occurs. This is appropriate

since many Americans will attend houses of worship during that week to give thanksgiving.

As we gather to give thanks, let us remember that ''Man shall not live by bread alone, but by every word that proceeds from the mouth of God.'' (Matthew 4:4) When we try to live by bread alone, we nourish the body but starve the mind. Members of Congress are called upon to right wrongs and correct injustice. There is no better way for all of us to satisfy our hunger and thirst for justice than by ''eating'' the life-giving spiritual food found in the Bible. By ''eating'' the food of the Bible, I mean not just reading and studying the lessons found there, but to ponder those messages in our hearts and apply them to our own lives. John Quincy Adams, our sixth President, said, ''For years I have read the Bible through once a year. I read it every morning, as the very best way to begin the day.''

We are all very busy people. Many of us think we do not have time to read the Bible every day. D. L. Moody once answered this common excuse by saying, ''My friend, if you are too busy to read the Bible every day you are busier than Almighty God ever intended any human being should be and you had better let some things go and take time to read the Bible.''

The Bible has always been more than a doctrinal source book or a compendium of theological beliefs. People have turned to it time and time again for comfort, encouragement, guidance and direction. I have my Bible on my desk. Woodrow Wilson, our twenty-eighth President, said, ''I am sorry for the men who do not read the Bible every day. I wonder why they deprive themselves of the strength and of the pleasure.''

Read the Bible. Study the Bible. Ponder the messages contained in the Bible. By doing this you will learn of God's will for your life. Apply those message to your life and you will learn that there is salvation, there is forgiveness of sins and there is the hope of eternal life in the presence of God.●

CELEBRATING THE GENEROSITY OF JOAN C. EDWARDS

● Mr. ROCKEFELLER. Mr. President, I rise today to celebrate the philanthropy of one of West Virginia's most celebrated adopted daughters. Later this month at a formal naming ceremony, the Marshall University School of Medicine in Huntington, West Virginia, will be renamed the Joan C. Edwards School of Medicine at Marshall University. It gives me great honor to come to the floor today to be able to share Joan Edwards' remarkable story with the nation.

Born in London, England, Joan's family moved to New Orleans when she was only four years old. At the age of 17, Joan set off to tour the nation singing the ''Sugar Blues'' with Clyde McCoy and his Kentucky band. As a young girl, Joan's singing career brought her to Chicago, New York, and Pittsburgh, among other cities, where she met her future husband and Huntington, West Virginia native, James ''Jim'' Edwards. Joan and Jim were married soon after, and lived in Pittsburgh prior to returning to Huntington to work at the Edwards' family business, National Mattress Company. Together, Jim and Joan would build the family's business into a great American success story and were also able to take up their passion of breeding racehorses.

In 1991, after 54 years of marriage, Jim Edwards lost his battle with cancer. Shortly thereafter, Joan Edwards announced that she would present a total of over $20 million in contributions to the Huntington community from their estate. This included $1 million to the Marshall University School of Medicine, $1 million to the Huntington Museum of Art, $2 million to the Episcopal Church, and $16 million to the Cabell Huntington Hospital for the construction of an adult cancer center.

This story in and of itself is remarkable, but Joan Edwards' charity goes even beyond that. Since that time, Joan has donated an additional $1 million to the Fine and Performing Arts Center at Marshall and $2 million to address the University's most pressing needs. And Joan Edwards has not stopped there. She has raised the bar even further. Having lost both her husband and son to cancer, Joan has bequeathed an additional $16 million to the Marshall University Medical School with an additional $2 million dedicated toward preliminary planning, design, and development for the creation of a children's cancer center.

It is indeed fitting that Marshall University will bestow a great honor upon Mrs. Edwards, formally renaming its Medical School the Joan C. Edwards School of Medicine at Marshall University. I would also like to point out that only one-third of all of the medical schools in the nation are named after a benefactor. Of these institutions, Marshall University's School of Medicine will be the first in the nation named after a woman. This is such a fitting tribute for such an amazing woman.

Joan has demonstrated the true meaning of philanthropy. Her active engagement in academics, the arts, athletics, and health care has impacted the lives of countless people in West Virginia and across the country, serving as an inspiration to us all. She has done more for the foundation of the community than most people would ever be able to do, and we are fortunate to have her as part of the fabric of West Virginia. I thank Joan for all of her selfless acts, and as we celebrate this honor, I am reminded of how proud I am that she is a fellow West Virginian.●

RECOGNITION OF LINDSAY BENKO, OLYMPIC GOLD MEDALIST

● Mr. BAYH. Mr. President, I rise today to recognize a remarkable young athlete from the great state of Indiana.

Yesterday, Americans watched with pride as 23 year-old Lindsay Benko and her teammates captured the gold medal in the 4x200 freestyle swim relay. The team did it in style, setting an Olympic record with their time of 7:57.80.

With that victory, Lindsay became the first Hoosier to win a medal at the 2000 Summer Olympic games in Sydney, Australia.

Lindsay hails from Elkhart, Indiana, a small town in the shadow of Notre Dame's famous golden dome. In a town where football rules, today it is Lindsay Benko who has captured the headlines and inspired pride in Elkhart and South Bend.

Like so many other Olympic athletes, Lindsay has been preparing for her Olympic moment since she was very young, in fact, she has been swimming competitively since she was eight years old. Lindsay has dedicated her life to a sport she loves, and worked hard to be among the best. As early as her freshman year at Elkhart Central High School, she was a state champion. In high school, she won a total of eleven state titles, four in the 100 meter freestyle, four in the 200 meter freestyle, and three in the 400 meter freestyle relay. After graduation, Lindsay took her competitive fire and winning Hoosier spirit to the University of Southern California, where she won a total of five NCAA individual titles.

Yesterday, Lindsay conquered her sport at a new level. She can now be called a world-class athlete and a world champion, but we will continue to proudly claim her as our own in the state of Indiana.

Mr. President, I join my friends in Elkhart, South Bend and across Indiana in congratulating Lindsay Benko for her outstanding accomplishment, and wishing the best of luck to all of our nation's Olympic athletes as they compete in the 2000 Summer Olympic Games.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by 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 Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:16 p.m., a message from the House of Representatives, delivered by

Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3986. An act to provide for a study of the engineering feasibility of a water exchange in lieu of electrification of the Chandler Pumping Plant at Prosser Diversion Dam, Washington.

H.R. 4945. An act to amend the Small Business Act to strengthen existing protections for small business participation in the Federal procurement contracting process, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 405. Concurrent resolution to correct the enrollment of H.R. 4919.

The message further announced that the House has agreed to the amendments of the Senate to the bill (H.R. 940) to designate the Lackawanna Valley National Heritage Area, and for other purposes.

The message also announced that the House has agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4919) to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to make improvements to certain defense and security assistance provisions under those Acts, to authorize the transfer of naval vessels to certain foreign countries, and for other purposes.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed on today, September 21, 2000, by the President pro tempore (Mr. THURMOND):

S. 1638. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty.

S. 2460. An act to authorize the payment of rewards to individuals furnishing information relating to persons subject to indictment for serious violations of international humanitarian law in Rwanda, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3986. An act to provide for a study of the engineering feasibility of a water exchange in lieu of electrification of the Chandler Pumping Plant at Prosser Diversion Dam, Washington; to the Committee on Energy and Natural Resources.

H.R. 4945. An act to amend the Small Business Act to strengthen existing protections for small business participation in the Federal procurement contracting process, and for other purposes; to the Committee on Small Business.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 21, 2000, he had presented to the President of the United States the following enrolled bills:

S. 1638. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend the retroactive eligibility dates for financial assistance for higher education for spouses and dependent children of Federal, State, and local law enforcement officers who are killed in the line of duty.

S. 2460. An act to authorize the payment of rewards to individuals furnishing information relating to persons subject to indictment for serious violations of international humanitarian law in Rwanda, 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–10860. A communication from the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Habitual residence in the territories and possessions of the United States'' (RIN 1115–AE61 INS No. 1811–96) received on September 20, 2000; to the Committee on the Judiciary.

EC–10861. A communication from the Acting Assistant General Counsel for Regulatory Services, Office of Management and Office of Inspector General, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Official Seal National Security Information Procedures'' received on September 20, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC–10862. A communication from the Secretary of Defense, transmitting, pursuant to law, a notification relative to chemical warfare material; to the Committee on Armed Services.

EC–10863. A communication from the Chief, Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, a report relative to Grissom Air Reserve Base; to the Committee on Armed Services.

EC–10864. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Mefenoxam; Pesticide Tolerances for Emergency Exemptions'' (FRL #6741–1) received on September 20, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10865. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Melon Fruit Fly Regulations; Regulated Areas, Regulated Articles, and Removal of Quarantined Area'' (Docket #99–097–3) received on September 20, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC–10866. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the transmittal of the certification of the proposed issuance of an export license relative to Argentina, The Czech Republic, Mexico, The Netherlands, Norway, South Korea, Spain, The Republic of Korea, and The United Kingdom; to the Committee on Foreign Relations.

EC–10867. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Arizona State Implementation Plan, Pinal County Air Quality Control District'' (FRL #6866–1) received on September 20, 2000; to the Committee on Environment and Public Works.

EC–10868. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tennessee: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL #6874–6) received on September 19, 2000; to the Committee on Environment and Public Works.

EC–10869. A communication from the Director of the Office of Civil Rights, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance'' (RIN 1190–AA28) received on September 19, 2000; to the Committee on Environment and Public Works.

EC–10870. A communication from the Deputy Administrator of the General Services Administration, transmitting a copy of a report relative to the National Institutes of Health Bayview Research Center in Baltimore, MD; to the Committee on Environment and Public Works.

EC–10871. A communication from the Deputy Administrator of the General Services Administration, transmitting a copy of a report relative to a lease prospectus for the Federal Trade Commission in Washington, DC; to the Committee on Environment and Public Works.

EC–10872. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone (Including 32 Regulations) (USCG–2000–7386)'' (RIN 2115–AA97) (2000–0082) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10873. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; San Juan Harbor, Puerto Rico (COTP San Juan 00–065)'' (RIN 2115–AA97) (2000–0085) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10874. A communication from the Acting Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations (Including 4 Regulations) (USCG–2000–7386)'' (RIN 2115–AE46) (2000–0016) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10875. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations Red Lodge and Joliet, Montana'' (MM Docket No. 00–24) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10876. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; DTV Broadcast Stations, Norfolk, Virginia'' (MM Docket No. 00–68, RM–9792) received on September 18, 2000; to the

Committee on Commerce, Science, and Transportation.

EC–10877. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations Lynn Haven, Florida'' (MM Docket No. 00–93) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10878. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations Live Oak, Florida'' (MM Docket No. 00–95) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10879. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Buckhannon and Burnsville, West Virginia)'' (MM Docket No. 98–34) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10880. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations. (Casper, Guernsey, Lusk, and Sinclair, Wyoming)'' (MM Docket No. 98–59) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10881. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Meeteetse, Cody, Wyoming)'' (MM Docket No. 98–85; RM–9286, RM–9359) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10882. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations. (Wright and Clearmont, Wyoming)'' (MM Docket No. 98–88) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10883. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Hanna, Baggs, Wyoming)'' (MM Docket No. 98–89; RM–9279, RM–9670) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10884. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Hudson, Ten Sleep, Wyoming)'' (MM Docket No. 98–97; RM–9287, RM–9609) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

EC–10885. A communication from the Special Assistant, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations (Shoshoni and Dubois, Wyoming)'' (MM Docket No. 98–99) received on September 18, 2000; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and an amendment to the title and with a preamble:

S. Res. 304: A resolution expressing the sense of the Senate regarding the development of educational programs on veterans' contributions to the country and the designation of the week that includes Veterans Day as ''National Veterans Awareness Week'' for the presentation of such educational programs.

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

S. 785: A bill for the relief of Frances Schochenmaier.

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

S. 1314: A bill to establish a grant program to assist State and local law enforcement in deterring, investigating, and prosecuting computer crimes.

S. 2778: A bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2811: A bill to amend the Consolidated Farm and Rural Development Act to make communities with high levels of out-migration or population loss eligible for community facilities grants.

By Mr. JEFFORDS, from the Committee on Health, Education, Labor, and Pensions, without amendment and with a preamble:

S. Con. Res. 135: A concurrent resolution recognizing the 25th anniversary of the enactment of the Education for All Handicapped Children Act of 1975.

NOMINATIONS DISCHARGED

The following nominations were discharged from the Committee on Foreign Relations and placed on the Executive Calendar, pursuant to the unanimous consent agreement of September 21, 2000:

Luis J. Lauredo, of Florida, to be Permanent Representative of the United States to the Organization of American States, with the rank of Ambassador, vice Victor Marrero, to which position he was appointed during the last recess of the Senate.

Mark L. Schneider, of California, to be Director of the Peace Corps, vice Mark D. Gearan, resigned, to which position he was appointed during the last recess of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. SPECTER:

S. 3086. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Mr. GREGG, and Mr. DURBIN):

S. 3087. A bill to amend the Internal Revenue Code of 1986 to simplify the individual income tax by providing an election for eligible individuals to only be subject to a 15 percent tax on wage income with a tax return free filing system, to reduce the burdens of the marriage penalty and alternative minimum tax, and for other purposes; to the Committee on Finance.

By Mr. LEVIN:

S. 3088. A bill to require the Secretary of Health and Human Services to promulgate regulations regarding allowable costs under the medicaid program for school based services provided to children with disabilities; to the Committee on Finance.

By Mr. HAGEL (for himself, Mr. MCCAIN, Mr. KERREY, Mr. CLELAND, Mr. KERRY, and Mr. ROBB):

S. 3089. A bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; to the Committee on Energy and Natural Resources.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 3090. A bill to establish the Rocky Flats National Wildlife Refuge in the State of Colorado, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself, Mr. GRAMS, Mr. ASHCROFT, and Mr. BROWNBACK):

S. 3091. A bill to implement the recommendations of the General Accounting Office on improving the administration of the Packers and Stockyards Act, 1921 by the Department of Agriculture; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CONRAD:

S. 3092. A bill to provide incentives for improved and efficient use of energy sources, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 3093. A bill to require the Federal Energy Regulatory Commission to roll back the wholesale price of electric energy sold in the Western System Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 3094. A bill to amend titles 18 and 28, United States Code, to inhibit further intimidation of public officials within the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. REID, Mr. DURBIN, Mr. REED, Mr. DASCHLE, Mr. GRAHAM, Mr. LEAHY, Mr. KERRY, and Mr. WELLSTONE):

S. 3095. A bill to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent resident status; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SCHUMER:

S. Res. 359. A resolution designating October 16, 2000, to October 20, 2000 as ''National Teach For America Week''; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mr. LIEBERMAN, Mr. KENNEDY, Mr. MOYNIHAN, Mr. REID, and Ms. LANDRIEU):

S. Con. Res. 138. A concurrent resolution expressing the sense of Congress that a day of peace and sharing should be established at the beginning of each year; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3086. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

OPENING THE SUPREME COURT TO TELEVISION

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation on behalf of Senator BIDEN and myself, a bill which, succinctly stated, would provide the following: The Supreme Court of the United States shall permit television coverage of all open sessions of the Court unless the Court decides by a vote of the majority of Justices that allowing such coverage in a particular case will constitute a violation of the due process rights of one or more of the parties before the Court.

I will summarize that lengthy statement because of time limitations. The statement contains the citations of the cases referred to and the specific quotations which I shall cite.

The purpose of this legislation is to open to public view what the Supreme Court of the United States does in rendering important decisions. It is grounded on the proposition that since the Supreme Court of the United States has assumed the power to decide the cutting-edge questions on public policy today and has in effect become virtually a ''super legislature'' in taking on the decisions on these public policy issues, that the public has a right to know what the Supreme Court is doing, and that right would be substantially enhanced by televising the oral arguments of the Court so that the public would be able to see and hear the kinds of issues which the Court is deciding. The public would then have an insight into those issues to be able to follow what the Court decides after the due course of the Court's deliberations.

In a very fundamental sense, the televising of the Supreme Court has been implicitly recognized—perhaps even sanctioned—by a 1980 decision of the Supreme Court of the United States in a case captioned Richmond Newspapers v. Virginia, where the Supreme Court noted that a public trial belongs not only to the accused, but to the public and the press as well; and that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, perhaps might be said to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. It might be appropriate to note at this juncture that the Court could, on its own motion, televise its proceedings but has chosen not to do so, which presents, in my view, the necessity for legislation on this subject.

If one goes to the chambers of the Supreme Court, which are right across the green here in the Capitol complex, one may enter and observe the Court's arguments because they are public. Newspaper reporters are permitted to be in the Court. No cameras are permitted in the Court, of even still pictures, so when television wishes to characterize an argument, they have to send in an artist to have an artist's renderings.

When I argued the case of the Navy Yard back in 1964, the Court proceedings were illustrated by an artist's drawings. But in the year 2000, when the public gets a substantial portion, if not most, of its information from television, the availability strictly to the print media, is insufficient to give the public a real idea as to what is going on in the Supreme Court of the United States.

The Supreme Court has traditionally had an agenda. It is really nothing new. The Warren Court vastly expanded criminal rights. In the year 2000, I think no one would question at least some of the Warren Court's decisions, saying that anybody who is being prosecuted in a criminal proceeding has a right to counsel. It is really surprising to note that before 1963, the case of Gideon v. Wainwright, the defendant in a criminal case did not have a right to counsel except in murder cases.

There is no doubt that the Supreme Court of the United States in the 1930s had an agenda in striking down New Deal legislation. And then, in a historic move, President Franklin Delano Roosevelt, an enormously popular President in the mid- to late 1930's, very unhappy about the Supreme Court's activism in striking down New Deal legislation by five to four decisions—President Roosevelt suggested packing the Court by adding six additional Justices. There was quite a public reaction adverse to that proposal. Perhaps the Supreme Court of the United States had more public attention at that particular time than at any other time in its history.

In the face of what was happening, a Supreme Court Justice, Owen J. Roberts, who happened to be from Philadelphia, my hometown, decided to change his position and to support and hold constitutional the New Deal legislation leading to the famous phrase ''a switch in time saves nine,'' from the old adage about ''a stitch in time saves nine.'' The switch by Supreme Court Justice Owen Roberts, it is said, saved the nine-person constituency of the Supreme Court.

The Rehnquist Court, I submit, is unusually activist in pursuing its agenda. The Court has stricken acts of Congress, saying:

No Congressman or Senator purported to present a considered judgment,

Or striking acts of Congress saying there was a:

lack of legislative attention to the statute at issue,

Or striking an act of Congress saying the legislation was:

* * * an unwarranted response to perhaps an inconsequential problem,

Or declaring an act of Congress unconstitutional saying:

Congress had virtually no reason to believe [that the statute was well founded.]

There is no effort here to challenge the authority of the Supreme Court of the United States to have the final word. That has been established since Marbury v. Madison in 1803. I believe it is necessary that the Supreme Court of the United States have the final word on interpreting the Constitution and beyond that on saying what is a constitutional question. But given the breadth of the Court's authority and given the sweeping scope of what the Court is doing, the point is that there ought to be public knowledge and there ought to be a public response. Because I think it is fair to say that the Court is aware and does watch the public response, and it ought to really be a factor in whatever the Court decides to do—again, recognizing that the Court has the final say.

In June of 1999, the Supreme Court curtailed congressional authority in favor of the rights of States to sovereign immunity on patents and copyrights, not withstanding the express constitutional grant of authority to Congress to regulate patents and copyrights. Those cases led former Solicitor General Walter Dellinger, formerly a professor and a leading constitutional scholar, to describe these cases as:

* * * one of the three or four major shifts in constitutionalism we have seen in the last three centuries.

Those particular cases were subject to very substantial criticism by Professor Rebecca Eisenberg of the University of Michigan Law School, commenting on Florida Prepaid Postsecondary Education v College Savings Bank:

* * * the decision makes no sense,

Asserting that it arises from a:

* * * bizarre States' rights agenda that really has nothing to do with intellectual property.

The Court's decisions have moved, as I have noted, really onto the cutting edge of so many of the critical issues which are matters of great national concern. The Court has decided issues from birth to death and the vital issues in between, making the decision on the constitutional right to an abortion; making decisions on how the death penalty will be imposed; making decisions on the questions of freedom of religion, as illustrated by the case of City of Boerne v. Flores, where the Court struck down the Religious Freedom Restoration Act.

Freedom of religion, of online speech, in Reno v. ACLU, the Court struck down two provisions of the Communications Decency Act of 1998; Prince v. United States, the Court, by a 5-to-4 decision, reversed some six decades of firmly established constitutional authority on the supremacy of Federal laws over States under the commerce clause. And, in the Lopez case in 1995, the Supreme Court of the United

States invalidated congressional authority, which had been intact for some 60 years under the commerce clause.

So we have seen the expansion of the authority of the Supreme Court of the United States in so many lines, really, taking on the aura and the perspective of a superlegislature.

Justice Felix Frankfurter perhaps anticipated the day when the Supreme Court arguments would be televised when he said that he longed for a day when:

> The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system.

It is interesting to note that the columns of the Senate match up exactly with the columns of the Supreme Court of the United States.

In the early deliberations on the Constitution, there were proposals that Supreme Court Justices ought to be appointed by the Senate. I am not sure quite how that would have worked out given our large groupings and how we would go about making those decisions, but that was once thought about.

There was a constitutional amendment proposed that would have allowed Supreme Court decisions to be overruled by a two-thirds vote of the Senate, a proposal which I think would have been very unwise and did not get very far.

The Senate does have the constitutional authority on confirmation of Supreme Court Justices, perhaps our most important function as so many major decisions have been decided by a single vote on 5–4 decisions: 79 such decisions in the past 5 years; 20 such decisions in the last term of the Court.

The Court has been a strong point in our historical development, but as the Court has expanded into areas traditionally reserved for Congress, functioning virtually as a superlegislature, without in any way challenging the independence of the Court, the independence of the Federal judiciary, I do believe it is appropriate for the Congress to speak on the operation of the Court.

The Congress has the authority to establish the number of Justices so that if the Congress chose, we could expand the number beyond nine or curtail it. The Congress has established the number six as a quorum for the Court. The Congress has the authority to establish the jurisdiction of the Supreme Court of the United States and, in the landmark case of Ex parte McCardle, decided that the jurisdiction of the Court could be curtailed even on constitutional grounds. Frankly, I do not think that 1868 decision would stand today as to the authority of the Congress to curtail the jurisdiction of the Court on constitutional grounds, but during confirmation proceedings when those questions are asked, the nominees choose to leave that as an open question. It does remain an open question.

Televising, of course, is vastly different and a far range from the issue of jurisdiction. The Congress of the United States has established the time limits for Federal trials under the speedy trial limit and has established time limits for consideration of habeas corpus cases. So there is ample authority for the Congress to call for the opening of the Supreme Court for television.

Obviously, there are issues of separation of power which I think this legislation respects. Obviously, the final decision will be for the Court. I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process.

The public's interest would be significantly promoted by televising the proceedings of the Supreme Court of the United States. Given the enormous importance of the decisions made by the Court, and the fact that so many of these decisions are really public policy choices rather than strictly legal decisions, the public deserves as much access as possible to the Court's proceedings.

This proposed legislation to televise sessions of the Supreme Court fully respects the authority of the Supreme Court to make the ultimate decision on Constitutional questions. It seeks to impose greater accountability upon a body which decides so many matters of the greatest importance to our country, often by a single vote.

In the normal course of events, the Supreme Court often renders opinions which, at their core, decide cutting-edge issues which are really within the legislative domain under the Constitutional doctrine of Separation of Powers. In recent years the Supreme Court has exaggerated this policy role by explicitly substituting its judgment for that of Congress and striking down legislation which it has found is not based upon a ''considered judgment.''

In our Constitutional scheme, who are the justices of the Supreme Court to substitute their judgment for that of Congress on these issues of public policy? By what right do the Justices decide that Congress has not exercised a ''considered judgment''? When it rules on this basis, the Court goes far beyond its role as final Constitutional arbiter and becomes a super legislature.

Senator BIDEN cogently addressed this issue in a July 26, 2000 floor statement. After discussing a number of recent Supreme Court opinions in which the Court exceeded its authority to strike down laws passed by Congress, Senator BIDEN noted that:

> It is crucial . . . that the American people understand the larger pattern of the Supreme Court's recent decisions and . . . the disturbing direction in which the Supreme Court is moving because the consequences of these may well impact upon the ability of American citizens to ask their elected representatives in Congress to help them solve national problems that have national impact. . . .
>
> Make no mistake, what is at issue here is the question of power . . . basically whether power will be exercised by an insulated judiciary or by the elected representatives of the people.

The public has a right to know how, why and what the Court is doing. In particular, the deliberations of the Court should be open to the sunshine of public scrutiny. Television coverage would be a significant step to provide a meaningful opportunity for public to observe and understand what the Court is doing.

Beyond educating the public, enhanced public scrutiny may very well have the effect of discouraging judicial activism and overreaching. The example of Justice Owen Roberts is instructive. In the mid-1930's, the Supreme Court struck down many significant pieces of New Deal legislation by votes of 5 to 4. President Roosevelt went to great lengths to publicize this episode of judicial activism, culminating in his infamous proposal to pack the Supreme Court by adding six new members. Notwithstanding FDR's enormous popularity, that proposal raised a storm of protest and failed. In the midst of that controversy, a swing justice, Owen J. Roberts, shifted his position to support the New Deal programs. Accordingly, a majority of the Court then supported and upheld New Deal legislation. Justice Robert's change in position led to the famous phrase, ''a switch in time saves nine.''

The current Court broke with sixty years of tradition in curtailing Congress's authority under the Commerce Clause in *Lopez*, which invalidated Federal legislation creating gun-free school zones. In June 1999 in three far-reaching decisions, the Supreme Court curtailed Congressional authority in favor of the right of states to sovereign immunity on patent, copyright and other intellectual property infringement matters. These cases are: *College Savings Bank* v. *Florida Prepaid*, 527 U.S. 666, *Florida Prepaid* v. *College Savings Bank*, 527 U.S. 627, and *Alden* v. *Maine*, 527 U.S. 706.

The June 1999 patent and copyright infringement cases have been roundly criticized by the academicians. Stanford University historian Jack Rakove, author of ''Original Meanings'', a Pulitzer Prize winning account of the drafting of the Constitution, characterizes Justice Kennedy's historical argument in Alden v. Maine as ''strained, even silly''.

Professor Rebecca Eisenberg of the University of Michigan Law School, in commenting on Florida Prepaid Postsecondary Education Expense Board vs. College Savings Bank, said:

> ''The decision makes no sense'', asserting that it arises from ''a bizarre states' rights agenda that really has nothing to do with intellectual property.

Harvard Professor Laurence Tribe commented:

''In the absence of even a textual hint in the Constitution, the Court discerned from the constitutional 'ether' that states are immune from individual lawsuits.'' (These decisions are) ''scary''. ''They treat states' rights in a truly exaggerated way, harking back to what the country looked like before the civil war and, in many ways, even before the adoption of the Constitution.''

College Savings Bank v. *Florida Prepaid* 1999 U.S. LEXIS 4375, *Florida Prepaid* v. *College Savings Bank* 1999 U.S. LEXIS 4376 and *Alden* v. *Maine*, 1999 U.S. LEXIS 4374.

In addition to treating the Congress with disdain, the five person majority in all three cases demonstrated judicial activism and exhibited what can only be viewed as a political agenda in drastically departing from long-standing law. Former Solicitor General Walter Dellinger described these cases as:

''one of the three or four major shifts in constitutionalism we've seen in two centuries.''

A commentary in the Economist on July 3, 1999 emphasized the Court's radical departure from existing law stating:

''The Court's majority has embarked on a venture as detached from any constitutional moorings as was the liberal Warren Court of the 1960's in its most activist mood.''

In its two opinions in College Savings Bank v. Florida Prepaid and Florida Prepaid v. College Savings Bank, the Court held that the doctrine of sovereign immunity prevents states from being sued in Federal court for infringing intellectual property rights. These decisions leave us with an absurd and untenable state of affairs. Through their state-owned universities and hospitals, states participate in the intellectual property marketplace as equals with private companies. The University of Florida, for example, owns more than 200 patents. Furthermore, state entities such as universities are major consumers of intellectual property and often violate intellectual property laws when, for example, they copy textbooks without proper authorization.

But now, Florida and all other states will enjoy an enormous advantage over their private sector competitors—they will be immune from being sued for intellectual property infringement. Since patent and copyright infringement are exclusively Federal causes of action, and trademark infringement is largely Federal, the inability to sue in Federal court is, practically speaking, a bar to any redress at all.

The right of states to sovereign immunity from most Federal lawsuits is guaranteed in the Eleventh Amendment to the constitution, which provides that:

The Judicial Power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any foreign state.

It has long been recognized, however, that this immunity from suit is not absolute. As the Supreme Court noted in one of the Florida Prepaid opinions, the Court has recognized two circumstances in which an individual may sue a state:

First, Congress may authorize such a suit in the exercise of its power to enforce the Fourteenth Amendment—an Amendment enacted after the Eleventh Amendment and specifically designed to alter the federal-state balance. Secondly, a state may waive its sovereign immunity by consenting to suit. *College Savings Bank* v. *Florida Prepaid* at 7.

Congress' power to enforce the Fourteenth Amendment is contained in Section Five of the Fourteenth Amendment, which provides that ''The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.'' One of the provisions of the Fourteenth Amendment, Section One, provides that no State shall, ''deprive any person of . . . property . . . without due process of law.'' Accordingly, Congress has the power to pass laws to enforce the rights of citizens not to be deprived of their property—including their intellectual property—without due process of law.

Employing this power under Section 5 of the Fourteenth Amendment, Congress passed the Patent Remedy Act and the Trademark Remedy Clarification Act in 1992. As its preamble states, Congress passed the Patent Remedy Act to ''clarify that States . . . are subject to suit in Federal court by any person for infringement of patents and plant variety protections.'' Congress passed the Trademark Remedy Clarification Act to subject the States to suits brought under Sec. 43 of the Trademark Act of 1946 for false and misleading advertising.

In Florida Prepaid v. College Savings Bank, the Court held in a 5 to 4 opinion that Congress did not validly abrogate state sovereign immunity from patent infringement suits when it passed the Patent Remedy Act. In an opinion by Chief Justice Rehnquist, the Court reasoned that in order to determine whether a Congressional enactment validly abrogates the States' sovereign immunity, two questions must be answered, ''first, whether Congress has unequivocally expressed its intent to abrogate the immunity . . . and second whether Congress has acted pursuant to a valid exercise of power.''

The Court acknowledged that in enacting the Patent Remedy Act, Congress made its intention to abrogate the States' immunity unmistakably clear in the language of the statute. The Court then held, however, that Congress had not acted pursuant to a valid exercise of power when it passed the Patent Remedy Act. The Court wrote that Congress' enforcement power under the Fourteenth Amendment is ''remedial'' in nature. Therefore, ''for Congress to invoke Section 5 it must identify conduct transgressing the Fourteenth Amendment's substantive provisions, and must tailor its legislative scheme to remedy or preventing such conduct.'' Florida Prepaid v. College Savings Bank at 20.

The Court found that Congress failed to identify a pattern of patent infringement by the States, let alone a pattern of constitutional violations. The Court specifically noted that a deprivation of property without due process could occur only where the State provides inadequate remedies to injured patent owners. The Court then observed that:

Congress, however, barely considered the availability of state remedies for patent infringement and hence whether the States' conduct might have amounted to a constitutional violation under the Fourteenth Amendment. . . . Congress itself said nothing about the existence or adequacy of state remedies in the statute or in the Senate Report, and made only a few fleeting references to state remedies in the House Report, essentially repeating the testimony of the witnesses. Florida Prepaid v. College Savings Bank at 27–28.

Accordingly, the Court concluded that:

The legislative record thus suggests that the Patent Remedy Act does not respond to a history of widespread and persisting deprivation of constitutional rights of the sort Congress has faced in enacting proper prophylactic Section 5 legislation. Instead, Congress appears to have enacted this legislation in response to a handful of instances of state patent infringement that do not necessarily violate the Constitution. Florida Prepaid v. College Savings Bank at 31–32.

Not only is the result of this opinion troubling—that states will enjoy immunity from suit—but also by the reasoning which supports this result. Here we have a Chief Justice of the Supreme Court choosing to ignore an act of Congress because he has concluded that Congress passed the legislation with insufficient justification. In essence, the Chief Justice is telling us we did a poor job developing our record before passing the Patent Remedy Act. As we all know, however, many of us support legislation for reasons that don't make it into the written record. The record is an important, but imperfect, summary of our views. This is why past Courts have been reluctant to discuss Congressional motives in this fashion.

In College Savings Bank v. Florida Prepaid, the Supreme Court decided in a 5 to 4 opinion that Trademark Remedy Clarification Act (the ''TRCA'') was not a valid abrogation of state sovereign immunity. The Court, in an opinion by Justice Scalia, noted that Congress passed the TRCA to remedy and prevent state deprivations of two types of property rights: (1) a right to be free from a business competitor's false advertising about its own product, and (2) a more generalized right to be secure in one's business interests. The Court contrasted these rights with the hallmarks of a protected property interest, namely the right to exclude others.

Justice Scalia reached the surprising conclusion that protection against false advertising secured by Section 43(a) of the Lanham Act does not implicate property rights protected by the due process clause so that Congress could not rely on its remedies under Section 5 of the 14th Amendment to abrogate state sovereign immunity. If

conducting a legitimate business operation with protection from false advertising is not a ''property right'', it is hard to conceive of what is business property. That Scalia rationale shows the extent to which the Court has gone to invalidate Congressional enactments.

The Court then discussed whether Florida's sovereign immunity, though not abrogated, was voluntarily waived. Here, the Court expressly overruled its prior decision in *Parden* v. *Terminal R. Co*. 377 U.S. 184 (1964) and held that there was no voluntary waiver. In Parden, the Court had created the doctrine of constructive waiver, which held that a state could be found to have waived its immunity to suit by engaging in certain activities, such as voluntary participation in the conduct Congress has sought to regulate. Since Congress has sought to regulate interstate commerce, then a state which participated in interstate commerce by registering and licensing patents would be held to have voluntarily waived its immunity to a patent infringement suit. By overruling Parden, however, the Court held that a voluntary waiver of sovereign immunity must be express. Florida made no such express waiver of its sovereign immunity.

In other relatively recent cases, the Court has gone out of its way, almost on a personal basis, to chastise and undercut Congress. The case of *Sable* v. *FCC*, 492 U.S. 115 (1989) provides a striking example of this trend. In Sable, the Court struck down a ban on ''indecent'' interstate telephone communications passed by Congress in 1988. In rejecting this provision, the Court focused on whether there were constitutionally acceptable less restrictive means, short of a total ban, to achieve its goal of protecting minors. The Court then declared, in unusually dismissive and critical language, that Congress has not sufficiently considered this issue:

> aside from conclusory statements during the debates by proponents of the bill . . . that under the FCC regulations minors could still have access to dial-a-porn messages, the congressional record presented to us contains no evidence as to how effective or ineffective the FCC's most recent regulations were or might prove to be.
>
> The bill that was enacted . . . was introduced on the floor. . . . *No Congressman or Senator purported to present a considered judgement* with respect to how often or to what extent minors could or would circumvent the rules and have access to dial-a-porn messages. (Emphasis Added)

If a member of the Congress made a judgment, by what authority does the Supreme Court superimpose its view that it wasn't a ''considered judgment''? A fair reading of the statements from the floor debate on this issue undercuts the Court's disparaging characterization of this debate. For example, Representative TOM BLILEY of Virginia gave a rather detailed and persuasive discussion of how he concluded that a legislative ban was necessary. Mr. BLILEY noted that in 1983, Congress first passed legislation which required the FCC to report regulations describing methods by which dial-a-porn providers could screen out underage callers. Mr. BLILEY then walks us through the repeated failure of the FCC to pass regulations which could withstand judicial scrutiny. Finally Mr. BLILEY notes that:

> it has become clear that there was not a technological solution that would adequately and effectively protect our children from the effect of this material. We looked for effective alternatives to a ban—there were none.

The Court repeats its critique of Congressional action in the case of *Reno* v. *ACLU*, 521 U.S. 844 (1997). Here, the Court struck down the Communications Decency Act, which prohibited transmission to minors of ''indecent'' or ''patently offensive'' communications. In this opinion, the Court again discusses whether less restrictive means were available and again concludes that Congress had not sufficiently addressed the issue. The opinion notes that:

> The Communications Decency Act contains provisions that were either added in executive committee after the hearings [on the Telecom Act] were concluded or as amendments offered during floor debate on the legislation. . . . No hearings were held on the provisions that became the law.

The Court in Reno later notes that, ''*The lack of legislative attention* to the statute at issue in *Sable* suggests another parallel with this case.'' (Emphasis Added)

Once again, if Congress passes a law, by what authority does the Supreme Court conclude that we did not devote sufficient legislative attention to the law? In the Reno opinion itself the Court noted that some Members of the House of Representatives opposed the Communications Decency Act because they thought that less restrictive screening devices would work. These members offered an amendment intended as a substitute for the Communications Decency Act, but instead saw their provision accepted as an additional section of the Act. In light of this record, how can the Court say that Congress did not consider less restrictive means?

Most recently, in its January, 2000, opinion in *Kimel* v. *Florida Board of Regents*, 528 U.S. 62, the Supreme court once again took aim at Congress' judgment. In Kimel, the Court held that a 1974 amendment to the Age Discrimination in Employment Act (the ''ADEA'') to extend its application to discrimination by state and local governments was not a valid abrogation of state sovereign immunity. The Court rejected Congress' action in truly dismissive tones:

> Our examination of the ADEA's legislative record confirms that Congress' 1974 extension of the Act to the States was *an unwarranted response to a perhaps inconsequential problem.* Congress never identified any pattern of age discrimination by the States, much less any discrimination whatsoever that rose to the level of constitutional violation. * * * (Emphasis Added)
>
> A review of the ADEA's legislative record as a whole * * * reveals that *Congress had virtually no reason to believe* that state and local governments were unconstitutionally discriminating against their employees on the basis of age. Congress' failure to uncover any significant pattern of unconstitutional discrimination here confirms that *Congress had no reason to believe* that broad prophylactic legislation was necessary in this field. Kimel at (Emphasis Added)

Almost every member of Congress had had close working relationships with employees of the state and local governments back home, and all members of Congress meet state and local government employees when they are back in their states or districts. In fact, many members of Congress were once themselves state employees. Congress is therefore in a very good position to know that age discrimination by the states is not an ''inconsequential'' problem. In fact, the absence of an in-depth debate on this topic likely reflects the fact that this proposition that state and local governments discriminate on the basis of age was noncontroversial. The Supreme Courts failure to defer to Congress' experience on this issue and its jaundiced reading of the record are troubling.

While numerous other instances of judicial activism may be cited, the decisions during Chief Justice Warren's tenure from 1953 through 1969 are illustrative. While few, if any at this late date, would disagree with the Warren Court's decision holding segregation unconstitutional in Brown v. Board of Education, it was a clear-cut case of judicial activism overturning Pleassey v. Ferguson since neither the legislative nor executive branches of the federal or state governments would correct those rank injustices.

The Warren Court significantly expanded the interpretation of the due process clause of the 14th Amendment to add Constitutional rights to criminal defendants in state court cases. In Mapp v. Ohio, the Court rule that unconstitutionally seized evidence could not be introduced in a state criminal proceeding. In Gideon v. Wainwright, the Supreme Court required that the State provide a defendant a lawyer when ''hailed'' into criminal court. Miranda v. Arizona, perhaps the Court's most famous opinion, rule out a defendant's confession or statement unless five specific warnings were given by police and waivers obtained from the defendant before incriminating statements could be introduced against him/her in state court proceedings.

Another era of judicial activism occurred in the mid-1930's. During this period, the Supreme Court embarked on a very different activist agenda by striking down many of the core laws passed as part of President Roosevelt's New Deal. In the 1935 case of A.L.A. Schecter Poultry Corp. v. United States, the Supreme Court struck down the National Industrial Recovery Act on the grounds that it exceeded Congress' power under the Commerce Clause. Also in 1935, in Railroad Retirement Board v. Alton R.R., the Supreme

Court struck down the Railroad Retirement Act on the same Commerce Clause grounds. In the 1936 case of United States v. Butler, the Supreme Court struck down the agricultural Adjustment Act on the grounds that it sought to regulate a subject—the production of daily products—prohibited to Federal government under the 10th Amendment. Also in 1936, in Carter v. Carter Coal Co., the Court struck down the Bituminous Coal Conservation Act on the same 10th Amendment grounds.

These decisions, led to the infamous proposal to pack the Supreme Court by adding six new members. Notwithstanding FDR's enormous popularity, that proposal raised a storm of protest and failed.

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there is, in the views of many, simply a difference of opinion to what is preferable public policy, but the Court determines avant-garde issues such as whether aids is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. Just this past term, the Court addressed whether the FDA has the authority to regulate tobacco products as a drug and whether states can ban partial birth abortion.

The current Court, like its predecessors, hands down decisions which vitally affect the lives of all Americans. Since the Court's 1803 historic decision in Marbury v. Madison, the Supreme Court has the final authority on issues of enormous importance from birth to death. In Roe v. Wade (1973), the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment. In the case of Washington v. Glucksberg (1997), the court refused to create a similar right to assisted suicide. Here the Court held that the Due Process Clause does not recognize a liberty interest that includes a right to commit suicide with another's assistance.

In the Seventies, the Court first struck down then upheld state statutes imposing the death penalty for certain crimes. In Furman v. Georgia (1972), the Court struck down Georgia's death penalty statute under the cruel and unusual punishment clause of the Eighth Amendment and stated that no death penalty law could pass constitutional muster unless it took aggravating and mitigating circumstances into account. This decision lead Georgia and many states to amend their death penalty statutes and, four years later, in Gregg v. Georgia (1976), the Supreme Court upheld Georgia's amended death penalty statute.

Over the years, the Court has also played a major role in issues of war and peace. In its opinion in Scott v. Sanford (1857)—better known as the Dredd Scott decision—the Supreme Court held that Dredd Scott, a slave who had been taken into ''free'' territory by his owner, was nevertheless still a slave. The Court further held that Congress lacked the power to abolish slavery in certain territories, thereby invalidating the careful balance that had been worked out between the North and the South on the issue. Historians have noted that this opinion fanned the flames that led to the Civil War.

More recently, the Supreme Court played an important role during the Vietnam War. Prominent opponents of the war repeatedly petitioned the Court to declare the Presidential action unconstitutional on the grounds that Congress had never given the President a declaration of war. The Court decided to leave this conflict in the political arena and repeatedly refused to grant writs of certiorari to hear these cases. This prompted Justices Douglas, sometimes accompanied by Justices Stewart and Harlan, to take the unusual step of writing lengthy dissents to the denials of cert.

In New York Times Co. v. United States (1971)—the so called ''Pentagon Papers'' case—the Court refused to grant the government prior restraint to prevent the New York Times from publishing leaked Defense Department documents which revealed damaging information about the Johnson Administration and the war effort. The publication of these documents by the New York Times is believed to have helped move public opinion against the war.

In its landmark civil rights opinions, the Supreme Court took the lead in effecting needed social change, helping us to address fundamental questions about our society in the courts rather than in the streets. In Brown v. Board of Education, the Court struck down the principle of ''separate but equal'' education for blacks and whites and integrated public education in this country. This case was followed by a series of civil rights cases which enforced the concept of integration and full equality for all citizens of this country, including Garner v. Louisiana (1961), Burton v. Wilmington Parking Authority (1961), and Peterson v. City of Greenville (1963).

When deciding issues of such great national import, the Supreme Court is rarely unanimous. In fact, a large number of seminal Supreme Court decisions have been made by a vote of 5–4. Such a close margin reveals that these decisions are far from foregone conclusions distilled from the clear meaning of the Constitution and legal precedents. On the contrary, these major Supreme Court opinions are really policy decisions reached on the basis of the preferences and views of each individual justice. In a case that is decided by a vote of 5–4, individual justices have the power by his or her vote to change the law of the land.

Given the enormous significance of each vote cast by each justice on the Supreme Court, it is important that each justice know that they will be held accountable for their vote. Televising the proceedings of the Supreme Court will allow the sunlight to shine brightly on these proceedings and ensure greater accountability.

The following are just a handful of examples of major 5–4 decisions handed down by the Supreme Court this century:

Lochner v. New York (1905). The Court struck down an early attempt at labor regulation by holding that a law limiting bakers to a sixty-hour work week violated the liberty of contract secured by the Due Process Clause of the Fourteenth Amendment.

Hammer v. Dagenhart (1918). The Court again struck down a labor law, this time the Keating-Own Federal Child Labor Act, on the grounds that Commerce Clause did not give Congress the power to completely forbid certain categories of commerce.

Furman v. Georgia (1972). The Court struck down the death penalty under the cruel and unusual punishment clause of the Eighth Amendment.

Plyer v. Doe (1982). The Court invoked the Equal Protection Clause of the Fourteenth Amendment to strike down a Texas statute which denied state funding for the education of illegal immigrant children.

Webster v. Reproductive Health Services (1989). In this case, which has been widely viewed as a retreat from Roe v. Wade, the Court upheld various restrictions on the availability of abortion including a ban on the use of public funds and facilities for abortions.

United States v. Eichman (1990). The Court invalidated state and Federal laws prohibiting flag desecration on the grounds that they violated the First Amendment.

Adarand Constructors, Inc. v. Pena (1995). The Court held that Federal racial classifications, like those of a state, must be reviewed under a strict scrutiny standard.

U.S. Term Limits v. Thornton (1995). The Court struck down a state law imposing term limits upon Members of Congress on the grounds that states have no authority to change, add to, or diminish the age, citizenship, and residency requirements for congressional service enumerated in the Qualifications Clause of the U.S. Constitution.

During the past five years alone, there have been eighty 5 to 4 Supreme Court decisions. Out of the 79 cases decided in the Court's most recent term, 20 were decided by a single justice on a 5 to 4 vote. The following are some of the important decisions handed down by the Court in its last few sessions that were decided by a 5 to 4 vote:

Tobacco regulation. In FDA v. Brown and Williamson Tobacco Corporation, the Court ruled that the FDA lacks authority under the Federal Food, Drug, and Cosmetic Act (FDCA) to regulate tobacco products.

Abortion. In Stenberg v. Carhart, the Court ruled that Nebraska's statute criminalizing the performance of ''partial birth abortions'' is unconstitutional under principles set forth in Roe v. Wade (1973) and Planned Parenthood v. Casey (1992).

Violence Against Women Act. In United States v. Morrison, the Court struck down a key provision of the 1994 Violence Against Women Act (VAWA) that allowed victims of gender-motivated violence to bring private civil lawsuits against the perpetrators in federal court. The Supreme Court said that Congress, in enacting the VAWA provision, overstepped its authority to regulate interstate commerce and enforce the Constitution's equal-protection guarantee.

HIV infection. In Bragdon v. Abbott, the Court ruled that HIV infection is a ''disability'' as defined by the American with Disabilities Act, even if the person who has tested positive for HIV is asymptomatic.

Fourth Amendment. In Pennsylvania Board of Probation and Parole v. Scott, the Court limited the exclusionary rule by holding that it does not apply in parole revocation hearings.

Freedom of Religion. In City of Boerne v. Flores, the Court struck down the Religious Freedom Restoration Act (''RFRA'') on the grounds that it exceeded Congressional power under Section 5 of the Fourteenth Amendment. RFRA had provided that governments can infringe upon religious practices only if they have health, safety or other ''compelling interest'' in doing so.

Freedom of Speech Online. In Reno v. ACLU, the Court struck down two provisions of the Communications Decency Act of 1996 prohibiting transmission of obscene and indecent messages to minors on the grounds that they violated the First Amendment.

In Printz v. United States, the Court voted 5 to 4 to reverse six decades of firmly established constitutional authority on the supremacy of federal laws over states rights under the Commerce Clause. Specifically, the Court held unconstitutional the provisions of the Brady Bill that require state and local law enforcement officers to conduct background checks on prospective handgun purchasers.

In Agostini v. Felton, the Court voted to lower the barrier between church and state by holding that the Establishment Clause of the First Amendment does not bar use of public school teachers to provide remedial education to disadvantaged children in parochial schools.

In Raines v. Byrd, the Court ruled that our colleagues, Senators BYRD, LEVIN, MOYNIHAN, and HATFIELD, lacked standing to challenge the constitutionality of the Line Item Veto Act since they failed to establish a particularized personal injury. The Court's rejection of an ''institutional injury'' to Congress as a basis for standing significantly limits the ability of legislators to raise constitutional challenges to legislation in the courts.

Cameras Should be allowed in the Supreme Court on Basic Public Policy and Constitutional Grounds.

Given the awesome national significance of the decisions made by the Supreme Court, the right of the public to view the process by which these decisions are made is self evident. In a democracy, the workings of the government at all levels should be open to public view. The more openness, and the more real the opportunity for public observation, the greater the understanding and trust. As the Supreme Court noted in the 1986 case of Press-Enterprise Co. v. Superior Court, ''People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.''

It was in this spirit that the House of Representatives opened its deliberations to meaningful public observation by allowing C-Span to begin televising debates in the House chamber in 1979. The Senate followed the House's lead in 1986 by voting to allow television coverage of the Senate floor.

Beyond this general policy preference for openness, however, there is a strong argument that the Constitution requires that television cameras be permitted in the Supreme Court.

It is well established that the Constitution guarantees access to judicial proceedings to the press and the public. In 1980, the Supreme Court relied on this tradition when it held in Richmond Newspapers v. Virginia that the right of a public trial belongs not just to the accused, but to the public and the press as well. The Court noted that such openness has ''long been recognized as an indisputable attribute of an Anglo-American trial.''

Recognizing that in modern society most people cannot physically attend trials, the Court specifically addressed the need for access by members of the media:

> Instead of acquiring information about trials by first hand observation or by word of mouth from those who attended, people now acquire it chiefly through the print *and electronic media*. [emphasis added] In a sense, this validates the media claim of acting as surrogates for the public. [Media presence] contributes to public understanding of the rule of law and to comprehension of the functioning of the entire criminal justice system.

Today, television is the means by which most Americans get their information. To exclude television cameras from the court is to effectively prevent large segments of American society from ever witnessing what transpires therein. Furthermore, television provides a level of access to courtroom proceedings far closer to the ideal of actual attendance in the court than either newspapers or photographs can provide.

In addition, a strong argument can be made that forbidding television cameras in the court, while permitting access to print and other media, constitutes an impermissible discrimination against one type of media in contravention of the First Amendment. In recent years, the Supreme Court and lower courts have repeatedly held that differential treatment of different media is impermissible under the First Amendment absent an overriding governmental interest. For example, in 1983 the Court invalidated discriminatory tax schemes imposed only upon certain types of media in Minneapolis Star & Tribune Co. v. Minnesota commissioner of Revenue. In the 1977 case of ABC v. Cuomo, the Second Circuit rejected the contention by the two candidates for mayor of New York that they could exclude some members of the media from their campaign headquarters by providing access through invitation only. The Court wrote that:

> Once there is a public function, public comment, and participation by some of the media, the First Amendment requires equal access to all of the media or the rights of the First Amendment would no longer be tenable.

In the 1965 case of Estes v. Texas, the Supreme Court rejected the argument that the denial of television coverage of trials violates the equal protection clause. In the same opinion, the Court held that the presence of television cameras in the Court had violated a Texas defendant's right to due process. Subsequent opinions have cast serious doubt upon the continuing relevance of both prongs of the Estes opinion.

In its 1981 opinion in Chandler v. Florida, discussed above, the court recognized that Estes must be read narrowly in light of the state of television technology at that time. The television coverage of Estes' 1962 trial required cumbersome equipment, numerous additional microphones, yards of new cables, distracting lighting, and numerous technicians present in the courtroom. In contrast, the court noted, television coverage in 1980 can be achieved through the presence of one or two discreetly placed cameras without making any perceptible change in the atmosphere of the courtroom. Accordingly, the Court held that, despite Estes, the presence of television cameras in a Florida trial was not a violation of the rights of the defendants in that case. By the same logic, the holding in Estes that exclusion of television cameras from the courts did not violate the equal protection clause must be revisited in light of the dramatically different nature of television coverage today.

Given the strength of these arguments, it is not surprising that over the last two decades there has been a rapidly growing acceptance of cameras in American courtrooms which has reached almost every court except for the Supreme Court itself. Ironically, it was a Supreme Court decision which helped spur the spread of television cameras in the courts. In 1981, in the case of Chandler v. Florida, the Supreme Court decided that televising

criminal proceedings did not inherently interfere with a criminal defendant's constitutional right to a fair trial, and that there was no empirical evidence to support a claim that it did. Shortly after the Chandler decision, the American Bar Association revised its canons to permit judges to authorize televising civil and criminal proceedings in their courts.

Following the green lights provided by the Supreme Court and the ABA, forty-seven states have decided to permit electronic coverage of at least some portion of their judicial proceedings. In 1990, the federal Judicial Conference authorized a three-year pilot program allowing television coverage of civil proceedings in six federal district courts and two federal circuit courts. The program began in July, 1991 and ran through December 31, 1994. The Federal Judicial Center monitored the program and issued a positive final evaluation. In particular, the Judicial Center concluded that:

Overall, attitudes of judges toward electronic media coverage of civil proceedings were initially neutral and became more favorable after experience under the pilot program.

The Judicial Center also concluded that:

Judges and attorneys who had experience with electronic media coverage under the program generally reported observing small or no effects of camera presence on participants in the proceedings, courtroom decorum, or the administration of justice.

Despite this positive evaluation, the Judicial Conference voted in September, 1994, to end the experiment and not to extend the camera coverage to all courts. This decision was made in the aftermath of the initial burst of television coverage of O.J. Simpson's pretrial hearing. Some have argued that the decision was unduly influenced by this outside event.

In March, 1996, the Judicial Conference revisited the issue of television cameras in the federal courts and voted to permit each federal court of appeals to ''decide for itself whether to permit the taking of photographs and radio and television coverage of appellate arguments.'' Since that time, two circuit courts have enacted rules permitting television coverage of their arguments. It is significant to note that these two circuits were the two circuits which participated in the federal experiment with television cameras a few years earlier. It seems that once judges have an experience with cameras in their courtroom, they no longer oppose the idea.

On September 6, 2000, the Senate Judiciary Committee's Subcommittee on Administrative Oversight and the Courts held a hearing on ''Allowing Cameras and Electronic Media in the Courtroom.'' The primary focus of the hearing was Senate bill 721, legislation introduced by Senators GRASSLEY and SCHUMER that would give federal judges the discretion to allow television coverage of court proceedings. One of the witnesses at the hearing, Judge Edward Becker, Chief Judge U.S. Court of Appeals for the Third Circuit, spoke in opposition to the legislation and the presence of television cameras in the courtroom. The remaining five witnesses, however, including a federal judge, a state judge, a law professor and other legal experts, all testified in favor of the legislation. They argued that cameras in the courts would not disrupt proceedings but would provide the kind of accountability and access that is fundamental to our system of government.

In my judgment, Congress, with the concurrence of the President, or overriding his veto, has the authority to require the Supreme Court to televise its proceedings. Such a conclusion is not free from doubt and is highly likely to be tested with the Supreme Court, as usual, having the final word. As I see it, there is no constitutional prohibition against such legislation.

Article 3 of the Constitution states that the judicial power of the United States shall be vested ''in one Supreme Court and such inferior Courts as the Congress may from time to time ordain and establish.'' While the Constitution specifically creates the Supreme Court, however, it left it to Congress to determine how the Court would operate. For example, it was congress that fixed the number of justices on the Supreme Court at nine. Likewise, it was Congress that decided that any six of these justices are sufficient to constitute a quorum of the Court. It was Congress that decided that the term of the Court shall commence on the first Monday in October of each year, and it was Congress that determined the procedures to be followed whenever the Chief Justice is unable to perform the duties of his office.

Beyond such basic structural and operational matters, Congress also controls more substantive aspects of the Supreme Court. Most importantly, it is Congress that in effect determines the appellate jurisdiction of the Supreme Court. Although the Constitution itself sets out the appellate jurisdiction of the Court, it provides that such jurisdiction exists ''with such exceptions and under such regulations as the Congress shall make.'' In the early days of the Supreme Court, Chief Justice Marshall, writing for the Court in Durousseau v. United States, recognized that the power to make exceptions to the Court's jurisdiction is the equivalent of the power to grant jurisdiction, since exceptions can be ''implied from the intent manifested by the affirmative description [of jurisdiction].''

the Supreme Court recognized the power of Congress to control its appellate jurisdiction in a dramatic way in the famous 1868 case of Ex Parte McCardle. In this case, McCardle, a newspaper editor, was being held in custody by the military for trial on charges stemming from the publication of articles alleged to be libelous and incendiary. McCardle petitioned the Supreme Court for a writ of habeas corpus. The Court heard his case but, before it rendered its opinion, Congress repealed the statute that gave the Supreme Court jurisdiction to hear the habeas appeal. In light of this Congressional action, the Supreme Court felt compelled to dismiss the case for lack of jurisdiction.

Congress also exercises broad and significant control over the timing within which federal courts must act. For example, Congress passed the Speedy Trial Act to quantify an individual's Sixth Amendment right to a speedy trial. Specifically, the Act requires that an individual arrested for a criminal offense be indicted within thirty days of arrest and be brought to trial within seventy days of an indictment.

Likewise, the habeas corpus reform I authored, which became law as part of the comprehensive anti-terrorism act of 1996, imposes strict timetables upon the filing and review of habeas corpus petitions and appeals. For example, in the case of both death row inmates and other prisoners, the Act establishes a one-year deadline within which state and federal prisoners must file their federal habeas petitions. In capital cases, the Act requires a district court to render a final determination of a habeas petition not later than 180 days after the date on which it is filed, and it requires a court of appeals to hear and render a final determination of any appeal of an order granting or denying such petition within 120 days after the date on which the reply brief is filed.

Some objections have been raised to televised proceedings of the Supreme Court on the ground that it would subject justices to undue security risks. My own view is such concerns are vastly overstated. Well-known members of Congress, including such high profile personalities as Senator TED KENNEDY, walk on a regular basis in public view in the Capitol complex. Other very well-known personalities, presidents, vice presidents, cabinet officers, all are on public view with even incumbent presidents exposed to risks as they mingle with the public. Such risks are minimal and, in my view, are worth the relatively minor exposure that Supreme Court justices would undertake through television appearances.

The Supreme Court could, of course, permit television through its own rule but has decided not to do so. Congress should be circumspect and even hesitant to impose a rule mandating the televising of Supreme Court proceedings and should do so only in the face of compelling public policy reasons. The Supreme Court has such a dominant role in key decision-making functions that their proceedings ought to be better known to the public; and, in the absence of Court rule, public policy would be best served by enactment of legislation requiring the televising of Supreme Court proceedings.

By Mr. DORGAN (for himself, Mr. GREGG, and Mr. DURBIN):

S. 3087. A bill to amend the Internal Revenue Code of 1986 to simplify the individual income tax by providing an election for eligible individuals to only be subject to a 15 percent tax on wage income with a tax return free filing system, to reduce the burdens of the marriage penalty and alternative minimum tax, and for other purposes; to the Committee on Finance.

THE FAIR AND SIMPLE SHORTCUT TAX PLAN

Mr. DORGAN. Mr. President, for all the talk about taxes in this chamber, we often overlook one of the worst burdens of the current tax system. I'm talking about the monumental hassle that taxpayers face to file their tax returns each year.

It is simply inexcusable that Congress has made it so expensive and complex for Americans to fulfill this basic civic duty. Taxpayers will probably spend somewhere around three billion hours and at least $75 billion next year in the effort to meet their federal income tax obligations. It's no wonder they barrage congressional offices with letters each spring imploring us to simplify the Tax Code.

They are right. Each little provision in the tax code has a justification, but together they add up to a big headache for the American taxpayer. We can't blame the IRS for the misery endured this past year or in the years ahead. There's no way to truly simplify tax day unless Congress changes the underlying law.

That's why I'm pleased to be joined by Senators GREGG and DURBIN in introducing a tax reform proposal that we call the ''Fair and Simple Shortcut Tax'' (FASST) plan. Our plan would give most taxpayers the opportunity to pay their federal income taxes without having to prepare a tax return if they so choose. Some thirty countries already enable their citizens to pay their federal taxes in this way. We believe tax simplification along these lines can work in this country, too. Our approach would also be less costly than other major tax simplification plans that have been proposed in Congress in the past several years.

Our bill is based on a principle that both sides of the aisle generally are eager to espouse—namely, choice. The bill would allow taxpayers to choose to pay their taxes without complexity, paperwork and hassle. Those who prefer to use the current system, with its complexity and expenses, could do so if they wanted. But if they want something simpler, they could choose that instead.

Under FASST, most taxpayers could forget about filing a federal tax return on April 15th. Instead, their entire income tax liability would be withheld at work. There would be no more deciphering statements from mutual funds, no more frantic search for records and receipts, and no last minute dash to the Post Office in order to meet the midnight deadline. According to Treasury Department officials who have studied it, the FASST plan would give up to 70 million Americans the opportunity to elect the no-return option.

Specifically, under the FASST plan, most taxpayers could choose the no-filing option by filling out a slightly modified W–4 form at work. Using tables prepared by the IRS, their employers would determine the employee's exact tax obligation at a single rate of 15 percent on wages—after several major adjustments—and withhold that amount. This amount would satisfy the taxpayer's entire federal income tax obligation for the year, absent some unforeseeable changes in circumstances or fraud.

The FASST plan would be available for couples earning up to $100,000 in wages and no more than $5,000 in other income such as interest, dividends or capital gains. In the case of individual taxpayers, the wage and non-wage income limits would be $50,000 and $2,500, respectively. Popular deductions would continue under this plan: the standard deduction, personal exemptions, the child care credit and Earned Income Tax Credit, along with a deduction for home mortgage interest expenses and property taxes. Our bill would include critical savings incentives for average Americans by exempting up to $5,000 of all interest, dividends and capital gains income from taxation for couples, $2,500 for singles. Moreover, savings contributions made through employers would be excluded from the wage calculations in the beginning.

Consider some of the advantages of this hassle-free plan:

No taxpayers would lose. If a taxpayer prefers to file an ordinary return, he or she would still have that choice, and no one would be forced to lose a tax deduction that he or she wants to keep.

Wages would be taxed at a single, low rate of 15 percent.

A deduction for home mortgage interest expenses, the Earned Income Tax Credit, and other popular parts of our current tax code would be preserved. Other major tax reform plans would eliminate those deductions, which many people count on.

The alternative minimum tax, AMT and the marriage penalty would be eliminated.

Compliance costs for taxpayers and government alike would fall. If 70 million Americans chose the FASST option, hundreds of millions of dollars now spent on paper pushing could be used in more productive ways.

Those taxpayers who continued to file under the old system would get relief too. The plan would reduce the marriage penalty by making the standard deduction for married couples double the amount available for single filers. Also, it would virtually eliminate the complicated AMT for most sole proprietors, farmers and other small businesses by exempting the first $1 million in self-employment income from the AMT calculations. This legislation also would provide a 50 percent credit for up to $1,000 in expenses that businesses might incur implementing the FASST plan. In addition, it would grant taxpayers who continue to use the current system a 50 percent tax credit for up to $200 in tax preparer expenses, provided they file their returns electronically. Finally, the bill would offer individuals a substantial incentive for savings and investment by exempting up to $500 of dividend and interest income, $1,000 for couples.

Mr. President, millions of Americans in this country are tired of spending countless hours wading through complex forms and instruction books. Our bill is both simple and fair, and it gives most taxpayers the choice to avoid the annual nightmare that the federal tax system has become.

In testimony before a Senate subcommittee earlier this year, IRS Commissioner Rossotti testified that it's ''unquestionable that this bill provides significant tax simplification.'' Imagine how much better life would be if April 15th were just another day. Under the FASST plan, for millions of Americans, that could be true. We urge our colleagues to support this important legislation, which we think will go a long way toward eliminating the burden of ''tax day'' for tens of millions of taxpayers in the future.

I ask unanimous consent that the full text of this legislation be inserted in the RECORD immediately following my statement.

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

S. 3087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Fair and Simple Shortcut Tax Plan''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act 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 Internal Revenue Code of 1986.

TITLE I—FAIR AND SIMPLE SHORTCUT TAX PLAN

SEC. 101. FAIR AND SIMPLE SHORTCUT TAX PLAN.

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end the following:

''PART VIII—FAIR AND SIMPLE SHORTCUT TAX PLAN

''SEC. 60. TAX ON INDIVIDUALS ELECTING FASST.

''(a) TAX IMPOSED.—If an individual who is an eligible taxpayer has an election in effect under this part for a taxable year, there is hereby imposed a tax equal to 15 percent of the taxpayer's applicable taxable income.

''(b) COORDINATION WITH OTHER TAXES.—The tax imposed by this section shall be in

lieu of any other tax imposed by this subchapter. The preceding sentence shall not apply to taxes described in section 26(b)(2) other than subparagraph (A) thereof.

"SEC. 60A. COMPUTATION OF APPLICABLE TAXABLE INCOME.

''(a) IN GENERAL.—For purposes of this part, the term 'applicable taxable income' means the taxpayer's applicable wage income, minus—

''(1) the standard deduction,

''(2) the deductions for personal exemptions provided in section 151, and

''(3) the homeowner expense deduction allowable under subsection (c).

''(b) APPLICABLE WAGE INCOME.—For purposes of this part—

''(1) IN GENERAL.—The term 'applicable wage income' means, with respect to an individual, wages received by such individual for the taxable year for services performed as an employee of an employer.

''(2) EMPLOYMENT.—The term 'employment' has the meaning given such term in section 3121(b).

''(3) WAGES.—The term 'wages' has the meaning given such term in section 3401(a).

''(c) HOMEOWNER EXPENSE DEDUCTION ALLOWED.—

''(1) IN GENERAL.—For purposes of subsection (a), there shall be allowed as a deduction for the taxable year an amount equal to the product of—

''(A) $5,000, and

''(B) a fraction, the numerator of which is the number of months in such year in which the taxpayer owned and used property as the taxpayer's principal residence (within the meaning of section 121) and the denominator of which is 12.

''(2) SPECIAL RULES.—For purposes of this subsection—

''(A) MARRIED INDIVIDUALS.—In the case of a married individual, the ownership and use requirements of paragraph (1) shall be treated as met for any month if either spouse meets them.

''(B) DIVORCE; COOPERATIVE HOUSING.—Rules similar to the rules of paragraphs (3) and (4) of section 121(d) shall apply.

''(C) OUT-OF-RESIDENCE CARE.—If a taxpayer becomes physically or mentally impaired while owning and using property as a principal residence, then the taxpayer shall be treated as meeting the ownership and use requirements of paragraph (1) during any period the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"SEC. 60B. CREDITS AGAINST TAX.

''No credit shall be allowed against the tax imposed by this part other than—

''(1) the credit allowable under section 24 (relating to child tax credit),

''(2) the credit allowable under section 32 (relating to earned income credit), and

''(3) the credit for overpayment of tax under section 6402.

"SEC. 60C. ELECTION.

''(a) ELECTION.—An eligible taxpayer may elect to have this part apply for any taxable year.

''(b) ELIGIBLE TAXPAYER.—

''(1) IN GENERAL.—For purposes of this part, the term 'eligible taxpayer' means, with respect to any taxable year, a taxpayer who receives—

''(A) applicable wage income in an amount not in excess of—

''(i) $100,000, in the case of a taxpayer described in section 1(a), and

''(ii) 50 percent of the amount in effect under clause (i) for the taxable year, in the case of any other taxpayer, and

''(B) gross income (determined without regard to applicable wage income) in an amount not in excess of—

''(i) $5,000, in the case of a taxpayer described in section 1(a), and

''(ii) 50 percent of the amount in effect under clause (i) for the taxable year, in the case of any other taxpayer.

''(2) EXCLUSIONS.—The term 'eligible taxpayer' shall not include—

''(A) a married individual unless the individual and the spouse both have the same taxable year and both make the election,

''(B) a nonresident alien individual, or

''(C) an estate or trust.

''(3) INFLATION ADJUSTMENTS.—In the case of a taxable year beginning after 2001, each dollar amount under paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

''(b) FORM OF ELECTION.—

''(1) IN GENERAL.—An individual shall make an election to have this part apply for any taxable year by furnishing an election certificate to such individual's employer not later than the close of the first payroll period after the individual commences work for such employer or January 1 of the taxable year to which such election relates, whichever is later.

''(2) CONTENTS OF CERTIFICATE.—The election certificate furnished under paragraph (1) shall—

''(A) contain such information as the Secretary requires to enable the Secretary to carry out this part and enable the employer to withhold the appropriate amount of wages under section 3402, and

''(B) contain a certification by the employee under penalty of perjury that the information furnished is correct.

''(3) AMENDMENT OF CERTIFICATE.—A new election certificate shall be filed within 30 days after the date of any change in the information required under paragraph (2).

''(4) ELECTION CERTIFICATE.—For purposes of this section, the term 'election certificate' means the withholding exemption certificate used for purposes of chapter 24.

''(5) ADVANCE PAYMENT OF EARNED INCOME AMOUNT.—The Secretary shall prescribe such regulations as may be necessary to allow an eligible taxpayer to treat an election certificate furnished under this section as including an earned income eligibility certificate under section 3507 in the case of an eligible individual claiming the earned income credit under section 32.

''(c) PERIOD ELECTION IN EFFECT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an election under this section shall be effective for the taxable year for which it is made and all subsequent taxable years.

''(2) TERMINATION.—An election under this part shall terminate with respect to an individual for any taxable year and all subsequent taxable years if at any time during such taxable year such individual—

''(A) is no longer an eligible taxpayer,

''(B) elects to terminate such individual's election, or

''(C) commits fraud with respect to any information required to be provided under this section.

''(d) SAFE HARBOR FOR INELIGIBILITY.—In the case of an individual who has a termination under subsection (c)(2)(A), no addition to tax under section 6654 shall apply to any underpayment attributable to eligible wage income of such individual for such taxable year if such underpayment was not due to fraud, negligence, or disregard of rules or regulations (within the meaning of section 6662).

''(e) MARITAL STATUS.—For purposes of this part, marital status shall be determined under section 7703.

"SEC. 60D. LIABILITY FOR TAX.

''(a) AMOUNT WITHHELD TREATED AS SATISFACTION OF LIABILITY.—Except as provided in this section, any amount withheld as tax under section 3402(t) for an eligible individual with an election in effect under section 60C for the taxable year shall be treated as complete satisfaction of liability for the tax imposed by section 60(a) for such taxable year.

''(b) EXCEPTIONS.—Notwithstanding subsection (a)—

''(1) OVERPAYMENT.—If the amount withheld as tax under section 3402(t) for an eligible taxpayer with an election in effect under section 60C for the taxable year exceeds the tax imposed under section 60(a) for the taxable year, the excess amount shall be treated as an overpayment for purposes of section 6402.

''(2) UNDERPAYMENT.—

''(A) IN GENERAL.—If the Secretary determines that the amount withheld as tax under section 3402(t) for an eligible taxpayer is less than the tax imposed under section 60(a) and such underpayment is not due to fraud, the Secretary may assess and collect such underpayment in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on a return of the individual for the taxable year.

''(B) DE MINIMIS EXCEPTION.—If the amount by which the tax imposed by section 60(a) exceeds the amount withheld as tax under section 3402(t) by less than the lesser of $100 or 10 percent of the tax so imposed, the taxpayer shall be treated as having no underpayment.

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

''(1) to allow a refund of an overpayment under subsection (b)(1) to a taxpayer without requiring additional filing of information by the taxpayer, and

''(2) to notify taxpayers of eligibility for credits allowable under section 60B and allow a claim and refund of any credit not claimed by an eligible taxpayer during the taxable year.''.

(b) WITHHOLDING FROM WAGES.—Section 3402 (relating to income tax collected at source) is amended by adding at the end the following new subsection:

''(t) WITHHOLDING UNDER THE FAIR AND SIMPLE SHORTCUT TAX PLAN.—

''(1) IN GENERAL.—An employer making payment of wages to an individual with an election in effect under section 60C shall deduct and withhold upon such wages a tax (in lieu of the tax required to be deducted and withheld under subsection (a)) determined in accordance with tables prescribed by the Secretary in accordance with paragraph (2).

''(2) WITHHOLDING TABLES.—The Secretary shall prescribe 1 or more tables which set forth amounts of wages and income tax to be deducted and withheld based on information furnished to the employer in the employee's election form and to ensure that the aggregate amount withheld from such employee's wages approximates the tax liability of such individual for the taxable year. Any tables prescribed under this paragraph shall—

''(A) apply with respect to the amount of wages paid during such periods as the Secretary may prescribe, and

''(B) be in such form, and provide for such amounts to be deducted and withheld, as the

Secretary determines to be most appropriate to carry out the purposes of this chapter and to reflect the provisions of chapter 1 applicable to such periods, including taking into account any credits allowable under section 24 or 32.

The Secretary shall provide that any other provision of this section shall not apply to the extent such provision is inconsistent with the provisions of this subsection.

''(2) ELECTION CERTIFICATE.—

''(A) IN GENERAL.—In lieu of a withholding exemption certificate, an employee shall furnish the employer with a signed election certificate and any amended election certificate at such time and containing such information as required under section 60C.

''(B) WHEN CERTIFICATE TAKES EFFECT.—

''(i) FIRST CERTIFICATE FURNISHED.—An election certificate furnished to an employer in cases in which no previous such certificate is in effect shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished.

''(ii) REPLACEMENT CERTIFICATE.—An election certificate furnished to an employer which replaces an earlier certificate shall take effect as of the beginning of the 1st payroll period ending (or the 1st payment of wages made without regard to a payroll period) on or after the 30th day after the on which the replacement certificate is so furnished.''.

(c) WAIVER OF REQUIREMENT TO FILE RETURN OF INCOME.—Subsection (a)(1)(A) of section 6012 (relating to persons required to make return of income) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by inserting after clause (iv) the following new clause:

''(v) who is an eligible taxpayer with an election in effect for the taxable year under section 60C.''

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

''Part VIII. Fair and Simple Shortcut Tax Plan.''

(2) Section 6654(a) is amended by inserting ''and section 60C(d)'' after ''this section''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 102. TAX CREDIT FOR EMPLOYER FASST PLAN STARTUP COSTS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. FASST PLAN EMPLOYER START-UP CREDIT.

''(a) CREDIT ALLOWED.—

''(1) IN GENERAL.—For purposes of section 38, the Fair and Simple Shortcut Tax plan start-up credit determined under this section for the taxable year is an amount equal to the lesser of—

''(A) 50 percent of eligible start-up costs of the taxpayer for the taxable year, or

''(B) $1,000.

''(2) MAXIMUM CREDIT.—The maximum credit allowed with respect to a taxpayer under this subsection for all taxable years shall not exceed the amount determined under paragraph (1) for all taxable years.

''(b) ELIGIBLE START-UP COSTS.—For purposes of this section, the term 'eligible start-up costs' means amounts paid or incurred by an employer (or any predecessor) during the 1 year period beginning on the date on which the employer first employs 1 or more employees with an election in effect under section 60C for the taxable year, in connection with carrying out the withholding requirements of section 3402.

''(c) CREDIT AVAILABLE FOR EACH WORKSITE.—If a taxpayer maintains a separate worksite for employees, such person shall be treated as a single employer with respect to such worksite for purposes of the credit allowable under subsection (a).''

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) is amended—

(A) by striking ''plus'' at the end of paragraph (11),

(B) by striking the period at the end of paragraph (12), and inserting a comma and ''plus'', and

(C) by adding at the end the following new paragraph:

''(13) the Fair and Simple Shortcut Tax plan start-up credit determined under section 45D.''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Fair and Simple Shortcut Tax plan start-up credit.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

TITLE II—PROVISIONS TO SIMPLIFY THE TAX CODE

SEC. 201. REDUCTION IN MARRIAGE PENALTY IN STANDARD DEDUCTION.

(a) IN GENERAL.—Section 63(c)(2) (relating to basic standard deduction) is amended to read as follows:

''(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

''(A) 200 percent of the amount under subparagraph (C) for the taxable year, in the case of a joint return or a surviving spouse (as defined in section 2(a)),

''(B) 150 percent of such amount, in the case of a head of household (as defined in section 2(b)), and

''(C) $3,000, in the case of an individual who is not married and who is not a surviving spouse or head of household or a married individual filing a separate return.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 202. ALTERNATIVE MINIMUM TAX EXCLUSION OF SELF-EMPLOYMENT INCOME AND CERTAIN ITEMS OF PREFERENCE AND ADJUSTMENTS.

(a) INCREASED EXEMPTION FOR SELF-EMPLOYMENT INCOME.—Section 55(d)(1) (relating to exemption amount for taxpayers other than corporations) is amended to read as follows:

''(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means the sum of—

''(A) an amount equal to—

''(i) $45,000 in the case of—

''(I) a joint return, or

''(II) a surviving spouse,

''(ii) $33,750 in the case of an individual who—

''(I) is not a married individual, or

''(II) is not a surviving spouse, and

''(iii) $22,500 in the case of—

''(I) a married individual who files a separate return, or

''(II) an estate or trust, and

''(B) an amount equal to the lesser of—

''(i) the self employment income (as defined in section 1402(b)) of the taxpayer for the taxable year, or

''(ii) $1,000,000.

For purposes of this paragraph, the term 'surviving spouse' has the meaning given to such term by section 2(a), and marital status shall be determined under section 7703.''.

(b) EXCLUSION OF CERTAIN ITEMS OF PREFERENCE AND ADJUSTMENTS.—Section 55 (relating to alternative minimum tax imposed) is amended by adding at the end the following new subsection:

''(f) SPECIAL RULE FOR SMALL BUSINESSES.—

''(1) IN GENERAL.—For purposes of this part, in computing the alternative minimum taxable income of a taxpayer to which this subsection applies for any taxable year—

''(A) no adjustments provided in section 56 which are attributable to a trade or business of the taxpayer shall be made, and

''(B) taxable income shall not be increased by any item of tax preference described in section 57 which is so attributable.

''(2) APPLICATION.—

''(A) IN GENERAL.—This subsection shall apply to a taxpayer for a taxable year if the taxpayer is not a corporation and the gross receipts of the taxpayer for the taxable year from all trades or businesses do not exceed $1,000,000.

''(B) SPECIAL RULES.—Rules similar to the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENTS.—Section 55(d)(3) is amended—

(1) by striking ''paragraph (1)(A)'' and inserting ''paragraph (1)(A)(i)'' in subparagraph (A),

(2) by striking ''paragraph (1)(B)'' and inserting ''paragraph (1)(A)(ii)'' in subparagraph (B),

(3) by striking ''paragraph (1)(C)'' and inserting ''paragraph (1)(A)(iii)'' in subparagraph (C), and

(4) by striking ''paragraph (1)(C)(i)'' and inserting ''paragraph (1)(A)(iii)(I)'' in the second sentence.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 203. NONREFUNDABLE TAX CREDIT FOR TAX PREPARATION EXPENSES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by adding at the end the following new section:

''SEC. 25B. TAX PREPARATION EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

''(1) 50 percent of the qualified tax preparation expenses of the taxpayer for the taxable year, or

''(2) $100.

''(b) QUALIFIED TAX PREPARATION EXPENSES.—For purposes of this section, the term 'qualified tax preparation expenses' means expenses paid or incurred during the taxable year by an individual in connection with the preparation of the taxpayer's Federal income tax return for such taxable year, but only if such return is electronically filed. Such term shall include any expenses related to an income tax return preparer.

''(c) DENIAL OF DEDUCTION.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 25B. Tax preparation expenses.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred for taxable years beginning after December 31, 2000.

SEC. 204. EXEMPTION OF CERTAIN INTEREST AND DIVIDEND INCOME FROM TAX.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to amounts specifically

excluded from gross income) is amended by inserting after section 115 the following new section:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

''(a) EXCLUSION FROM GROSS INCOME.—In the case of an individual who does not have an election in effect under section 60C for the taxable year, gross income does not include dividends and interest otherwise includible in gross income which are received during the taxable year by such individual.

''(b) LIMITATIONS.—

''(1) MAXIMUM AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $500 ($1,000 in the case of a joint return).

''(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a) shall not apply to any dividend from a corporation which for the taxable year of the corporation in which the distribution is made is a corporation exempt from tax under section 521 (relating to farmers' cooperative associations).

''(c) SPECIAL RULES.—For purposes of this section—

''(1) EXCLUSION NOT TO APPLY TO CAPITAL GAIN DIVIDENDS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

"For treatment of capital gain dividends, see sections 854(a) and 857(c).

''(2) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only in determining the taxes imposed for the taxable year pursuant to sections 871(b)(1) and 877(b).

''(3) DIVIDENDS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Subsection (a) shall not apply to any dividend described in section 404(k).''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 32(c)(5) is amended by striking ''or'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting ''; or'', and by inserting after clause (ii) the following new clause:

''(iii) interest and dividends received during the taxable year which are excluded from gross income under section 116.''.

(2) Subparagraph (A) of section 32(i)(2) is amended by inserting ''(determined without regard to section 116)'' before the comma.

(3) Subparagraph (B) of section 86(b)(2) is amended to read as follows:

''(B) increased by the sum of—

''(i) the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and

''(ii) the amount of interest and dividends received during the taxable year which are excluded from gross income under section 116.''.

(4) Subsection (d) of section 135 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) COORDINATION WITH SECTION 116.—This section shall be applied before section 116.''.

(5) Paragraph (2) of section 265(a) is amended by inserting before the period '', or to purchase or carry obligations or shares, or to make deposits, to the extent the interest thereon is excludable from gross income under section 116''.

(6) Subsection (c) of section 584 is amended by adding at the end the following new flush sentence:

''The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 applies shall be considered for purposes of such section as having been received by such participant.''.

(7) Subsection (a) of section 643 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

''(7) DIVIDENDS OR INTEREST.—There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116.''.

(8) Section 854(a) is amended by inserting ''section 116 (relating to partial exclusion of dividends and interest received by individuals) and'' after ''For purposes of''.

(9) Section 857(c) is amended to read as follows:

''(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

''(1) TREATMENT FOR SECTION 116.—For purposes of section 116 (relating to partial exclusion of dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

''(2) TREATMENT FOR SECTION 243.—For purposes of section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.''.

(10) The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 115 the following new item:

''Sec. 116. Partial exclusion of dividends and interest received by individuals.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

By Mr. LEVIN:

S. 3088. A bill to require the Secretary of Health and Human Services to promulgate regulations regarding allowable costs under the Medicaid Program for school based services provided to children with disabilities; to the Committee on Finance.

ADMINISTRATIVE SERVICES ADJUSTMENT

Mr. LEVIN. Mr. President, today I am introducing legislation which provides fair relief to schools in Michigan and other states.

In 1993, the state of Michigan and our school districts worked out an agreement which would provide schools a portion of Federal Medicaid dollars based on school based health related activities that were being provided to eligible children receiving special education services. When these school superintendents looked around in 1996, they saw a similarly situated state which was providing administrative services to help special needs kids, and they decided to follow suit for children in Michigan. Michigan then implemented the Administrative Outreach component of school based services based on a program that had been in operation in that state for the previous two years.

Recently, HCFA disallowed $103.6 million in claims submitted by the state of Michigan to reimburse the schools for services already rendered in this effort. It is simply unfair that these school districts are now being penalized when they have been trying to provide health services through the schools for special needs kids in ways used in other states and after relying on HCFA regional guidance.

I have met with a large group of Michigan school superintendents and their staff and I know how committed they are to helping children with special needs. Apparently, the rules need to be clarified, and in a meeting with HCFA that the Michigan superintendents had this week, HCFA committed to sitting down with the education community by the end of this month to finalize an administrative guide regarding claims for reimbursement. That is surely an appropriate goal, but in the meantime, Michigan claims have been disallowed although the state relied on regional HCFA guidance. While national guidance is being clarified, we should not penalize states who have acted reasonably based on existing guidance.

I believe Michigan school superintendents when they say they believed they were acting appropriately in providing services for children with special educational needs. These are honest hardworking people trying to run school districts on tight budgets. I am introducing this legislation because I believe any attempt to penalize schools who acted in good faith will ultimately hurt special needs kids as well as our schools themselves.

By Mr. ALLARD (for himself and Mr. CAMPBELL):

S. 3090. A bill to establish the Rocky Flats National Wildlife Refuge in the State of Colorado, and for other purposes; to the Committee on Armed Services.

ROCKY FLATS NATIONAL WILDLIFE REFUGE ACT OF 2000

Mr. ALLARD. Mr. President, I rise today, with Senator BEN NIGHTHORSE CAMPBELL, to introduce a very important piece of legislation for my state of Colorado and this nation—The Rocky Flats National Wildlife Refuge Act. My colleague, Representative MARK UDALL, is introducing companion legislation in the House cosponsored by the entire Colorado delegation.

Today we begin a new chapter in the history of Rocky Flats. This legislation will permanently designate the Rocky Flats Environmental Technology Site as a National Wildlife Refuge following the cleanup and closure of the site. It ensures that the Federal Government will retain full liability and ownership of this former nuclear weapons facility. This legislation will transform Rocky Flats from producing weapons to protecting wildlife. It will ensure that our children and grandchildren will be able to enjoy the wildlife and open space that currently exists at Rocky Flats.

This is a tremendous achievement. Once the bill is enacted, we will see Rocky Flats move from being an active nuclear weapons site into an active refuge for wildlife and wild flowers in less than two decades. An accomplishment which no one thought was possible.

My vested interest in Rocky Flats began during the 1980's when I was the

Chairman of the State Senate Committee on Health, Environment, Welfare and Institutions. Although I supported the national security mission of the Rocky Flats site prior to closure, I believe that the Department of Energy must also ensure the safety and health of all Coloradans and the environment. When the Rocky Flats site was shut down in 1990, cleaning up and closing down the site became one of my top legislative priorities and will remain so until this project is complete.

So where did the idea come from to turn Rocky Flats, a former nuclear weapons production facility, into a National Wildlife Refuge?

My experience with wildlife refuge designations began with Congresswoman Schroeder at the Rocky Mountain Arsenal in 1992. We worked on a bill very similar to the one we are here to discuss today, which designated the Arsenal as a National Wildlife Refuge. Given the success we experienced at the Rocky Mountain Arsenal, I am confident this is an appropriate designation for Rocky Flats.

Last year, I became the Strategic Subcommittee Chairman of the Senate Armed Services Committee, which has direct oversight of former DoE weapons facilities including Rocky Flats. This is the first site in the DoE complex to receive funding for cleanup and closure, and will therefore be a role model for other sites in the complex. As Chairman of the Subcommittee, I will continue to work closely with my colleagues to educate them on the importance of cleaning up and closing down Rocky Flats so it can be utilized as a National Wildlife Refuge. This education extends beyond the cleanup and closure of Rocky Flats to the importance of cleaning up and closing of all the former DoE weapons sites.

To this end, Congressman UDALL and I have worked in a bipartisan manner, with the Department of Energy, the EPA, the State of Colorado, the local governments and the Rocky Flats stakeholders to produce the proposed Rocky Flats National Wildlife Refuge Act. It has been hard work and with many discussion drafts, but in the end I believe we have produced a bill that the communities surrounding Rocky Flats can and will be proud of.

It is important to understand that this legislation maintains that the Rocky Flats site will remain in permanent Federal ownership, and that the administrative transfer of this site from DoE to the Fish and Wildlife Service will take place after the cleanup and closure of the site is complete. While cleanup is still our top priority, determination of official closure is determined by the Environmental Protection Agency's signing of the final on-site record of decision. There are many components of this bill which I will summarize as follows:

The sponsors of the legislation recognize the historic importance of the Lindsay Ranch homestead facilities and this legislation guarantees the ranch's preservation.

Additionally, this bill ensures that the site will remain a unified site, therefore disallowing the annexation of land to any local government, or for the construction of through roads. The only roads that may be constructed on the site would be by the Fish and Wildlife Service for the management of the refuge.

Currently, there is a provision in this legislation to allow the Secretary of Energy and the Secretary of the Interior to authorize a transportation right of-way on the eastern boundary of the site for transportation improvements along Indiana Street. We are aware of the continued evaluation of this issue and want this section of the bill to be consistent with the needs of the State of Colorado and the local governments.

With respect to the transfer of management responsibilities and jurisdiction over Rocky Flats, this bill requires the Department of Energy and the Fish and Wildlife Service to publish in the Federal Register a Memorandum of Understanding one year after the enactment of this Act. This Memorandum of Understanding will address administrative matters such as the division of responsibilities between the two agencies until the official transfer of the site occurs. This legislation clearly states that no funding designated for cleanup and closure of the site will be used for these activities.

It is important that the transfer of the site from the Department of Energy to the Fish and Wildlife Service exclude any property that must be retained by DoE for future onsite monitoring, as well as property which must be retained for protection of human health and safety.

The improvements necessary for the site to be managed as a wildlife refuge will be completed at no cost to the Secretary of the Interior. Therefore, the Secretary of Interior will need to identify appropriate improvement needs and submit this request to the Secretary of Energy in writing. This legislation also clarifies that in the event of future cleanup activities, this action will take priority over wildlife management. These two agencies must continue to work with each other towards their missions.

One of the most important directives in this Act states that ''nothing in this Act affects the level of cleanup and closure at the Rocky Flats site required under the Rocky Flats Cleanup Agreement or any Federal or State law.'' Through the ongoing discussions that Congressman UDALL and I have had with the Rocky Flats stakeholders we believe it is important to reiterate that this bill should not be used as a mechanism to drive the level of cleanup. We are confident that this language clarifies this issue. Our primary goal remains and will continue to remain the on-going cleanup and closure of Rocky Flats. And, nothing in this bill affects the on-going cleanup and closure activities at the Rocky Flats.

Once the site is transferred to the Fish and Wildlife Service, the refuge will be managed in accordance with the National Wildlife Refuge System Act to preserve wildlife, enhance wildlife habitat, conserve threatened and endangered species, provide education opportunities and scientific research, as well as recreation.

We recognize the importance of the locally elected officials and stakeholders in the effectiveness and success of this bill. Therefore, we want to ensure their continued contribution at Rocky Flats. Through this bill we direct the Fish and Wildlife Service to convene a public process to include input on the management of the site. The public process will provide a forum for recommendations to be given to the Fish and Wildlife Service on issues including the site operations, transportation improvements, leasing land to the National Renewable Energy Laboratory, perimeter fences, the development of a Rocky Flats museum and visitors center. Upon the completion of this report by the Fish and Wildlife Service, a report will be submitted to Congress to identify the recommendations resulting from the public process.

We have received a lot of input with respect to private property rights. This legislation recognizes and preserves these property and access rights, which include mineral rights, water and easement rights, and utility rights-of-ways. This legislation does direct the Secretary of Energy to seek to purchase mineral rights from willing sellers. For management purposes, this Act provides the Secretary of Energy and the Secretary of Interior the authority to impose reasonable conditions on the access to private property rights for cleanup and refuge management purposes.

Additionally, this bill provides the Secretary of Energy with the authority to allow Public Service Company of Colorado to construct an extension from an existing extension line on the site.

As a tribute to the Cold War and those who worked at Rocky Flats both prior to and after the site closure, Congressman UDALL and I, through this legislation, authorize the establishment of a Rocky Flats museum to commemorate the site. This bill requires that the creation of the museum shall be studied, and a report shall be submitted to Congress within three years following the enactment of this act.

Lastly, this bill directs the Department of Energy and the Fish and Wildlife Service to inform Congress on the costs associated with the implementation of this Act.

This process has moved forward successfully thanks to the hard work of the local governments and the Rocky Flats stakeholders. I also want to thank Representative UDALL for the bipartisan manner in which he and his staff worked with me and my office. Rocky Flats, like all other cleanup sites, is bigger than partisan politics and this effort proves it.

Once clean up and closure is accomplished in 2006, I look forward to returning to Rocky Flats for the dedication of new Rocky Flats National Wildlife Refuge.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 3090

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 ''Rocky Flats National Wildlife Refuge Act of 2000''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Federal Government, through the Atomic Energy Commission, acquired the Rocky Flats site in 1951 and began operations there in 1952. The site remains a Department of Energy facility. Since 1992, the mission of the Rocky Flats site has changed from the production of nuclear weapons components to cleanup and closure in a manner that is safe, environmentally and socially responsible, physically secure, and cost-effective.

(2) The site has generally remained undisturbed since its acquisition by the Federal Government.

(3) The State of Colorado is experiencing increasing growth and development, especially in the metropolitan Denver Front Range area in the vicinity of the Rocky Flats site. That growth and development reduces the amount of open space and thereby diminishes for many metropolitan Denver communities the vistas of the striking Front Range mountain backdrop.

(4) Some areas of the site contain contamination and will require further remediation. The national interest requires that the ongoing cleanup and closure of the entire site be completed safely, effectively, and without unnecessary delay and that the site thereafter be retained by the United States and managed so as to preserve the value of the site for open space and wildlife habitat.

(5) The Rocky Flats site provides habitat for many wildlife species, including a number of threatened and endangered species, and is marked by the presence of rare xeric tallgrass prairie plant communities. Establishing the site as a unit of the National Wildlife Refuge System will promote the preservation and enhancement of those resources for present and future generations.

(b) PURPOSE.—The purpose of this Act is to provide for the establishment of the Rocky Flats site as a national wildlife refuge while creating a process for public input on refuge management and ensuring that the site is thoroughly and completely cleaned up.

SEC. 3. DEFINITIONS.

In this Act:

(1) CLEANUP AND CLOSURE.—The term ''cleanup and closure'' means the remedial actions and decommissioning activities being carried out at Rocky Flats by the Department of Energy under the 1996 Rocky Flats Cleanup Agreement, the closure plans and baselines, and any other relevant documents or requirements.

(2) COALITION.—The term ''Coalition'' means the Rocky Flats Coalition of Local Governments established by the Intergovernmental Agreement, dated February 16, 1999, among—

(A) the city of Arvada, Colorado;

(B) the city of Boulder, Colorado;

(C) the city of Broomfield, Colorado;

(D) the city of Westminster, Colorado;

(E) the town of Superior, Colorado;

(F) Boulder County, Colorado; and

(G) Jefferson County, Colorado.

(3) HAZARDOUS SUBSTANCE.—The term ''hazardous substance'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(4) POLLUTANT OR CONTAMINANT.—The term ''pollutant or contaminant'' has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(5) REFUGE.—The term ''refuge'' means the Rocky Flats National Wildlife Refuge established under section 7.

(6) RESPONSE ACTION.—The term ''response action'' has the meaning given the term ''response'' in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) or any similar requirement under State law.

(7) RFCA.—The term ''RFCA'' means the Rocky Flats Cleanup Agreement, an intergovernmental agreement, dated July 19, 1996, among—

(A) the Department of Energy;

(B) the Environmental Protection Agency; and

(C) the Department of Public Health and Environment of the State of Colorado.

(8) ROCKY FLATS.—The term ''Rocky Flats'' means the Rocky Flats Environmental Technology Site, Colorado, a defense nuclear facility, as depicted on the map entitled ''Rocky Flats Environmental Technology Site'', dated July 15, 1998.

(9) ROCKY FLATS TRUSTEES.—The term ''Rocky Flats Trustees'' means the Federal and State of Colorado entities that have been identified as trustees for Rocky Flats under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(10) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 4. FUTURE OWNERSHIP AND MANAGEMENT.

(a) FEDERAL OWNERSHIP.—Unless Congress provides otherwise in an Act enacted after the date of enactment of this Act, all right, title, and interest of the United States, held on or acquired after the date of enactment of this Act, to land within the boundaries of Rocky Flats shall be retained by the United States.

(b) LINDSAY RANCH.—The structures that comprise the former Lindsay Ranch homestead site in the Rock Creek Reserve area of the buffer zone, as depicted on the map referred to in section 3(8), shall be permanently preserved and maintained in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(c) PROHIBITION ON ANNEXATION.—The Secretary of the Interior shall not allow the annexation of land within the refuge by any unit of local government.

(d) PROHIBITION ON THROUGH ROADS.—Except as provided in subsection (e), no public road shall be constructed through Rocky Flats.

(e) TRANSPORTATION RIGHT-OF-WAY.—

(1) IN GENERAL.—

(A) AVAILABILITY OF LAND.—On submission of an application meeting each of the conditions specified in paragraph (2), the Secretary and the Secretary of the Interior may make available land along the eastern boundary of Rocky Flats for the sole purpose of transportation improvements along Indiana Street.

(B) BOUNDARIES.—Land made available under this paragraph may not extend more than 150 feet from the west edge of the Indiana Street right-of-way, as that right-of-way exists as of the date of enactment of this Act.

(C) EASEMENT OR SALE.—Land may be made available under this paragraph by easement or sale to 1 or more appropriate entities.

(D) COMPLIANCE WITH APPLICABLE LAW.—Any action under this paragraph shall be taken in compliance with applicable law.

(2) CONDITIONS.—An application for land under this subsection may be submitted by any county, city, or other political subdivision of the State of Colorado and shall include documentation demonstrating that—

(A) the transportation project is compatible with the management of Rocky Flats as a wildlife refuge; and

(B) the transportation project is included in the Regional Transportation Plan of the Metropolitan Planning Organization designated for the Denver metropolitan area under section 5303 of title 49, United States Code.

SEC. 5. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER ROCKY FLATS.

(a) IN GENERAL.—

(1) MEMORANDUM OF UNDERSTANDING.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of the Interior shall publish in the Federal Register a draft memorandum of understanding under which the Secretary shall transfer to the Secretary of the Interior administrative jurisdiction over Rocky Flats.

(B) REQUIRED ELEMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the memorandum of understanding shall—

(I) provide for the timing of the transfer;

(II) provide for the division of responsibilities between the Secretary and the Secretary of the Interior for the period ending on the date of the transfer; and

(III) provide an appropriate allocation of costs and personnel to the Secretary of the Interior.

(ii) NO REDUCTION IN FUNDS.—The memorandum of understanding shall not result in any reduction in funds available to the Secretary for cleanup and closure of Rocky Flats.

(C) DEADLINE.—Not later than 18 months after the date of enactment of this Act, the Secretary and Secretary of the Interior shall finalize and implement the memorandum of understanding.

(2) EXCLUSIONS.—The transfer under paragraph (1) shall not include the transfer of any property or facility over which the Secretary retains jurisdiction, authority, and control under subsection (b)(1).

(3) CONDITION.—The transfer under paragraph (1) shall occur not later than 10 business days after the signing by the Regional Administrator for Region VIII of the Environmental Protection Agency of the Final On-site Record of Decision for Rocky Flats.

(4) COST; IMPROVEMENTS.—The transfer—

(A) shall be completed without cost to the Secretary of the Interior; and

(B) may include such buildings or other improvements as the Secretary of the Interior may request in writing for refuge management purposes.

(b) PROPERTY AND FACILITIES EXCLUDED FROM TRANSFERS.—

(1) IN GENERAL.—The Secretary shall retain jurisdiction, authority, and control over all real property and facilities at Rocky Flats that are to be used for—

(A) any necessary and appropriate long-term operation and maintenance facility to intercept, treat, or control a hazardous substance, radionuclide, or other pollutant or contaminant; and

(B) any other purpose relating to a response action or any other action that is required to be carried out at Rocky Flats.

(2) CONSULTATION.—

(A) WITH ENVIRONMENTAL PROTECTION AGENCY AND STATE.—The Secretary shall consult with the Administrator of the Environmental Protection Agency and the State of Colorado on the identification and management of all property to be retained under this subsection to ensure the continuing effectiveness of response actions.

(B) WITH SECRETARY OF THE INTERIOR.—

(i) IN GENERAL.—The Secretary shall consult with the Secretary of the Interior on the management of the retained property to minimize any conflict between the management of property transferred to the Secretary of the Interior and property retained by the Secretary for response actions.

(ii) CONFLICT.—In the case of any such conflict, implementation and maintenance of the response action shall take priority.

(3) ACCESS.—As a condition of the transfer under subsection (a), the Secretary shall be provided such easements and access as are reasonably required to carry out any obligation or address any liability.

(c) ADMINISTRATION.—

(1) IN GENERAL.—On completion of the transfer under subsection (a), the Secretary of the Interior shall administer Rocky Flats in accordance with this Act subject to—

(A) any response action or institutional control at Rocky Flats carried out by or under the authority of the Secretary under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(B) any other action required under any other Federal or State law to be carried out by or under the authority of the Secretary.

(2) CONFLICT.—In the case of any conflict between the management of Rocky Flats by the Secretary of the Interior and the conduct of any response action or other action described in subparagraph (A) or (B) of paragraph (1), the response action or other action shall take priority.

(3) CONTINUING ACTIONS.—Except as provided in paragraph (1), nothing in this subsection affects any response action or other action initiated at Rocky Flats on or before the date of the transfer under subsection (a).

(4) LIABILITY.—The Secretary shall retain any obligation or other liability for land transferred under subsection (a) under—

(A) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

(B) any other applicable law.

SEC. 6. CONTINUATION OF ENVIRONMENTAL CLEANUP AND CLOSURE.

(a) ONGOING CLEANUP AND CLOSURE.—

(1) IN GENERAL.—The Secretary shall carry out to completion cleanup and closure at Rocky Flats.

(2) NO RESTRICTION ON USE OF NEW TECHNOLOGIES.—Nothing in this Act, and no action taken under this Act, restricts the Secretary from using at Rocky Flats any new technology that may become available for remediation of contamination.

(b) RULES OF CONSTRUCTION.—

(1) NO RELIEF FROM OBLIGATIONS UNDER OTHER LAW.—

(A) IN GENERAL.—Nothing in this Act, and no action taken under this Act, relieves the Secretary, the Administrator of the Environmental Protection Agency, or any other person from any obligation or other liability with respect to Rocky Flats under the RFCA or any applicable Federal or State law.

(B) NO EFFECT ON RFCA.—Nothing in this Act impairs or alters any provision of the RFCA.

(2) REQUIRED CLEANUP LEVELS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act affects the level of cleanup and closure at Rocky Flats required under the RFCA or any Federal or State law.

(B) NO EFFECT FROM ESTABLISHMENT AS NATIONAL WILDLIFE REFUGE.—

(i) IN GENERAL.—The requirements of this Act for establishment and management of Rocky Flats as a national wildlife refuge shall not affect the level of cleanup and closure.

(ii) CLEANUP LEVELS.—The Secretary is required to conduct cleanup and closure of Rocky Flats to the levels hereafter established for soil, water, and other media, following a thorough review, by the parties to the RFCA and the public, of the appropriateness of the interim levels in the RFCA.

(3) NO EFFECT ON OBLIGATIONS FOR MEASURES TO CONTROL CONTAMINATION.—Nothing in this Act, and no action taken under this Act, affects any long-term obligation of the United States relating to funding, construction, monitoring, or operation and maintenance of—

(A) any necessary intercept or treatment facility; or

(B) any other measure to control contamination.

(c) PAYMENT OF RESPONSE ACTION COSTS.—Nothing in this Act affects the obligation of a Federal department or agency that had or has operations at Rocky Flats resulting in the release or threatened release of a hazardous substance or pollutant or contaminant to pay the costs of response actions carried out to abate the release of, or clean up, the hazardous substance or pollutant or contaminant.

(d) CONSULTATION.—In carrying out a response action at Rocky Flats, the Secretary shall consult with the Secretary of the Interior to ensure that the response action is carried out in a manner that, to the maximum extent practicable, furthers the purposes of the refuge.

SEC. 7. ROCKY FLATS NATIONAL WILDLIFE REFUGE.

(a) ESTABLISHMENT.—Not later than 30 days after the transfer of jurisdiction under section 5(a)(3), the Secretary of the Interior shall establish at Rocky Flats a national wildlife refuge to be known as the ''Rocky Flats National Wildlife Refuge''.

(b) COMPOSITION.—The refuge shall consist of the real property subject to the transfer of jurisdiction under section 5(a)(1).

(c) NOTICE.—The Secretary of the Interior shall publish in the Federal Register a notice of the establishment of the refuge.

(d) ADMINISTRATION AND PURPOSES.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with applicable law, including this Act, the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), and the purposes specified in that Act.

(2) SPECIFIC MANAGEMENT PURPOSES.—To the extent consistent with applicable law, the refuge shall be managed for the purposes of—

(A) restoring and preserving native ecosystems;

(B) providing habitat for, and population management of, native plants and migratory and resident wildlife;

(C) conserving threatened and endangered species (including species that are candidates for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.));

(D) providing opportunities for compatible environmental scientific research; and

(E) providing the public with opportunities for compatible outdoor recreational and educational activities.

SEC. 8. PUBLIC INVOLVEMENT.

(a) ESTABLISHMENT OF PROCESS.—Not later than 90 days after the date of enactment of this Act, in developing plans for the management of fish and wildlife and public use of the refuge, the Secretary of the Interior, in consultation with the Secretary, the members of the Coalition, the Governor of the State of Colorado, and the Rocky Flats Trustees, shall establish a process for involvement of the public and local communities in accomplishing the purposes and objectives of this section.

(b) OTHER PARTICIPANTS.—In addition to the entities specified in subsection (a), the public involvement process shall include the opportunity for direct involvement of entities not members of the Coalition as of the date of enactment of this Act, including the Rocky Flats Citizens' Advisory Board and the cities of Thornton, Northglenn, Golden, Louisville, and Lafayette, Colorado.

(c) DISSOLUTION OF COALITION.—If the Coalition dissolves, or if any Coalition member elects to leave the Coalition during the public involvement process under this section—

(1) the public involvement process under this section shall continue; and

(2) an opportunity shall be provided to each entity that is a member of the Coalition as of September 1, 2000, for direct involvement in the public involvement process.

(d) PURPOSES.—The public involvement process under this section shall provide input and make recommendations to the Secretary and the Secretary of the Interior on the following:

(1) The long-term management of the refuge consistent with the purposes of the refuge described in section 7(d) and in the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(2) The identification of any land described in section 4(e) that could be made available for transportation purposes.

(3) The potential for leasing any land in Rocky Flats for the National Renewable Energy Laboratory to carry out projects relating to the National Wind Technology Center.

(4) The characteristics and configuration of any perimeter fencing that may be appropriate or compatible for cleanup and closure, refuge, or other purposes.

(5) The feasibility of locating, and the potential location for, a visitor and education center at the refuge.

(6) The establishment of a Rocky Flats museum described in section 10.

(7) Any other issues relating to Rocky Flats.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to the Committee on Armed Services of the Senate and the appropriate committee of the House of Representatives a report that—

(1) outlines the conclusions reached through the public involvement process; and

(2) to the extent that any input or recommendation from the public involvement process is not accepted, clearly states the reasons why the input or recommendation is not accepted.

SEC. 9. PROPERTY RIGHTS.

(a) IN GENERAL.—Except as provided in subsection (c), nothing in this Act limits any valid, existing property right at Rocky Flats that is owned by any person or entity, including, but not limited to—

(1) any mineral right;

(2) any water right or related easement; and

(3) any facility or right-of-way for a utility.

(b) ACCESS.—Except as provided in subsection (c), nothing in this Act affects any right of an owner of a property right described in subsection (a) to access the owner's property.

(c) REASONABLE CONDITIONS.—

(1) IN GENERAL.—The Secretary or the Secretary of the Interior may impose such reasonable conditions on access to property rights described in subsection (a) as are appropriate for the cleanup and closure of Rocky Flats and for the management of the refuge.

(2) NO EFFECT ON APPLICABLE LAW.—Nothing in this Act affects any other applicable Federal, State, or local law (including any regulation) relating to the use, development, and management of property rights described in subsection (a).

(3) NO EFFECT ON ACCESS RIGHTS.—Nothing in this subsection precludes the exercise of any access right, in existence on the date of enactment of this Act, that is necessary to perfect or maintain a water right in existence on that date.

(d) PURCHASE OF MINERAL RIGHTS.—

(1) IN GENERAL.—The Secretary shall seek to acquire any and all mineral rights at Rocky Flats through donation or through purchase or exchange from willing sellers for fair market value.

(2) FUNDING.—The Secretary and the Secretary of the Interior—

(A) may use for the purchase of mineral rights under paragraph (1) funds specifically provided by Congress; but

(B) shall not use for such purchase funds appropriated by Congress for the cleanup and closure of Rocky Flats.

(e) UTILITY EXTENSION.—

(1) IN GENERAL.—The Secretary or the Secretary of the Interior may allow not more than 1 extension from an existing utility right-of-way on Rocky Flats, if necessary.

(2) CONDITIONS.—An extension under paragraph (1) shall be subject to the conditions specified in subsection (c).

SEC. 10. ROCKY FLATS MUSEUM.

(a) MUSEUM.—In order to commemorate the contribution that Rocky Flats and its worker force provided to the winning of the Cold War and the impact that the contribution has had on the nearby communities and the State of Colorado, the Secretary may establish a Rocky Flats Museum.

(b) LOCATION.—The Rocky Flats Museum shall be located in the city of Arvada, Colorado, unless, after consultation under subsection (c), the Secretary determines otherwise.

(c) CONSULTATION.—The Secretary shall consult with the city of Arvada, other local communities, and the Colorado State Historical Society on—

(1) the development of the museum;

(2) the siting of the museum; and

(3) any other issues relating to the development and construction of the museum.

(d) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary, in coordination with the city of Arvada, shall submit to the Committee on Armed Services of the Senate and the appropriate committee of the House of Representatives a report on the costs associated with the construction of the museum and any other issues relating to the development and construction of the museum.

SEC. 11. REPORT ON FUNDING.

At the time of submission of the first budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, after the date of enactment of this Act, and annually thereafter, the Secretary and the Secretary of the Interior shall report to the Committee on Armed Services and the Committee on Appropriations of the Senate and the appropriate committees of the House of Representatives on—

(1) the costs incurred in implementing this Act during the preceding fiscal year; and

(2) the funds required to implement this Act during the current and subsequent fiscal years.

Mr. GRASSLEY (for himself, Mr. GRAMS, Mr. ASHCROFT, and Mr. BROWNBACK):

S. 3091. A bill to implement the recommendations of the General Accounting Office on improving the administration of the Packers and Stockyards Act, 1921 by the Department of Agriculture, Nutrition, and Forestry.

PACKERS AND STOCKYARDS ENFORCEMENT IMPROVEMENT ACT OF 2000

Mr. GRASSLEY. Mr. President, today I'm introducing a bill to implement recommendations by the General Accounting Office contained in a report—issued just today—which assesses the efforts of the Department of Agriculture's Grain Inspection, Packers and Stockyards Administration (GIPSA) in implementing the Packers and Stockyards Act. Done correctly, GIPSA is supposed to use the Packers and Stockyards Act as a tool to prevent farmers from being subject to unfair and anti-competitive practices.

In August 1999, I asked the GAO to investigate whether GIPSA was taking full advantage of its authority to investigate competition concerns in the cattle and hog industries. In a nutshell, GIPSA has failed in its mission to protect family farmers. GIPSA has failed to ensure fairness and competitiveness in the livestock industry. The report recommends that significant changes need to be made to GIPSA's investigation and case management, operations, and development processes, as well as its staff resources and capabilities, in order for it to effectively perform its Packers and Stockyards duties.

The news of this administration's failure of duty couldn't come at a worse time. Family farmers and independent producers are experiencing some of the lowest prices for their commodities in years. In the meantime, agribusiness has become so concentrated that family farmers are concerned they can't get a fair price for their products. They are seeing fewer options for marketing their commodities and they are having to sustain increased input costs. The extent of concentration in agribusiness has raised serious concerns about the ability of companies to engage in unfair practices. Most of these complaints involve the livestock industry.

The Justice Department and Federal Trade Commission are responsible for protecting the marketplace from mergers, acquisitions and practices that adversely affect competition. But GIPSA, under the Packers and Stockyards Act, has substantial, explicit authority to halt anti-competitive activity in the livestock industry by taking investigative, enforcement and regulatory action. But GIPSA has done none of this. All we hear are calls for more legislation or more money. It's clear that this is just another example of this administration passing the buck to Congress by calling for new legislative authority, when they are the ones that have failed to exercise the broad authority they already have. If USDA won't use their existing powers, what makes us in Congress think they'd use new powers?

As I've stated, I asked for this GAO investigation because I suspected that USDA had not been doing enough to ensure that small and mid-sized producers were not being harmed by possible anti-competitive activity in the livestock industry. So, to tell you the truth, I wasn't surprised when GIPSA got a failing grade. But I can tell you that I am outraged by USDA and this administration's lack of priorities in doing their job and their failure to enforce the laws on the books. Let me make this clear, this USDA is not a friend to the family farmer. And the Clinton-Gore administration is one to talk about us here in Congress doing nothing about concerns in agriculture. Maybe I need to define what ''nothing'' means. I think that this GAO Report defines ''nothing'' quite well.

Let me summarize the findings of the GAO report. The report confirms that GIPSA's authority to halt anti-competitive practices and protect buyers and sellers of livestock is quite broad and, in fact, go further than the Sherman Act in addressing anti-competitive practices.

The report also found that two major factors have impacted GIPSA's capability to perform their competition duties. Investigation and case methods, practices and processes are inadequate or non-existent at GIPSA.

For example, the GAO found that GIPSA's investigations are planned and conducted primarily by economists and technical specialists without the formal involvement of USDA's Office of General Counsel attorneys from the beginning of an investigation. Attorneys only get involved when a case report is completed. On the other hand, DOJ and FTC have teams of attorneys and economists that perform investigations of anti-competitive practices, with the attorneys taking the lead from the outset to ensure that a legal theory is focused on the potential violation of law. The GAO also found that GIPSA does not have investigative methods designed for competition cases, nor does it have investigation guidance for anti-competitive practice methods and processes. In contrast, DOJ and FTC have detailed processes and practices specifically designed for these kinds of cases.

GIPSA is also inadequately staffed. The GAO indicated that although the agency has hired additional economists, they are relatively inexperienced. More importantly, even though I understand there are around 300 lawyers in the General Counsel's Office, the report found that the number of attorneys working on GIPSA matters has actually decreased from 8 to 5 since GIPSA reorganized in 1998. To add insult to injury, they are not all assigned full-time to GIPSA's financial, trade practice, and competition cases; some have other USDA responsibilities as

well. Consequently, very little attorney time is actually dedicated to competition cases, thanks to the low priority this administration has placed on the problem.

The GAO Report's recommendations are straightforward. It recommends that GIPSA come up with investigation and case methods, practices and processes for competition-related allegations, in consultation with the DOJ and FTC.

It recommends that GIPSA integrate the attorney and economist working relationship, with attorneys at the lead from the beginning of the investigation. It also suggests that USDA might want to report to Congress on the state of the cattle and hog market, as well as on potential violations of the Packers and Stockyards Act. In effect, the GAO provides a blueprint for how GIPSA should be run, and the policies and procedures it should have in place to protect family farmers.

So, the GAO is telling us that USDA and GIPSA just haven't gotten their act together to function like a competent agency. And they are recommending that USDA and GIPSA do something that makes common sense—develop a successful plan, train your people, get guidance from the experts, write effective processes and procedures designed for competition cases, hire antitrust lawyers.

Let me give you some more information. Way back in October 1991, the GAO issued another report which determined that, despite increased concentration in the livestock industry, GIPSA's monitoring and analysis were not up to speed to identify anti-competitive practices. Instead, GIPSA still placed its primary emphasis on ensuring prompt and accurate payment to livestock sellers. In 1997, USDA's own Office of Inspector General found that GIPSA needed to make extensive improvements to its Packers and Stockyards Program to live up to its competition responsibilities. The 1997 OIG report found that GIPSA did not have the capability to perform effective anti-competitive practice investigations because it was not properly organized, operated or staffed. It recommended that GIPSA make extensive organizational and resource improvements within the department, as well as employ an approach similar to that used by DOJ and FTC, by integrating attorneys and economists from the beginning of the investigative process. Sound familiar?

Because of the large number of complaints about competition in the livestock industry, one would have thought that USDA and the administration would have put addressing competition concerns in every way possible and ensuring the effective functioning of GIPSA at the top of their list. USDA and the administration had clear warnings in the 1991 GAO Report and the 1997 OIG Report that there were significant problems, yet they've been ineffective in addressing them. In fact, USDA agreed with the reports and acknowledged that they needed to reevaluate guidelines and regulations, as well as make appropriate organizational, procedure and resource changes. So why wasn't this done? Why weren't these concerns addressed in an effective manner? Why still all this mismanagement? Why still no guidance, policies or proceures?

And now this GAO report raises even more troubling questions. What are USDA's real priorities? Are ag concentration and anti-competitive activity of any concern to the Clinton/Gore administration? How many violations of the Packers and Stockyards Act have slipped through the cracks because of GIPSA's failure to execute its statutory responsibility? My hearing on September 25, next week in my Judiciary Subcommittee, will explore these and other questions.

I can already see the finger-pointing to come from USDA. They are going to say they need more time. Well, they've known since 1991 that they had problems, isn't that time enough to fix them? They are going to say that we haven't given them enough money. But the fact is that Congress has increased GIPSA and USDA OGC funding almost every year since 1991. If USDA saw that they needed more antitrust lawyers for their Packers and Stockyards competition cases, they should have dedicated more of their funds to hiring them. The problem is this administration's priorities. The problem is this administration's inability to take responsibility.

In any event, it's clear that we can't count on this administration's Agriculture Department to reorganize and fix the problems identified in this GAO report. USDA promised to respond to similar problems identified in the 1991 GAO Report and 1997 OIG report, yet did nothing of any real effect to change the situation. Promises made to farmers and promises broken. It's clear to me that recent movements on the part of USDA to address some of these issues are just another way to deflect criticisms of their failure to act. And my concerns continue to grow. Legislation is necessary to force USDA and GIPSA to do their job. It's obvious that if we leave it to this administration, it will be the same old, same old. And the family farmer will continue to wait for something to happen. USDA has broken too many promises already.

No more. My bill, the Packers and Stockyards Enforcement Improvements Act, will require USDA to implement GAO's commonsense recommendations, GAO's blueprint for success. Specifically, my bill will require that, within one year, USDA implement the recommendations of the GAO report, in consultation with DOJ and FTC. My bill will require that, during this one year implementation period, USDA will work with DOJ and FTC to identify anti-competitive violations and take enforcement action under the Packers and Stockyards Act. My bill will require USDA to set up a training program for competition investigations within one year. In addition, my bill will require USDA to provide Congress with a yearly report on the state of the cattle and hog industries and identify activities that represent potential violations under the Packers and Stockyards Act.

Finally, my bill will require USDA to report back to Congress within a year on what actions it has taken to comply with this act.

This is a good government bill. It doesn't change the authority of USDA to address anti-competitive activity in the livestock industry under the Packers and Stockyards Act. Obviously, there's no need to do that—USDA already has all the authority they need. Instead, my bill does something a lot more fundamental—it makes USDA and GIPSA reorganize, regroup and revamp their Packers and Stockyards program so they can do their job. Hopefully this will help change USDA's failure to take its current statutory responsibilities seriously. It seems to me that this is a recurring theme, the administration not enforcing the laws on the books and then blaming others for their inadequacies. But the report is clear. They are the problem. This GAO report is important because it has identified what the real problem is: USDA and the administration are asleep at the switch.

I ask unanimous consent to have my bill printed in the RECORD following my remarks.

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

S. 3091

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 ''Packers and Stockyards Enforcement Improvement Act of 2000''.

SEC. 2. ENFORCEMENT.

(a) IMPLEMENTATION OF THE GENERAL ACCOUNTING OFFICE REPORT.—Not later than 1 year after September 21, 2000, the Secretary of Agriculture shall implement the recommendations of the report issued by the General Accounting Office entitled ''Packers and Stockyards Programs: Actions Needed to Improve Investigations of Competitive Practices'', GAO/RCED–00–242, dated September 21, 2000.

(b) CONSULTATION.—During the implementation period referred to in subsection (a), and for such an additional time period as needed to assure effective implementation, the Secretary of Agriculture shall consult and work with the Department of Justice and the Federal Trade Commission in order to—

(1) implement the investigation management, operations, and case methods development processes recommendations in the report; and

(2) effectively identify and investigate complaints of unfair and anti-competitive practices, and enforce the Packers and Stockyards Act, 1921.

(c) TRAINING.—Not later than September 21, 2001, the Secretary of Agriculture shall develop and implement a training program for staff of the Department of Agriculture

engaged in investigations of complaints of unfair and anti-competitive activity, drawing on existing training materials and programs available at the Department of Justice and the Federal Trade Commission, to the extent practicable.

SEC. 3. REPORT.

Title IV of the Packers and Stockyards Act, 1921 is amended by—

(1) redesignating section 415 (7 U.S.C. 229) as section 416; and

(2) inserting after section 414 the following:

''SEC. 415. Not later than March 1 of each year, the Secretary shall submit to Congress and make publicly available a report that—

''(1) assesses the general economic state of the cattle and hog industries; and

''(2) identifies business practices or market operations or activities in those industries that represent possible violations of this Act or are inconsistent with the goals of this Act.''.

SEC. 4. IMPLEMENTATION REPORT.

The Secretary of Agriculture shall report to Congress on October 1, 2001, on the actions taken to comply with section 2.

By Mrs. BOXER:

S. 3093. A bill to require the Federal Energy Regulatory Commission to roll back the wholesale price of electric energy sold in the Western System Coordinating Council, and for other purposes; to the Committee on Energy and Natural Resources.

THE HALT ELECTRICITY PRICE-GOUGING IN SAN DIEGO ACT

Mrs. BOXER. Mr. President, today I am introducing a very important bill, the Halt Electricity Price-gouging in San Diego Act. This bill, a companion to the bill introduced in the House on September 7, 2000 by Congressman FILNER, sends a loud and clear signal to electric companies in California that the federal government will not tolerate price gouging of our people.

California is currently experiencing an energy crisis, particularly in San Diego. Energy supplies are barely adequate on any given day to meet demand. Wholesale electricity prices have soared, causing San Diego Gas and Electric to pass along increased costs to consumers and resulting in bills that have increased as much as 300 percent in the San Diego area.

Small business owners and people on small or fixed incomes, especially the elderly, are particularly suffering. Other utilities in the state have similar supply and cost problems, causing losses in the hundreds of millions of dollars.

This bill would direct the Federal Energy Regulatory Commission (FERC) to impose price caps on wholesale electricity prices. The bill would also require power suppliers to refund fees charged above the FERC-imposed price cap since June 1, 2000. The precise total of refunds due would be determined by the Federal Energy Regulatory Commission.

I urge FERC to act swiftly and bring relief to those who have been hit by this terrible situation.

The fight for fair utility rates is going to be difficult and may require a number of other solutions. I will continue to work with Congressman FILNER and others to ensure that we end the crisis and prevent similar incidents in California and elsewhere in the United States.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. DEWINE, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 61, a bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions.

S. 459

At the request of Mr. HATCH, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 1314

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1314, a bill to establish a grant program to assist State and local law enforcement in deterring, investigating, and prosecuting computer crimes.

S. 1805

At the request of Mr. KENNEDY, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 1805, a bill to restore food stamp benefits for aliens, to provide States with flexibility in administering the food stamp vehicle allowance, to index the excess shelter expense deduction to inflation, to authorize additional appropriations to purchase and make available additional commodities under the emergency food assistance program, and for other purposes.

S. 1822

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1822, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1900

At the request of Mr. LAUTENBERG, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1957

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1957, a bill to provide for the payment of compensation to the families of the Federal employees who were killed in the crash of a United States Air Force CT-43A aircraft on April 3, 1996, near Dubrovnik, Croatia, carrying Secretary of Commerce Ronald H. Brown and 34 others.

S. 2123

At the request of Ms. LANDRIEU, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2123, a bill to provide Outer Continental Shelf Impact assistance to State and local governments, to amend the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act of 1978, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes.

S. 2264

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 2264, a bill to amend title 38, United States Code, to establish within the Veterans Health Administration the position of Advisor on Physician Assistants, and for other purposes.

S. 2345

At the request of Mr. SCHUMER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2345, a bill to direct the Secretary of the Interior to conduct a special resource study concerning the preservation and public use of sites associated with Harriet Tubman located in Auburn, New York, and for other purposes.

S. 2601

At the request of Mr. ASHCROFT, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2601, a bill to amend the Internal Revenue Code of 1986 to exclude from the gross income of an employee any employer provided home computer and Internet access.

S. 2698

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2698, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 2717

At the request of Mr. SCHUMER, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2717, a bill to amend the Internal Revenue Code of 1986 to gradually increase the estate tax deduction for family-owned business interests.

S. 2841

At the request of Mr. ROBB, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2841, a bill to ensure that the business of the Federal Government is conducted in the public interest and in a manner that provides for public accountability,

efficient delivery of services, reasonable cost savings, and prevention of unwarranted Government expenses, and for other purposes.

S. 2953

At the request of Mr. TORRICELLI, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2953, a bill to amend title 38, United States Code, to improve outreach programs carried out by the Department of Veterans Affairs to provide for more fully informing veterans of benefits available to them under laws administered by the Secretary of Veterans Affairs.

S. 3020

At the request of Mr. GRAMS, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 3020, a bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations.

S. 3040

At the request of Mr. THOMPSON, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 3040, a bill to establish the Commission for the Comprehensive Study of Privacy Protection, and for other purposes.

At the request of Mr. GRAMS, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 3040, supra.

S. 3071

At the request of Mr. LEAHY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3071, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 3077

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3077, a bill to amend the Social Security Act to make corrections and refinements in the Medicare, Medicaid, and SCHIP health insurance programs, as revised by the Balanced Budget Act of 1997 and the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, and for other purposes.

CONCURRENT RESOLUTION 138—EXPRESSING THE SENSE OF CONGRESS THAT A DAY OF PEACE AND SHARING SHOULD BE ESTABLISHED AT THE BEGINNING OF EACH YEAR

Mr. WELLSTONE (for himself, Mr. LIEBERMAN, Mr. KENNEDY, Mr. MOYNIHAN, Mr. REID, and Ms. LANDRIEU) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 138

Whereas human progress in the 21st century will depend upon global understanding and cooperation in finding positive solutions to hunger and violence;

Whereas the turn of the millennium offers unparalleled opportunity for humanity to examine its past, set goals for the future, and establish new patterns of behavior;

Whereas the people of the United States and the world observed the day designated by the United Nations General Assembly as ''One Day in Peace, January 1, 2000'' (General Assembly Resolution 54/29);

Whereas the example set on that day ought to be recognized globally and repeated each year;

Whereas the people of the United States seek to establish better relations with one another and with the people of all countries; and

Whereas celebration by the breaking of bread together traditionally has been the means by which individuals, societies, and nations join together in peace: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) each year should begin with a day of peace and sharing during which—

(A) people around the world should gather with family, friends, neighbors, their faith community, or people of another culture to pledge nonviolence in the new year and to share in a celebratory new year meal; and

(B) Americans who are able should match or multiply the cost of their new year meal with a timely gift to the hungry at home or abroad in a tangible demonstration of a desire for increased friendship and sharing among people around the world; and

(2) the President should issue a proclamation each year calling on the people of the United States and interested organizations to observe such a day with appropriate programs and activities.

Mr. WELLSTONE. Mr. President, I introduce today on behalf of myself and Senators LIEBERMAN, KENNEDY, REID, MOYNIHAN, LEVIN, and LANDRIEU, a resolution to designate January 1, 2001, and every following January 1st, as a day of peace and reconciliation among all peoples of the world. The purpose of this resolution is to create a day of peaceful celebration across the world and in our backyards, as well as a day for sharing food with others whose lives we normally do not touch in a personal way.

''One Day in Peace,'' a pledge of no violence in our homes, neighborhoods, and battlefields, on January 1, 2000, was supported by over 100 nations, 25 U.S. governors, hundreds of mayors worldwide and over 1,000 organizations in nearly 140 countries, as well as the UN General Assembly. It worked and the new millennium was ushered in with a day of peace worldwide.

At the same time, another event, The Millennium Meal Project, an international effort to use the tradition of breaking bread to promote peace and end hunger, was officially endorsed by the White House, members of both the House and Senate, the World Peace/Inner Peace Conference and the Jubillenium World Conference on Religion and Peace featuring 19 diverse faiths and went exceedingly well this past January 1, 2000.

Now these two initiatives have joined together in order to encourage people all over the world, through sharing of a special meal, to reach out to one another for ''One Day'' by creating an environment of peace and mutualism. Since the beginning of recorded history, breaking bread together has been seen as a tradition when people from opposing sides can sit down and learn about one another in a peaceful manner.

Particularly we as Senators need to put aside our differences, on both sides of the aisle, to discover and celebrate our commonalities in order to prepare ourselves for working more harmoniously during the 107th Congress to solve the critical problems of both violence and hunger in our nation and in our world. We know, all too well, that children around the world and at home are going to bed hungry, and that our children are often afraid to go to school.

Let us make ''One Day'' a special time of reflection, to eliminate hunger and violence for children and families throughout the world, by sharing our prosperity and friendship with people from all backgrounds, beliefs and cultures. This day should be held high in importance to celebrate our diversities and differences, rather than emphasizing them as barriers between us.

I hope this resolution will be adopted unanimously.

SENATE RESOLUTION 359—DESIGNATING OCTOBER 16, 2000, TO OCTOBER 20, 2000, AS ''NATIONAL TEACH FOR AMERICA WEEK''

Mr. SCHUMER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 359

Whereas while the United States will need to hire over 2,000,000 new teachers over the next decade, Teach For America has proven itself an effective alternative means of recruiting gifted college graduates into the field of education;

Whereas in its decade of existence, Teach For America's 6,000 corps members have aided 1,000,000 low-income students at urban and rural sites across the United States;

Whereas Teach For America's popularity continues to skyrocket, with a record-breaking number of men and women applying to become corps members for the 2000-2001 school year;

Whereas over half of all Teach For America alumni continue to work within the field of education after their two years of service are complete;

Whereas Teach For America corps members leave their service committed to lifelong advocacy for low-income, underserved children;

Whereas over 100,000 schoolchildren are being taught by Teach For America corps members in 2000; and

Whereas October 16th through 20th will be Teach For America's fourth annual ''Teach For America'' week, during which government members, artists, historians, athletes, and other prominent community leaders will visit underserved classrooms served by Teach For America corps members: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Teach For America program, and its past and present participants, for its contribution to our Nation's public school system;

(2) designates the week beginning on October 16, 2000, and ending on October 20, 2000, as ''National Teach For America Week''; and

(3) encourages Senators and all community leaders to participate in classroom visits to take place during the week.

AMENDMENTS SUBMITTED

WATER RESOURCES DEVELOPMENT ACT OF 2000

SMITH OF NEW HAMPSHIRE (AND BAUCUS) AMENDMENT NO. 4164

Mr. SMITH of New Hampshire (for himself and Mr. BAUCUS) proposed an amendment to the bill (S. 2796) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Resources Development Act of 2000''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH CHIEF'S REPORTS.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the

plans, and subject to the conditions, described in the respective reports designated in this subsection:

(1) BARNEGAT INLET TO LITTLE EGG INLET, NEW JERSEY.—The project for shore protection, Barnegat Inlet to Little Egg Inlet, New Jersey, at a total cost of $51,203,000, with an estimated Federal cost of $33,282,000 and an estimated non-Federal cost of $17,921,000, and at an estimated average annual cost of $1,751,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,138,000 and an estimated annual non-Federal cost of $613,000.

(2) NEW YORK-NEW JERSEY HARBOR.—The project for navigation, New York-New Jersey Harbor: Report of the Chief of Engineers dated May 2, 2000, at a total cost of $1,781,234,000, with an estimated Federal cost of $743,954,000 and an estimated non-Federal cost of $1,037,280,000.

(b) PROJECTS SUBJECT TO A FINAL REPORT.—The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in a final report of the Chief of Engineers if a favorable report of the Chief is completed not later than December 31, 2000:

(1) FALSE PASS HARBOR, ALASKA.—The project for navigation, False Pass Harbor, Alaska, at a total cost of $15,164,000, with an estimated Federal cost of $8,238,000 and an estimated non-Federal cost of $6,926,000.

(2) UNALASKA HARBOR, ALASKA.—The project for navigation, Unalaska Harbor, Alaska, at a total cost of $20,000,000, with an estimated Federal cost of $12,000,000 and an estimated non-Federal cost of $8,000,000.

(3) RIO DE FLAG, ARIZONA.—The project for flood damage reduction, Rio de Flag, Arizona, at a total cost of $24,072,000, with an estimated Federal cost of $15,576,000 and an estimated non-Federal cost of $8,496,000..

(4) TRES RIOS, ARIZONA.—The project for environmental restoration, Tres Rios, Arizona, at a total cost of $99,320,000, with an estimated Federal cost of $62,755,000 and an estimated non-Federal cost of $36,565,000.

(5) LOS ANGELES HARBOR, CALIFORNIA.—The project for navigation, Los Angeles Harbor, California, at a total cost of $153,313,000, with an estimated Federal cost of $43,735,000 and an estimated non-Federal cost of $109,578,000.

(6) MURRIETA CREEK, CALIFORNIA.—The project for flood control, Murrieta Creek, California, at a total cost of $90,865,000, with an estimated Federal cost of $25,555,000 and an estimated non-Federal cost of $65,310,000.

(7) PINE FLAT DAM, CALIFORNIA.—The project for fish and wildlife restoration, Pine Flat Dam, California, at a total cost of $34,000,000, with an estimated Federal cost of $22,000,000 and an estimated non-Federal cost of $12,000,000.

(8) RANCHOS PALOS VERDES, CALIFORNIA.—The project for environmental restoration, Ranchos Palos Verdes, California, at a total cost of $18,100,000, with an estimated Federal cost of $11,800,000 and an estimated non-Federal cost of $6,300,000.

(9) SANTA BARBARA STREAMS, CALIFORNIA.—The project for flood damage reduction, Santa Barbara Streams, Lower Mission Creek, California, at a total cost of $18,300,000, with an estimated Federal cost of $9,200,000 and an estimated non-Federal cost of $9,100,000.

(10) UPPER NEWPORT BAY HARBOR, CALIFORNIA.—The project for environmental restoration, Upper Newport Bay Harbor, California, at a total cost of $32,475,000, with an estimated Federal cost of $21,109,000 and an estimated non-Federal cost of $11,366,000.

(11) WHITEWATER RIVER BASIN, CALIFORNIA.—The project for flood damage reduction, Whitewater River basin, California, at a total cost of $27,570,000, with an estimated Federal cost of $17,920,000 and an estimated non-Federal cost of $9,650,000.

(12) DELAWARE COAST FROM CAPE HENLOPEN TO FENWICK ISLAND, DELAWARE.—The project for shore protection, Delaware Coast from Cape Henlopen to Fenwick Island, Delaware, at a total cost of $5,633,000, with an estimated Federal cost of $3,661,000 and an estimated non-Federal cost of $1,972,000, and at an estimated average annual cost of $920,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $460,000 and an estimated annual non-Federal cost of $460,000.

(13) TAMPA HARBOR, FLORIDA.—Modification of the project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Act of September 22, 1922 (42 Stat. 1042, chapter 427), to deepen the Port Sutton Channel, at a total cost of $6,000,000, with an estimated Federal cost of $4,000,000 and an estimated non-Federal cost of $2,000,000.

(14) JOHN T. MYERS LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, John T. Myers Lock and Dam, Ohio River, Indiana and Kentucky, at a total cost of $182,000,000. The costs of construction of the project shall be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(15) GREENUP LOCK AND DAM, KENTUCKY.—The project for navigation, Greenup Lock and Dam, Ohio River, Kentucky, at a total cost of $175,500,000. The costs of construction of the project shall be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(16) MORGANZA, LOUISIANA, TO GULF OF MEXICO.—

(A) IN GENERAL.—The project for hurricane protection, Morganza, Louisiana, to the Gulf of Mexico, at a total cost of $550,000,000, with an estimated Federal cost of $358,000,000 and an estimated non-Federal cost of $192,000,000.

(B) CREDIT.—The non-Federal interests shall receive credit toward the non-Federal share of project costs for the costs of any work carried out by the non-Federal interests for interim flood protection after March 31, 1989, if the Secretary finds that the work is compatible with, and integral to, the project.

(17) CHESTERFIELD, MISSOURI.—The project to implement structural and nonstructural measures to prevent flood damage to Chesterfield, Missouri, and the surrounding area, at a total cost of $67,700,000, with an estimated Federal cost of $44,000,000 and an estimated non-Federal cost of $23,700,000.

(18) RARITAN BAY AND SANDY HOOK BAY, PORT MONMOUTH, NEW JERSEY.—The project for shore protection, Raritan Bay and Sandy Hook Bay, Port Monmouth, New Jersey, at a total cost of $32,064,000, with an estimated Federal cost of $20,842,000 and an estimated non-Federal cost of $11,222,000, and at an estimated average annual cost of $2,468,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $1,234,000 and an estimated annual non-Federal cost of $1,234,000.

(19) MEMPHIS, TENNESSEE.—The project for ecosystem restoration, Wolf River, Memphis, Tennessee, at a total cost of $10,933,000, with an estimated Federal cost of $7,106,000 and an estimated non-Federal cost of $3,827,000.

(20) JACKSON HOLE, WYOMING.—

(A) IN GENERAL.—The project for environmental restoration, Jackson Hole, Wyoming, at a total cost of $52,242,000, with an estimated Federal cost of $33,957,000 and an estimated non-Federal cost of $18,285,000.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the costs of the project may be provided in cash or in the form of in-kind services or materials.

(ii) CREDIT.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for design and construction work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the project, if the Secretary finds that the work is integral to the project.

(21) OHIO RIVER.—

(A) IN GENERAL.—The program for protection and restoration of fish and wildlife habitat in and along the main stem of the Ohio River, consisting of projects described in a comprehensive plan, at a total cost of $307,700,000, with an estimated Federal cost of $200,000,000 and an estimated non-Federal cost of $107,700,000.

(B) NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the costs of any project under the program may be provided in cash or in the form of in-kind services or materials.

(ii) CREDIT.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for design and construction work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the project, if the Secretary finds that the work is integral to the project.

SEC. 102. SMALL SHORE PROTECTION PROJECTS.

The Secretary shall conduct a study for each of the following projects, and if the Secretary determines that a project is feasible, may carry out the project under section 3 of the Act of August 13, 1946 (33 U.S.C. 426g):

(1) LAKE PALOURDE, LOUISIANA.—Project for beach restoration and protection, Highway 70, Lake Palourde, St. Mary and St. Martin Parishes, Louisiana.

(2) ST. BERNARD, LOUISIANA.—Project for beach restoration and protection, Bayou Road, St. Bernard, Louisiana.

SEC. 103. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) CAPE CORAL SOUTH SPREADER WATERWAY, FLORIDA.—Project for navigation, Cape Coral South Spreader Waterway, Lee County, Florida.

(2) HOUMA NAVIGATION CANAL, LOUISIANA.—Project for navigation, Houma Navigation Canal, Terrebonne Parish, Louisiana.

(3) VIDALIA PORT, LOUISIANA.—Project for navigation, Vidalia Port, Louisiana.

SEC. 104. REMOVAL OF SNAGS AND CLEARING AND STRAIGHTENING OF CHANNELS IN NAVIGABLE WATERS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 3 of the Act of March 2, 1945 (33 U.S.C. 604):

(1) BAYOU MANCHAC, LOUISIANA.—Project for removal of snags and clearing and straightening of channels for flood control, Bayou Manchac, Ascension Parish, Louisiana.

(2) BLACK BAYOU AND HIPPOLYTE COULEE, LOUISIANA.—Project for removal of snags and clearing and straightening of channels for flood control, Black Bayou and Hippolyte Coulee, Calcasieu Parish, Louisiana.

SEC. 105. SMALL BANK STABILIZATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r):

(1) BAYOU DES GLAISES, LOUISIANA.—Project for emergency streambank protection, Bayou des Glaises (Lee Chatelain Road), Avoyelles Parish, Louisiana.

(2) BAYOU PLAQUEMINE, LOUISIANA.—Project for emergency streambank protection, Highway 77, Bayou Plaquemine, Iberville Parish, Louisiana.

(3) HAMMOND, LOUISIANA.—Project for emergency streambank protection, Fagan Drive Bridge, Hammond, Louisiana.

(4) IBERVILLE PARISH, LOUISIANA.—Project for emergency streambank protection, Iberville Parish, Louisiana.

(5) LAKE ARTHUR, LOUISIANA.—Project for emergency streambank protection, Parish Road 120 at Lake Arthur, Louisiana.

(6) LAKE CHARLES, LOUISIANA.—Project for emergency streambank protection, Pithon Coulee, Lake Charles, Calcasieu Parish, Louisiana.

(7) LOGGY BAYOU, LOUISIANA.—Project for emergency streambank protection, Loggy Bayou, Bienville Parish, Louisiana.

(8) SCOTLANDVILLE BLUFF, LOUISIANA.—Project for emergency streambank protection, Scotlandville Bluff, East Baton Rouge Parish, Louisiana.

SEC. 106. SMALL FLOOD CONTROL PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is feasible, may carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) WEISER RIVER, IDAHO.—Project for flood damage reduction, Weiser River, Idaho.

(2) BAYOU TETE L'OURS, LOUISIANA.—Project for flood control, Bayou Tete L'Ours, Louisiana.

(3) BOSSIER CITY, LOUISIANA.—Project for flood control, Red Chute Bayou levee, Bossier City, Louisiana.

(4) BRAITHWAITE PARK, LOUISIANA.—Project for flood control, Braithwaite Park, Louisiana.

(5) CANE BEND SUBDIVISION, LOUISIANA.—Project for flood control, Cane Bend Subdivision, Bossier Parish, Louisiana.

(6) CROWN POINT, LOUISIANA.—Project for flood control, Crown Point, Louisiana.

(7) DONALDSONVILLE CANALS, LOUISIANA.—Project for flood control, Donaldsonville Canals, Louisiana.

(8) GOOSE BAYOU, LOUISIANA.—Project for flood control, Goose Bayou, Louisiana.

(9) GUMBY DAM, LOUISIANA.—Project for flood control, Gumby Dam, Richland Parish, Louisiana.

(10) HOPE CANAL, LOUISIANA.—Project for flood control, Hope Canal, Louisiana.

(11) JEAN LAFITTE, LOUISIANA.—Project for flood control, Jean Lafitte, Louisiana.

(12) LOCKPORT TO LAROSE, LOUISIANA.—Project for flood control, Lockport to Larose, Louisiana.

(13) LOWER LAFITTE BASIN, LOUISIANA.—Project for flood control, Lower Lafitte Basin, Louisiana.

(14) OAKVILLE TO LAREUSSITE, LOUISIANA.—Project for flood control, Oakville to LaReussite, Louisiana.

(15) PAILET BASIN, LOUISIANA.—Project for flood control, Pailet Basin, Louisiana.

(16) POCHITOLAWA CREEK, LOUISIANA.—Project for flood control, Pochitolawa Creek, Louisiana.

(17) ROSETHORN BASIN, LOUISIANA.—Project for flood control, Rosethorn Basin, Louisiana.

(18) SHREVEPORT, LOUISIANA.—Project for flood control, Twelve Mile Bayou, Shreveport, Louisiana.

(19) STEPHENSVILLE, LOUISIANA.—Project for flood control, Stephensville, Louisiana.

(20) ST. JOHN THE BAPTIST PARISH, LOUISIANA.—Project for flood control, St. John the Baptist Parish, Louisiana.

(21) MAGBY CREEK AND VERNON BRANCH, MISSISSIPPI.—Project for flood control, Magby Creek and Vernon Branch, Lowndes County, Mississippi.

(22) FRITZ LANDING, TENNESSEE.—Project for flood control, Fritz Landing, Tennessee.

SEC. 107. SMALL PROJECTS FOR IMPROVEMENT OF THE QUALITY OF THE ENVIRONMENT.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that a project is appropriate, may carry out the project under section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2309a(a)):

(1) BAYOU SAUVAGE NATIONAL WILDLIFE REFUGE, LOUISIANA.—Project for improvement of the quality of the environment, Bayou Sauvage National Wildlife Refuge, Orleans Parish, Louisiana.

(2) GULF INTRACOASTAL WATERWAY, BAYOU PLAQUEMINE, LOUISIANA.—Project for improvement of the quality of the environment, Gulf Intracoastal Waterway, Bayou Plaquemine, Iberville Parish, Louisiana.

(3) GULF INTRACOASTAL WATERWAY, MILES 220 TO 222.5, LOUISIANA.—Project for improvement of the quality of the environment, Gulf Intracoastal Waterway, miles 220 to 222.5, Vermilion Parish, Louisiana.

(4) GULF INTRACOASTAL WATERWAY, WEEKS BAY, LOUISIANA.—Project for improvement of the quality of the environment, Gulf Intracoastal Waterway, Weeks Bay, Iberia Parish, Louisiana.

(5) LAKE FAUSSE POINT, LOUISIANA.—Project for improvement of the quality of the environment, Lake Fausse Point, Louisiana.

(6) LAKE PROVIDENCE, LOUISIANA.—Project for improvement of the quality of the environment, Old River, Lake Providence, Louisiana.

(7) NEW RIVER, LOUISIANA.—Project for improvement of the quality of the environment, New River, Ascension Parish, Louisiana.

(8) ERIE COUNTY, OHIO.—Project for improvement of the quality of the environment, Sheldon's Marsh State Nature Preserve, Erie County, Ohio.

(9) MUSKINGUM COUNTY, OHIO.—Project for improvement of the quality of the environment, Dillon Reservoir watershed, Licking River, Muskingum County, Ohio.

SEC. 108. BENEFICIAL USES OF DREDGED MATERIAL.

The Secretary may carry out the following projects under section 204 of the Water Resources Development Act of 1992 (33 U.S.C. 2326):

(1) HOUMA NAVIGATION CANAL, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes barrier island restoration at the Houma Navigation Canal, Terrebonne Parish, Louisiana.

(2) MISSISSIPPI RIVER GULF OUTLET, MILE -3 TO MILE -9, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes dredging of the Mississippi River Gulf Outlet, mile -3 to mile -9, St. Bernard Parish, Louisiana.

(3) MISSISSIPPI RIVER GULF OUTLET, MILE 11 TO MILE 4, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes dredging of the Mississippi River Gulf Outlet, mile 11 to mile 4, St. Bernard Parish, Louisiana.

(4) PLAQUEMINES PARISH, LOUISIANA.—Project to make beneficial use of dredged material from a Federal navigation project that includes marsh creation at the contained submarine maintenance dredge sediment trap, Plaquemines Parish, Louisiana.

(5) OTTAWA COUNTY, OHIO.—Project to protect, restore, and create aquatic and related habitat using dredged material, East Harbor State Park, Ottawa County, Ohio.

SEC. 109. SMALL AQUATIC ECOSYSTEM RESTORATION PROJECTS.

(a) IN GENERAL.—The Secretary may carry out the following projects under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330):

(1) BRAUD BAYOU, LOUISIANA.—Project for aquatic ecosystem restoration, Braud Bayou, Spanish Lake, Ascension Parish, Louisiana.

(2) BURAS MARINA, LOUISIANA.—Project for aquatic ecosystem restoration, Buras Marina, Buras, Plaquemines Parish, Louisiana.

(3) COMITE RIVER, LOUISIANA.—Project for aquatic ecosystem restoration, Comite River at Hooper Road, Louisiana.

(4) DEPARTMENT OF ENERGY 21-INCH PIPELINE CANAL, LOUISIANA.—Project for aquatic ecosystem restoration, Department of Energy 21-inch Pipeline Canal, St. Martin Parish, Louisiana.

(5) LAKE BORGNE, LOUISIANA.—Project for aquatic ecosystem restoration, southern shores of Lake Borgne, Louisiana.

(6) LAKE MARTIN, LOUISIANA.—Project for aquatic ecosystem restoration, Lake Martin, Louisiana.

(7) LULING, LOUISIANA.—Project for aquatic ecosystem restoration, Luling Oxidation Pond, St. Charles Parish, Louisiana.

(8) MANDEVILLE, LOUISIANA.—Project for aquatic ecosystem restoration, Mandeville, St. Tammany Parish, Louisiana.

(9) ST. JAMES, LOUISIANA.—Project for aquatic ecosystem restoration, St. James, Louisiana.

(10) MINES FALLS PARK, NEW HAMPSHIRE.—Project for aquatic ecosystem restoration, Mines Falls Park, New Hampshire.

(11) NORTH HAMPTON, NEW HAMPSHIRE.—Project for aquatic ecosystem restoration, Little River Salt Marsh, North Hampton, New Hampshire.

(12) HIGHLAND COUNTY, OHIO.—Project for aquatic ecosystem restoration, Rocky Fork Lake, Clear Creek floodplain, Highland County, Ohio.

(13) HOCKING COUNTY, OHIO.—Project for aquatic ecosystem restoration, Long Hollow Mine, Hocking County, Ohio.

(14) TUSCARAWAS COUNTY, OHIO.—Project for aquatic ecosystem restoration, Huff Run, Tuscarawas County, Ohio.

(15) CENTRAL AMAZON CREEK, OREGON.—Project for aquatic ecosystem restoration, Central Amazon Creek, Oregon.

(16) DELTA PONDS, OREGON.—Project for aquatic ecosystem restoration, Delta Ponds, Oregon.

(17) EUGENE MILLRACE, OREGON.—Project for aquatic ecosystem restoration, Eugene Millrace, Oregon.

(18) MEDFORD, OREGON.—Project for aquatic ecosystem restoration, Bear Creek watershed, Medford, Oregon.

(19) ROSLYN LAKE, OREGON.—Project for aquatic ecosystem restoration, Roslyn Lake, Oregon.

(b) SALMON RIVER, IDAHO.—

(1) CREDIT.—The non-Federal interests with respect to the proposed project for aquatic ecosystem restoration, Salmon River, Idaho, may receive credit toward the non-Federal share of project costs for work, consisting of surveys, studies, and development of technical data, that is carried out by the non-Federal interests in connection with the project, if the Secretary finds that the work is integral to the project.

(2) MAXIMUM AMOUNT OF CREDIT.—The amount of the credit under paragraph (1), together with other credit afforded, shall not exceed the non-Federal share of the cost of the project under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330).

SEC. 110. FLOOD MITIGATION AND RIVERINE RESTORATION.

Section 212(e) of the Water Resources Development Act of 1999 (33 U.S.C. 2332(e)) is amended—

(1) in paragraph (22), by striking ''and'' at the end;

(2) in paragraph (23), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(24) Perry Creek, Iowa.''.

SEC. 111. DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 217 of the Water Resources Development Act of 1999 (113 Stat. 294) is amended by adding at the end the following:

''(f) FORT CANBY STATE PARK, BENSON BEACH, WASHINGTON.—The Secretary may design and construct a shore protection project at Fort Canby State Park, Benson Beach, Washington, including beneficial use of dredged material from Federal navigation projects as provided under section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j).''.

TITLE II—GENERAL PROVISIONS

SEC. 201. COOPERATION AGREEMENTS WITH COUNTIES.

Section 221(a) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(a)) is amended in the second sentence—

(1) by striking ''State legislative''; and

(2) by inserting before the period at the end the following: ''of the State or a body politic of the State''.

SEC. 202. WATERSHED AND RIVER BASIN ASSESSMENTS.

Section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164) is amended to read as follows:

''SEC. 729. WATERSHED AND RIVER BASIN ASSESSMENTS.

''(a) IN GENERAL.—The Secretary may assess the water resources needs of river basins and watersheds of the United States, including needs relating to—

''(1) ecosystem protection and restoration;

''(2) flood damage reduction;

''(3) navigation and ports;

''(4) watershed protection;

''(5) water supply; and

''(6) drought preparedness.

''(b) COOPERATION.—An assessment under subsection (a) shall be carried out in cooperation and coordination with—

''(1) the Secretary of the Interior;

''(2) the Secretary of Agriculture;

''(3) the Secretary of Commerce;

''(4) the Administrator of the Environmental Protection Agency; and

''(5) the heads of other appropriate agencies.

''(c) CONSULTATION.—In carrying out an assessment under subsection (a), the Secretary shall consult with Federal, tribal, State, interstate, and local governmental entities.

''(d) PRIORITY RIVER BASINS AND WATERSHEDS.—In selecting river basins and watersheds for assessment under this section, the Secretary shall give priority to—

''(1) the Delaware River basin; and

''(2) the Willamette River basin, Oregon.

''(e) ACCEPTANCE OF CONTRIBUTIONS.—In carrying out an assessment under subsection (a), the Secretary may accept contributions, in cash or in kind, from Federal, tribal, State, interstate, and local governmental entities to the extent that the Secretary determines that the contributions will facilitate completion of the assessment.

''(f) COST-SHARING REQUIREMENTS.—

''(1) NON-FEDERAL SHARE.—The non-Federal share of the costs of an assessment carried out under this section shall be 50 percent.

''(2) CREDIT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the non-Federal interests may receive credit toward the non-Federal share required under paragraph (1) for the provision of services, materials, supplies, or other in-kind contributions.

''(B) MAXIMUM AMOUNT OF CREDIT.—Credit under subparagraph (A) shall not exceed an amount equal to 25 percent of the costs of the assessment.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.''.

SEC. 203. TRIBAL PARTNERSHIP PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) PROGRAM.—

(1) IN GENERAL.—In cooperation with Indian tribes and the heads of other Federal agencies, the Secretary may study and determine the feasibility of carrying out water resources development projects that—

(A) will substantially benefit Indian tribes; and

(B) are located primarily within Indian country (as defined in section 1151 of title 18, United States Code) or in proximity to Alaska Native villages.

(2) MATTERS TO BE STUDIED.—A study conducted under paragraph (1) may address—

(A) projects for flood damage reduction, environmental restoration and protection, and preservation of cultural and natural resources; and

(B) such other projects as the Secretary, in cooperation with Indian tribes and the heads of other Federal agencies, determines to be appropriate.

(c) CONSULTATION AND COORDINATION WITH SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—In recognition of the unique role of the Secretary of the Interior concerning trust responsibilities with Indian tribes, and in recognition of mutual trust responsibilities, the Secretary shall consult with the Secretary of the Interior concerning studies conducted under subsection (b).

(2) INTEGRATION OF ACTIVITIES.—The Secretary shall—

(A) integrate civil works activities of the Department of the Army with activities of the Department of the Interior to avoid conflicts, duplications of effort, or unanticipated adverse effects on Indian tribes; and

(B) consider the authorities and programs of the Department of the Interior and other Federal agencies in any recommendations concerning carrying out projects studied under subsection (b).

(d) PRIORITY PROJECTS.—In selecting water resources development projects for study under this section, the Secretary shall give priority to the project for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington, authorized by section 439(b).

(e) COST SHARING.—

(1) ABILITY TO PAY.—

(A) IN GENERAL.—Any cost-sharing agreement for a study under subsection (b) shall be subject to the ability of the non-Federal interest to pay.

(B) USE OF PROCEDURES.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

(2) CREDIT.—

(A) IN GENERAL.—Subject to subparagraph (B), in conducting studies of projects under subsection (b), the Secretary may provide credit to the non-Federal interest for the provision of services, studies, supplies, or other in-kind contributions to the extent that the Secretary determines that the services, studies, supplies, and other in-kind contributions will facilitate completion of the project.

(B) MAXIMUM AMOUNT OF CREDIT.—Credit under subparagraph (A) shall not exceed an amount equal to the non-Federal share of the costs of the study.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (b) $5,000,000 for each of fiscal years 2002 through 2006, of which not more than $1,000,000 may be used with respect to any 1 Indian tribe.

SEC. 204. ABILITY TO PAY.

Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—Any cost-sharing agreement under this section for a feasibility study, or for construction of an environmental protection and restoration project, a flood control project, a project for navigation, storm damage protection, shoreline erosion, hurricane protection, or recreation, or an agricultural water supply project, shall be subject to the ability of the non-Federal interest to pay.

''(2) CRITERIA AND PROCEDURES.—

''(A) IN GENERAL.—The ability of a non-Federal interest to pay shall be determined by the Secretary in accordance with—

''(i) during the period ending on the date on which revised criteria and procedures are promulgated under subparagraph (B), criteria and procedures in effect on the day before the date of enactment of this subparagraph; and

''(ii) after the date on which revised criteria and procedures are promulgated under subparagraph (B), the revised criteria and procedures promulgated under subparagraph (B).

''(B) REVISED CRITERIA AND PROCEDURES.—Not later than 18 months after the date of enactment of this subparagraph, in accordance with paragraph (3), the Secretary shall promulgate revised criteria and procedures governing the ability of a non-Federal interest to pay.''; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by adding ''and'' at the end; and

(B) by striking subparagraphs (B) and (C) and inserting the following:

''(B) may consider additional criteria relating to—

''(i) the financial ability of the non-Federal interest to carry out its cost-sharing responsibilities; or

''(ii) additional assistance that may be available from other Federal or State sources.''.

SEC. 205. PROPERTY PROTECTION PROGRAM.

(a) IN GENERAL.—The Secretary may carry out a program to reduce vandalism and destruction of property at water resources development projects under the jurisdiction of the Department of the Army.

(b) PROVISION OF REWARDS.—In carrying out the program, the Secretary may provide rewards (including cash rewards) to individuals who provide information or evidence leading to the arrest and prosecution of individuals causing damage to Federal property.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for each fiscal year.

SEC. 206. NATIONAL RECREATION RESERVATION SERVICE.

Notwithstanding section 611 of the Treasury and General Government Appropriations Act, 1999 (Public Law 105–277; 112 Stat. 2681–515), the Secretary may—

(1) participate in the National Recreation Reservation Service on an interagency basis; and

(2) pay the Department of the Army's share of the activities required to implement, operate, and maintain the Service.

SEC. 207. OPERATION AND MAINTENANCE OF HYDROELECTRIC FACILITIES.

Section 314 of the Water Resources Development Act of 1990 (33 U.S.C. 2321) is amended in the first sentence by inserting before the period at the end the following: ''in cases in which the activities require specialized training relating to hydroelectric power generation''.

SEC. 208. INTERAGENCY AND INTERNATIONAL SUPPORT.

Section 234(d) of the Water Resources Development Act of 1996 (33 U.S.C. 2323a(d)) is amended—

(1) in the first sentence, by striking ''$1,000,000'' and inserting ''$2,000,000''; and

(2) in the second sentence, by inserting ''out'' after ''carry''.

SEC. 209. REBURIAL AND CONVEYANCE AUTHORITY.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) REBURIAL.—

(1) REBURIAL AREAS.—In consultation with affected Indian tribes, the Secretary may identify and set aside areas at civil works projects of the Department of the Army that may be used to rebury Native American remains that—

(A) have been discovered on project land; and

(B) have been rightfully claimed by a lineal descendant or Indian tribe in accordance with applicable Federal law.

(2) REBURIAL.—In consultation with and with the consent of the lineal descendant or the affected Indian tribe, the Secretary may recover and rebury, at full Federal expense, the remains at the areas identified and set aside under subsection (b)(1).

(c) CONVEYANCE AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the Secretary may convey to an Indian tribe for use as a cemetery an area at a civil works project that is identified and set aside by the Secretary under subsection (b)(1).

(2) RETENTION OF NECESSARY PROPERTY INTERESTS.—In carrying out paragraph (1), the Secretary shall retain any necessary right-of-way, easement, or other property interest that the Secretary determines to be necessary to carry out the authorized purposes of the project.

SEC. 210. APPROVAL OF CONSTRUCTION OF DAMS AND DIKES.

Section 9 of the Act of March 3, 1899 (33 U.S.C. 401), is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''It shall'';

(2) by striking ''However, such structures'' and inserting the following:

''(b) WATERWAYS WITHIN A SINGLE STATE.—Notwithstanding subsection (a), structures described in subsection (a)'';

(3) by striking ''When plans'' and inserting the following:

''(c) MODIFICATION OF PLANS.—When plans'';

(4) by striking ''The approval'' and inserting the following:

''(d) APPLICABILITY.—

''(1) BRIDGES AND CAUSEWAYS.—The approval''; and

(5) in subsection (d) (as designated by paragraph (4)), by adding at the end the following:

''(2) DAMS AND DIKES.—

''(A) IN GENERAL.—The approval required by this section of the location and plans, or any modification of plans, of any dam or dike, applies only to a dam or dike that, if constructed, would completely span a waterway used to transport interstate or foreign commerce, in such a manner that actual, existing interstate or foreign commerce could be adversely affected.

''(B) OTHER DAMS AND DIKES.—Any dam or dike (other than a dam or dike described in subparagraph (A)) that is proposed to be built in any other navigable water of the United States—

''(i) shall be subject to section 10; and

''(ii) shall not be subject to the approval requirements of this section.''.

SEC. 211. PROJECT DEAUTHORIZATION AUTHORITY.

Section 1001 of the Water Resources Development Act of 1986 (33 U.S.C. 579a) is amended to read as follows:

''SEC. 1001. PROJECT DEAUTHORIZATIONS.

''(a) DEFINITIONS.—In this section:

''(1) CONSTRUCTION.—The term 'construction', with respect to a project or separable element, means—

''(A) in the case of—

''(i) a nonstructural flood control project, the acquisition of land, an easement, or a right-of-way primarily to relocate a structure; and

''(ii) in the case of any other nonstructural measure, the performance of physical work under a construction contract;

''(B) in the case of an environmental protection and restoration project—

''(i) the acquisition of land, an easement, or a right-of-way primarily to facilitate the restoration of wetland or a similar habitat; or

''(ii) the performance of physical work under a construction contract to modify an existing project facility or to construct a new environmental protection and restoration measure; and

''(C) in the case of any other water resources project, the performance of physical work under a construction contract.

''(2) PHYSICAL WORK UNDER A CONSTRUCTION CONTRACT.—The term 'physical work under a construction contract' does not include any activity related to project planning, engineering and design, relocation, or the acquisition of land, an easement, or a right-of-way.

''(b) PROJECTS NEVER UNDER CONSTRUCTION.—

''(1) LIST OF PROJECTS.—The Secretary shall annually submit to Congress a list of projects and separable elements of projects that—

''(A) are authorized for construction; and

''(B) for which no Federal funds were obligated for construction during the 4 full fiscal years preceding the date of submission of the list.

''(2) DEAUTHORIZATION.—Any water resources project, or separable element of a water resources project, authorized for construction shall be deauthorized effective at the end of the 7-year period beginning on the date of the most recent authorization or reauthorization of the project or separable element unless Federal funds have been obligated for preconstruction engineering and design or for construction of the project or separable element by the end of that period.

''(c) PROJECTS FOR WHICH CONSTRUCTION HAS BEEN SUSPENDED.—

''(1) LIST OF PROJECTS.—

''(A) IN GENERAL.—The Secretary shall annually submit to Congress a list of projects and separable elements of projects—

''(i) that are authorized for construction;

''(ii) for which Federal funds have been obligated for construction of the project or separable element; and

''(iii) for which no Federal funds have been obligated for construction of the project or separable element during the 2 full fiscal years preceding the date of submission of the list.

''(B) PROJECTS WITH INITIAL PLACEMENT OF FILL.—The Secretary shall not include on a list submitted under subparagraph (A) any shore protection project with respect to which there has been, before the date of submission of the list, any placement of fill unless the Secretary determines that the project no longer has a willing and financially capable non-Federal interest.

''(2) DEAUTHORIZATION.—Any water resources project, or separable element of a water resources project, for which Federal funds have been obligated for construction shall be deauthorized effective at the end of any 5-fiscal year period during which Federal funds specifically identified for construction of the project or separable element (in an Act of Congress or in the accompanying legislative report language) have not been obligated for construction.

''(d) CONGRESSIONAL NOTIFICATIONS.—Upon submission of the lists under subsections (b)(1) and (c)(1), the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, the affected project or separable element is or would be located.

''(e) FINAL DEAUTHORIZATION LIST.—The Secretary shall publish annually in the Federal Register a list of all projects and separable elements deauthorized under subsection (b)(2) or (c)(2).

''(f) EFFECTIVE DATE.—Subsections (b)(2) and (c)(2) take effect 1 year after the date of enactment of this subsection.''.

SEC. 212. FLOODPLAIN MANAGEMENT REQUIREMENTS.

(a) IN GENERAL.—Section 402(c) of the Water Resources Development Act of 1986 (33 U.S.C. 701b–12(c)) is amended—

(1) in the first sentence of paragraph (1), by striking ''Within 6 months after the date of the enactment of this subsection, the'' and inserting ''The'';

(2) by redesignating paragraph (2) as paragraph (3);

(3) by striking ''Such guidelines shall address'' and inserting the following:

''(2) REQUIRED ELEMENTS.—The guidelines developed under paragraph (1) shall—

''(A) address''; and

(4) in paragraph (2) (as designated by paragraph (3))—

(A) by inserting ''that non-Federal interests shall adopt and enforce'' after ''policies'';

(B) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(B) require non-Federal interests to take measures to preserve the level of flood protection provided by a project to which subsection (a) applies.''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any project or separable element of a project with respect to which the Secretary and the non-Federal interest have not entered a project cooperation agreement on or before the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 402(b) of the Water Resources Development Act of 1986 (33 U.S.C. 701b–12(b)) is amended—

(1) in the subsection heading, by striking ''FLOOD PLAIN'' and inserting ''FLOODPLAIN''; and

(2) in the first sentence, by striking ''flood plain'' and inserting ''floodplain''.

SEC. 213. ENVIRONMENTAL DREDGING.

Section 312 of the Water Resources Development Act of 1990 (33 U.S.C. 1272) is amended by adding at the end the following:

''(g) NONPROFIT ENTITIES.—Notwithstanding section 221 of the Flood Control Act

of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal sponsor may include a nonprofit entity, with the consent of the affected local government.''.

SEC. 214. REGULATORY ANALYSIS AND MANAGEMENT SYSTEMS DATA.

(a) IN GENERAL.—Beginning October 1, 2000, the Secretary, acting through the Chief of Engineers, shall publish, on the Army Corps of Engineers' Regulatory Program website, quarterly reports that include all Regulatory Analysis and Management Systems (RAMS) data.

(b) DATA.—Such RAMS data shall include—

(1) the date on which an individual or nationwide permit application under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) is first received by the Corps;

(2) the date on which the application is considered complete;

(3) the date on which the Corps either grants (with or without conditions) or denies the permit; and

(4) if the application is not considered complete when first received by the Corps, a description of the reason the application was not considered complete.

SEC. 215. PERFORMANCE OF SPECIALIZED OR TECHNICAL SERVICES.

(a) DEFINITION OF STATE.—In this section, the term ''State'' has the meaning given the term in section 6501 of title 31, United States Code.

(b) AUTHORITY.—The Corps of Engineers may provide specialized or technical services to a Federal agency (other than a Department of Defense agency), State, or local government of the United States under section 6505 of title 31, United States Code, only if the chief executive of the requesting entity submits to the Secretary—

(1) a written request describing the scope of the services to be performed and agreeing to reimburse the Corps for all costs associated with the performance of the services; and

(2) a certification that includes adequate facts to establish that the services requested are not reasonably and quickly available through ordinary business channels.

(c) CORPS AGREEMENT TO PERFORM SERVICES.—The Secretary, after receiving a request described in subsection (b) to provide specialized or technical services, shall, before entering into an agreement to perform the services—

(1) ensure that the requirements of subsection (b) are met with regard to the request for services; and

(2) execute a certification that includes adequate facts to establish that the Corps is uniquely equipped to perform such services.

(d) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than the end of each calendar year, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report identifying any request submitted by a Federal agency (other than a Department of Defense agency), State, or local government of the United States to the Corps to provide specialized or technical services.

(2) CONTENTS OF REPORT.—The report shall include, with respect to each request described in paragraph (1)—

(A) a description of the scope of services requested;

(B) the certifications required under subsection (b) and (c);

(C) the status of the request;

(D) the estimated and final cost of the services;

(E) the status of reimbursement;

(F) a description of the scope of services performed; and

(G) copies of all certifications in support of the request.

SEC. 216. HYDROELECTRIC POWER PROJECT FUNDING.

Section 216 of the Water Resources Development Act of 1996 (33 U.S.C. 2321a) is amended—

(1) in subsection (a), by striking ''In carrying out'' and all that follows through ''(1) is'' and inserting the following: ''In carrying out the operation, maintenance, rehabilitation, and modernization of a hydroelectric power generating facility at a water resources project under the jurisdiction of the Department of the Army, the Secretary may, to the extent funds are made available in appropriations Acts or in accordance with subsection (c), take such actions as are necessary to optimize the efficiency of energy production or increase the capacity of the facility, or both, if, after consulting with the heads of other appropriate Federal and State agencies, the Secretary determines that such actions—

''(1) are'';

(2) in the first sentence of subsection (b), by striking ''the proposed uprating'' and inserting ''any proposed uprating'';

(3) by redesignating subsection (c) as subsection (e); and

(4) by inserting after subsection (b) the following:

''(c) USE OF FUNDS PROVIDED BY PREFERENCE CUSTOMERS.—In carrying out this section, the Secretary may accept and expend funds provided by preference customers under Federal law relating to the marketing of power.

''(d) APPLICATION.—This section does not apply to any facility of the Department of the Army that is authorized to be funded under section 2406 of the Energy Policy Act of 1992 (16 U.S.C. 839d–1).''.

SEC. 217. ASSISTANCE PROGRAMS.

(a) CONSERVATION AND RECREATION MANAGEMENT.—To further training and educational opportunities at water resources development projects under the jurisdiction of the Secretary, the Secretary may enter into cooperative agreements with non-Federal public and nonprofit entities for services relating to natural resources conservation or recreation management.

(b) RURAL COMMUNITY ASSISTANCE.—In carrying out studies and projects under the jurisdiction of the Secretary, the Secretary may enter into cooperative agreements with multistate regional private nonprofit rural community assistance entities for services, including water resource assessment community participation, planning, development, and management activities.

(c) COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under this section shall not be considered to be, or treated as being, a cooperative agreement to which chapter 63 of title 31, United States Code, applies.

TITLE III—PROJECT-RELATED PROVISIONS

SEC. 301. TENNESSEE-TOMBIGBEE WATERWAY WILDLIFE MITIGATION PROJECT, ALABAMA AND MISSISSIPPI.

(a) GENERAL.—The Tennessee-Tombigbee Waterway Wildlife Mitigation Project, Alabama and Mississippi, authorized by section 601(a) of Public Law 99–662 (100 Stat. 4138) is modified to authorize the Secretary to—

(1) remove the wildlife mitigation purpose designation from up to 3,000 acres of land as necessary over the life of the project from lands originally acquired for water resource development projects included in the Mitigation Project in accordance with the Report of the Chief of Engineers dated August 31, 1985;

(2) sell or exchange such lands in accordance with subsection (c)(1) and under such conditions as the Secretary determines to be necessary to protect the interests of the United States, utilize such lands as the Secretary determines to be appropriate in connection with development, operation, maintenance, or modification of the water resource development projects, or grant such other interests as the Secretary may determine to be reasonable in the public interest; and

(3) acquire, in accordance with subsections (c) and (d), lands from willing sellers to offset the removal of any lands from the Mitigation Project for the purposes listed in subsection (a)(2) of this section.

(b) REMOVAL PROCESS.—From the date of enactment of this Act, the locations of these lands to be removed will be determined at appropriate time intervals at the discretion of the Secretary, in consultation with appropriate Federal and State fish and wildlife agencies, to facilitate the operation of the water resource development projects and to respond to regional needs related to the project. Removals under this subsection shall be restricted to Project Lands designated for mitigation and shall not include lands purchased exclusively for mitigation purposes (known as Separable Mitigation Lands). Parcel identification, removal, and sale may occur assuming acreage acquisitions pursuant to subsection (d) are at least equal to the total acreage of the lands removed.

(c) LANDS TO BE SOLD.—

(1) Lands to be sold or exchanged pursuant to subsection (a)(2) shall be made available for related uses consistent with other uses of the water resource development project lands (including port, industry, transportation, recreation, and other regional needs for the project).

(2) Any valuation of land sold or exchanged pursuant to this section shall be at fair market value as determined by the Secretary.

(3) The Secretary is authorized to accept monetary consideration and to use such funds without further appropriation to carry out subsection (a)(3). All monetary considerations made available to the Secretary under subsection (a)(2) from the sale of lands shall be used for and in support of acquisitions pursuant to subsection (d). The Secretary is further authorized for purposes of this section to purchase up to 1,000 acres from funds otherwise available.

(d) CRITERIA FOR LAND TO BE ACQUIRED.—The Secretary shall consult with the appropriate Federal and State fish and wildlife agencies in selecting the lands to be acquired pursuant to subsection (a)(3). In selecting the lands to be acquired, bottomland hardwood and associated habitats will receive primary consideration. The lands shall be adjacent to lands already in the Mitigation Project unless otherwise agreed to by the Secretary and the fish and wildlife agencies.

(e) DREDGED MATERIAL DISPOSAL SITES.—The Secretary shall utilize dredge material disposal areas in such a manner as to maximize their reuse by disposal and removal of dredged materials, in order to conserve undisturbed disposal areas for wildlife habitat to the maximum extent practicable. Where the habitat value loss due to reuse of disposal areas cannot be offset by the reduced need for other unused disposal sites, the Secretary shall determine, in consultation with Federal and State fish and wildlife agencies, and ensure full mitigation for any habitat value lost as a result of such reuse.

(f) OTHER MITIGATION LANDS.—The Secretary is also authorized to outgrant by lease, easement, license, or permit lands acquired for the Wildlife Mitigation Project pursuant to section 601(a) of Public Law 99–

662, in consultation with Federal and State fish and wildlife agencies, when such outgrants are necessary to address transportation, utility, and related activities. The Secretary shall insure full mitigation for any wildlife habitat value lost as a result of such sale or outgrant. Habitat value replacement requirements shall be determined by the Secretary in consultation with the appropriate fish and wildlife agencies.

(g) REPEAL.—Section 102 of the Water Resources Development Act of 1992 (106 Stat. 4804) is amended by striking subsection (a).

SEC. 302. BOYDSVILLE, ARKANSAS.

The Secretary shall credit toward the non-Federal share of the costs of the study to determine the feasibility of the reservoir and associated improvements in the vicinity of Boydsville, Arkansas, authorized by section 402 of the Water Resources Development Act of 1999 (113 Stat. 322), not more than $250,000 of the costs of the relevant planning and engineering investigations carried out by State and local agencies, if the Secretary finds that the investigations are integral to the scope of the feasibility study.

SEC. 303. WHITE RIVER BASIN, ARKANSAS AND MISSOURI.

(a) IN GENERAL.—Subject to subsection (b), the project for flood control, power generation, and other purposes at the White River Basin, Arkansas and Missouri, authorized by section 4 of the Act of June 28, 1938 (52 Stat. 1218, chapter 795), and modified by House Document 917, 76th Congress, 3d Session, and House Document 290, 77th Congress, 1st Session, approved August 18, 1941, and House Document 499, 83d Congress, 2d Session, approved September 3, 1954, and by section 304 of the Water Resources Development Act of 1996 (110 Stat. 3711), is further modified to authorize the Secretary to provide minimum flows necessary to sustain tail water trout fisheries by reallocating the following recommended amounts of project storage:

(1) Beaver Lake, 1.5 feet.

(2) Table Rock, 2 feet.

(3) Bull Shoals Lake, 5 feet.

(4) Norfolk Lake, 3.5 feet.

(5) Greers Ferry Lake, 3 feet.

(b) REPORT.—

(1) IN GENERAL.—No funds may be obligated to carry out work on the modification under subsection (a) until the Chief of Engineers, through completion of a final report, determines that the work is technically sound, environmentally acceptable, and economically justified.

(2) TIMING.—Not later than January 1, 2002, the Secretary shall submit to Congress the final report referred to in paragraph (1).

(3) CONTENTS.—The report shall include determinations concerning whether—

(A) the modification under subsection (a) adversely affects other authorized project purposes; and

(B) Federal costs will be incurred in connection with the modification.

SEC. 304. PETALUMA, CALIFORNIA.

(a) IN GENERAL.—The Secretary may complete the project for flood damage reduction, Petaluma River, Petaluma, California, substantially in accordance with the Detailed Project Report approved March 1995, at a total cost of $32,226,000, with an estimated Federal cost of $20,647,000 and an estimated non-Federal cost of $11,579,000.

(b) IN-KIND SERVICES.—The non-Federal interest may provide its share of project costs in cash or in the form of in-kind services or materials.

(c) CREDIT.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for design and construction work carried out by the non-Federal interest before the date of modification of the existing project cooperation agreement or execution of a new project cooperation agreement, if the Secretary determines that the work is integral to the project.

SEC. 305. GASPARILLA AND ESTERO ISLANDS, FLORIDA.

The project for shore protection, Gasparilla and Estero Island segments, Lee County, Florida, authorized under section 201 of the Flood Control Act of 1965 (79 Stat. 1073), by Senate Resolution dated December 17, 1970, and by House Resolution dated December 15, 1970, is modified to authorize the Secretary to enter into an agreement with the non-Federal interest to carry out the project in accordance with section 206 of the Water Resources Development Act of 1992 (33 U.S.C. 426i–1), if the Secretary determines that the project is technically sound, environmentally acceptable, and economically justified.

SEC. 306. ILLINOIS RIVER BASIN RESTORATION, ILLINOIS.

(a) DEFINITION OF ILLINOIS RIVER BASIN.—In this section, the term ''Illinois River basin'' means the Illinois River, Illinois, its backwaters, side channels, and all tributaries, including their watersheds, draining into the Illinois River.

(b) COMPREHENSIVE PLAN.—

(1) DEVELOPMENT.—As expeditiously as practicable, the Secretary shall develop a proposed comprehensive plan for the purpose of restoring, preserving, and protecting the Illinois River basin.

(2) TECHNOLOGIES AND INNOVATIVE APPROACHES.—The comprehensive plan shall provide for the development of new technologies and innovative approaches—

(A) to enhance the Illinois River as a vital transportation corridor;

(B) to improve water quality within the entire Illinois River basin;

(C) to restore, enhance, and preserve habitat for plants and wildlife; and

(D) to increase economic opportunity for agriculture and business communities.

(3) SPECIFIC COMPONENTS.—The comprehensive plan shall include such features as are necessary to provide for—

(A) the development and implementation of a program for sediment removal technology, sediment characterization, sediment transport, and beneficial uses of sediment;

(B) the development and implementation of a program for the planning, conservation, evaluation, and construction of measures for fish and wildlife habitat conservation and rehabilitation, and stabilization and enhancement of land and water resources in the Illinois River basin;

(C) the development and implementation of a long-term resource monitoring program; and

(D) the development and implementation of a computerized inventory and analysis system.

(4) CONSULTATION.—The comprehensive plan shall be developed by the Secretary in consultation with appropriate Federal agencies and the State of Illinois.

(5) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report containing the comprehensive plan.

(6) ADDITIONAL STUDIES AND ANALYSES.—After submission of the report under paragraph (5), the Secretary shall continue to conduct such studies and analyses related to the comprehensive plan as are necessary, consistent with this subsection.

(c) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—If the Secretary, in cooperation with appropriate Federal agencies and the State of Illinois, determines that a restoration project for the Illinois River basin will produce independent, immediate, and substantial restoration, preservation, and protection benefits, the Secretary shall proceed expeditiously with the implementation of the project.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out projects under this subsection $20,000,000.

(3) FEDERAL SHARE.—The Federal share of the cost of carrying out any project under this subsection shall not exceed $5,000,000.

(d) GENERAL PROVISIONS.—

(1) WATER QUALITY.—In carrying out projects and activities under this section, the Secretary shall take into account the protection of water quality by considering applicable State water quality standards.

(2) PUBLIC PARTICIPATION.—In developing the comprehensive plan under subsection (b) and carrying out projects under subsection (c), the Secretary shall implement procedures to facilitate public participation, including—

(A) providing advance notice of meetings;

(B) providing adequate opportunity for public input and comment;

(C) maintaining appropriate records; and

(D) making a record of the proceedings of meetings available for public inspection.

(e) COORDINATION.—The Secretary shall integrate and coordinate projects and activities carried out under this section with ongoing Federal and State programs, projects, and activities, including the following:

(1) Upper Mississippi River System-Environmental Management Program authorized under section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652).

(2) Upper Mississippi River Illinois Waterway System Study.

(3) Kankakee River Basin General Investigation.

(4) Peoria Riverfront Development General Investigation.

(5) Illinois River Ecosystem Restoration General Investigation.

(6) Conservation reserve program and other farm programs of the Department of Agriculture.

(7) Conservation Reserve Enhancement Program (State) and Conservation 2000, Ecosystem Program of the Illinois Department of Natural Resources.

(8) Conservation 2000 Conservation Practices Program and the Livestock Management Facilities Act administered by the Department of Agriculture of the State of Illinois.

(9) National Buffer Initiative of the Natural Resources Conservation Service.

(10) Nonpoint source grant program administered by the Environmental Protection Agency of the State of Illinois.

(f) JUSTIFICATION.—

(1) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out activities to restore, preserve, and protect the Illinois River basin under this section, the Secretary may determine that the activities—

(A) are justified by the environmental benefits derived by the Illinois River basin; and

(B) shall not need further economic justification if the Secretary determines that the activities are cost-effective.

(2) APPLICABILITY.—Paragraph (1) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the Illinois River basin.

(g) COST SHARING.—

(1) IN GENERAL.—The non-Federal share of the cost of projects and activities carried out under this section shall be 35 percent.

(2) OPERATION, MAINTENANCE, REHABILITATION, AND REPLACEMENT.—The operation,

maintenance, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(3) IN-KIND SERVICES.—

(A) IN GENERAL.—The value of in-kind services provided by the non-Federal interest for a project or activity carried out under this section may be credited toward not more than 80 percent of the non-Federal share of the cost of the project or activity.

(B) ITEMS INCLUDED.—In-kind services shall include all State funds expended on programs and projects that accomplish the goals of this section, as determined by the Secretary, including the Illinois River Conservation Reserve Program, the Illinois Conservation 2000 Program, the Open Lands Trust Fund, and other appropriate programs carried out in the Illinois River basin.

(4) CREDIT.—

(A) VALUE OF LAND.—If the Secretary determines that land or an interest in land acquired by a non-Federal interest, regardless of the date of acquisition, is integral to a project or activity carried out under this section, the Secretary may credit the value of the land or interest in land toward the non-Federal share of the cost of the project or activity, as determined by the Secretary.

(B) WORK.—If the Secretary determines that any work completed by a non-Federal interest, regardless of the date of completion, is integral to a project or activity carried out under this section, the Secretary may credit the value of the work toward the non-Federal share of the cost of the project or activity, as determined by the Secretary.

SEC. 307. UPPER DES PLAINES RIVER AND TRIBUTARIES, ILLINOIS.

The Secretary shall credit toward the non-Federal share of the costs of the study to determine the feasibility of improvements to the upper Des Plaines River and tributaries, phase 2, Illinois and Wisconsin, authorized by section 419 of the Water Resources Development Act of 1999 (113 Stat. 324), the costs of work carried out by the non-Federal interests in Lake County, Illinois, before the date of execution of the feasibility study cost-sharing agreement, if—

(1) the Secretary and the non-Federal interests enter into a feasibility study cost-sharing agreement; and

(2) the Secretary finds that the work is integral to the scope of the feasibility study.

SEC. 308. ATCHAFALAYA BASIN, LOUISIANA.

(a) IN GENERAL.—Notwithstanding the Report of the Chief of Engineers, dated February 28, 1983, for the project for flood control, Atchafalaya Basin Floodway System, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), which report refers to recreational development in the Lower Atchafalaya Basin Floodway, the Secretary—

(1) shall, in collaboration with the State of Louisiana, initiate construction of the visitors center, authorized as part of the project, at or near Lake End Park in Morgan City, Louisiana; and

(2) shall construct other recreational features, authorized as part of the project, within, and in the vicinity of, the Lower Atchafalaya Basin protection levees.

(b) AUTHORITIES.—The Secretary shall carry out subsection (a) in accordance with—

(1) the feasibility study for the Atchafalaya Basin Floodway System, Louisiana, dated January 1982; and

(2) the recreation cost-sharing requirements under section 103(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(c)).

SEC. 309. RED RIVER WATERWAY, LOUISIANA.

The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142) and modified by section 4(h) of the Water Resources Development Act of 1988 (102 Stat. 4016), section 102(p) of the Water Resources Development Act of 1990 (104 Stat. 4613), and section 301(b)(7) of the Water Resources Development Act of 1996 (110 Stat. 3710), is further modified to authorize the purchase of mitigation land from willing sellers in any of the parishes that comprise the Red River Waterway District, consisting of Avoyelles, Bossier, Caddo, Grant, Natchitoches, Rapides, and Red River Parishes.

SEC. 310. NARRAGUAGUS RIVER, MILBRIDGE, MAINE.

(a) REDESIGNATION.—The project for navigation, Narraguagus River, Milbridge, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173), is modified to redesignate as anchorage the portion of the 11-foot channel described as follows: beginning at a point with coordinates N248,413.92, E668,000.24, thence running south 20 degrees 09 minutes 57.8 seconds east 1325.205 feet to a point N247,169.95, E668,457.09, thence running north 51 degrees 30 minutes 05.7 seconds west 562.33 feet to a point N247,520.00, E668,017.00, thence running north 01 degrees 04 minutes 26.8 seconds west 894.077 feet to the point of origin.

(b) REAUTHORIZATION.—The Secretary shall maintain as anchorage the portions of the project for navigation, Narraguagus River, Milbridge, Maine, authorized by section 2 of the Act of June 14, 1880 (21 Stat. 195, chapter 211), that lie adjacent to and outside the limits of the 11-foot and 9-foot channels and that are described as follows:

(1) The area located east of the 11-foot channel beginning at a point with coordinates N248,060.52, E668,236.56, thence running south 36 degrees 20 minutes 52.3 seconds east 1567.242 feet to a point N246,798.21, E669,165.44, thence running north 51 degrees 30 minutes 06.2 seconds west 839.855 feet to a point N247,321.01, E668,508.15, thence running north 20 degrees 09 minutes 58.1 seconds west 787.801 feet to the point of origin.

(2) The area located west of the 9-foot channel beginning at a point with coordinates N249,673.29, E667,537.73, thence running south 20 degrees 09 minutes 57.8 seconds east 1341.616 feet to a point N248,413.92, E668,000.24, thence running south 01 degrees 04 minutes 26.8 seconds east 371.688 feet to a point N248,042.30, E668,007.21, thence running north 22 degrees 21 minutes 20.8 seconds west 474.096 feet to a point N248,480.76, E667,826.88, thence running north 79 degrees 09 minutes 31.6 seconds east 100.872 feet to a point N248,499.73, E667,925.95, thence running north 13 degrees 47 minutes 27.6 seconds west 95.126 feet to a point N248,592.12, E667,903.28, thence running south 79 degrees 09 minutes 31.6 seconds west 115.330 feet to a point N248,570.42, E667,790.01, thence running north 22 degrees 21 minutes 20.8 seconds west 816.885 feet to a point N249,325.91, E667,479.30, thence running north 07 degrees 03 minutes 00.3 seconds west 305.680 feet to a point N249,629.28, E667,441.78, thence running north 65 degrees 21 minutes 33.8 seconds east 105.561 feet to the point of origin.

SEC. 311. WILLIAM JENNINGS RANDOLPH LAKE, MARYLAND.

The Secretary—

(1) may provide design and construction assistance for recreational facilities in the State of Maryland at the William Jennings Randolph Lake (Bloomington Dam), Maryland and West Virginia, project authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1182); and

(2) shall require the non-Federal interest to provide 50 percent of the costs of designing and constructing the recreational facilities.

SEC. 312. BRECKENRIDGE, MINNESOTA.

(a) IN GENERAL.—The Secretary may complete the project for flood damage reduction, Breckenridge, Minnesota, substantially in accordance with the Detailed Project Report dated September 2000, at a total cost of $21,000,000, with an estimated Federal cost of $13,650,000 and an estimated non-Federal cost of $7,350,000.

(b) IN-KIND SERVICES.—The non-Federal interest may provide its share of project costs in cash or in the form of in-kind services or materials.

(c) CREDIT.—The non-Federal interest shall receive credit toward the non-Federal share of project costs for design and construction work carried out by the non-Federal interest before the date of modification of the existing project cooperation agreement or execution of a new project cooperation agreement, if the Secretary determines that the work is integral to the project.

SEC. 313. MISSOURI RIVER VALLEY, MISSOURI.

(a) SHORT TITLE.—This section may be cited as the ''Missouri River Valley Improvement Act''.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) Lewis and Clark were pioneering naturalists that recorded dozens of species previously unknown to science while ascending the Missouri River in 1804;

(B) the Missouri River, which is 2,321 miles long, drains ⅛ of the United States, is home to approximately 10,000,000 people in 10 States and 28 Native American tribes, and is a resource of incalculable value to the United States;

(C) the construction of dams, levees, and river training structures in the past 150 years has aided navigation, flood control, and water supply along the Missouri River, but has reduced habitat for native river fish and wildlife;

(D) river organizations, including the Missouri River Basin Association, support habitat restoration, riverfront revitalization, and improved operational flexibility so long as those efforts do not significantly interfere with uses of the Missouri River; and

(E) restoring a string of natural places by the year 2004 would aid native river fish and wildlife, reduce flood losses, enhance recreation and tourism, and celebrate the bicentennial of Lewis and Clark's voyage.

(2) PURPOSES.—The purposes of this section are—

(A) to protect, restore, and enhance the fish, wildlife, and plants, and the associated habitats on which they depend, of the Missouri River;

(B) to restore a string of natural places that aid native river fish and wildlife, reduce flood losses, and enhance recreation and tourism;

(C) to revitalize historic riverfronts to improve quality of life in riverside communities and attract recreation and tourism;

(D) to monitor the health of the Missouri River and measure biological, chemical, geological, and hydrological responses to changes in Missouri River management;

(E) to allow the Corps of Engineers increased authority to restore and protect fish and wildlife habitat on the Missouri River;

(F) to protect and replenish cottonwoods, and their associated riparian woodland communities, along the upper Missouri River; and

(G) to educate the public about the economic, environmental, and cultural importance of the Missouri River and the scientific and cultural discoveries of Lewis and Clark.

(c) DEFINITION OF MISSOURI RIVER.—In this section, the term ''Missouri River'' means

the Missouri River and the adjacent floodplain that extends from the mouth of the Missouri River (RM 0) to the confluence of the Jefferson, Madison, and Gallatin Rivers (RM 2341) in the State of Montana.

(d) AUTHORITY TO PROTECT, ENHANCE, AND RESTORE FISH AND WILDLIFE HABITAT.—Section 9(b) of the Act of December 22, 1944 (58 Stat. 891, chapter 665), is amended—

(1) by striking ''(b) The general'' and inserting the following:

''(b) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—The general'';

(2) by striking ''paragraph'' and inserting ''subsection''; and

(3) by adding at the end the following:

''(2) FISH AND WILDLIFE HABITAT.—In addition to carrying out the duties under the comprehensive plan described in paragraph (1), the Chief of Engineers shall protect, enhance, and restore fish and wildlife habitat on the Missouri River to the extent consistent with other authorized project purposes.''.

(e) INTEGRATION OF ACTIVITIES.—

(1) IN GENERAL.—In carrying out this section and in accordance with paragraph (2), the Secretary shall provide for such activities as are necessary to protect and enhance fish and wildlife habitat without adversely affecting—

(A) the water-related needs of the Missouri River basin, including flood control, navigation, hydropower, water supply, and recreation; and

(B) private property rights.

(2) NEW AUTHORITY.—Nothing in this section confers any new regulatory authority on any Federal or non-Federal entity that carries out any activity under this section.

(f) MISSOURI RIVER MITIGATION PROJECT.—The matter under the heading ''MISSOURI RIVER MITIGATION, MISSOURI, KANSAS, IOWA, AND NEBRASKA'' of section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4143) is amended by adding at the end the following: ''There is authorized to be appropriated to carry out this paragraph $20,000,000 for each of fiscal years 2001 through 2010, contingent on the completion by December 31, 2000, of the study under this heading.''.

(g) UPPER MISSOURI RIVER AQUATIC AND RIPARIAN HABITAT MITIGATION PROGRAM.—

(1) IN GENERAL.—

(A) STUDY.—Not later than 2 years after the date of enactment of this Act, the Secretary, through an interagency agreement with the Director of the United States Fish and Wildlife Service and in accordance with the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.), shall complete a study that—

(i) analyzes any adverse effects on aquatic and riparian-dependent fish and wildlife resulting from the operation of the Missouri River Mainstem Reservoir Project in the States of Nebraska, South Dakota, North Dakota, and Montana;

(ii) recommends measures appropriate to mitigate the adverse effects described in clause (i); and

(iii) develops baseline geologic and hydrologic data relating to aquatic and riparian habitat.

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subparagraph (A).

(2) PILOT PROGRAM.—The Secretary, in consultation with the Director of the United States Fish and Wildlife Service and the affected State fish and wildlife agencies, shall develop and administer a pilot mitigation program that—

(A) involves the experimental releases of warm water from the spillways at Fort Peck Dam during the appropriate spawning periods for native fish;

(B) involves the monitoring of the response of fish to and the effectiveness of the preservation of native fish and wildlife habitat of the releases described in subparagraph (A); and

(C) shall not adversely impact a use of the reservoir existing on the date on which the pilot program is implemented.

(3) RESERVOIR FISH LOSS STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the North Dakota Game and Fish Department and the South Dakota Department of Game, Fish and Parks, shall complete a study to analyze and recommend measures to avoid or reduce the loss of fish, including rainbow smelt, through Garrison Dam in North Dakota and Oahe Dam in South Dakota.

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under subparagraph (A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary—

(A) to complete the study required under paragraph (3), $200,000; and

(B) to carry out the other provisions of this subsection, $1,000,000 for each of fiscal years 2001 through 2010.

(h) MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT.—Section 514 of the Water Resources Development Act of 1999 (113 Stat. 342) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to pay the Federal share of the cost of carrying out activities under this section $5,000,000 for each of fiscal years 2001 through 2004.''.

SEC. 314. NEW MADRID COUNTY, MISSOURI.

(a) IN GENERAL.—The project for navigation, New Madrid County Harbor, New Madrid County, Missouri, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is authorized as described in the feasibility report for the project, including both phase 1 and phase 2 of the project.

(b) CREDIT.—

(1) IN GENERAL.—The Secretary shall provide credit to the non-Federal interests for the costs incurred by the non-Federal interests in carrying out construction work for phase 1 of the project, if the Secretary finds that the construction work is integral to phase 2 of the project.

(2) MAXIMUM AMOUNT OF CREDIT.—The amount of the credit under paragraph (1) shall not exceed the required non-Federal share for the project.

SEC. 315. PEMISCOT COUNTY HARBOR, MISSOURI.

(a) CREDIT.—With respect to the project for navigation, Pemiscot County Harbor, Missouri, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), the Secretary shall provide credit to the Pemiscot County Port Authority, or an agent of the authority, for the costs incurred by the Authority or agent in carrying out construction work for the project after December 31, 1997, if the Secretary finds that the construction work is integral to the project.

(b) MAXIMUM AMOUNT OF CREDIT.—The amount of the credit under subsection (a) shall not exceed the required non-Federal share for the project, estimated as of the date of enactment of this Act to be $222,000.

SEC. 316. PIKE COUNTY, MISSOURI.

(a) IN GENERAL.—Subject to subsections (c) and (d), at such time as S.S.S., Inc. conveys all right, title, and interest in and to the parcel of land described in subsection (b)(1) to the United States, the Secretary shall convey all right, title, and interest of the United States in and to the parcel of land described in subsection (b)(2) to S.S.S., Inc.

(b) LAND DESCRIPTION.—The parcels of land referred to in subsection (a) are the following:

(1) NON-FEDERAL LAND.—8.99 acres with existing flowage easements, located in Pike County, Missouri, adjacent to land being acquired from Holnam, Inc. by the Corps of Engineers.

(2) FEDERAL LAND.—8.99 acres located in Pike County, Missouri, known as ''Government Tract Numbers FM–46 and FM–47'', administered by the Corps of Engineers.

(c) CONDITIONS.—The land exchange under subsection (a) shall be subject to the following conditions:

(1) DEEDS.—

(A) NON-FEDERAL LAND.—The conveyance of the parcel of land described in subsection (b)(1) to the Secretary shall be by a warranty deed acceptable to the Secretary.

(B) FEDERAL LAND.—The instrument of conveyance used to convey the parcel of land described in subsection (b)(2) to S.S.S., Inc. shall contain such reservations, terms, and conditions as the Secretary considers necessary to allow the United States to operate and maintain the Mississippi River 9-Foot Navigation Project.

(2) REMOVAL OF IMPROVEMENTS.—

(A) IN GENERAL.—S.S.S., Inc. may remove, and the Secretary may require S.S.S., Inc. to remove, any improvements on the parcel of land described in subsection (b)(1).

(B) NO LIABILITY.—If S.S.S., Inc., voluntarily or under direction from the Secretary, removes an improvement on the parcel of land described in subsection (b)(1)—

(i) S.S.S., Inc. shall have no claim against the United States for liability; and

(ii) the United States shall not incur or be liable for any cost associated with the removal or relocation of the improvement.

(3) TIME LIMIT FOR LAND EXCHANGE.—Not later than 2 years after the date of enactment of this Act, the land exchange under subsection (a) shall be completed.

(4) LEGAL DESCRIPTION.—The Secretary shall provide legal descriptions of the parcels of land described in subsection (b), which shall be used in the instruments of conveyance of the parcels.

(5) ADMINISTRATIVE COSTS.—The Secretary shall require S.S.S., Inc. to pay reasonable administrative costs associated with the land exchange under subsection (a).

(d) VALUE OF PROPERTIES.—If the appraised fair market value, as determined by the Secretary, of the parcel of land conveyed to S.S.S., Inc. by the Secretary under subsection (a) exceeds the appraised fair market value, as determined by the Secretary, of the parcel of land conveyed to the United States by S.S.S., Inc. under that subsection, S.S.S., Inc. shall pay to the United States, in cash or a cash equivalent, an amount equal to the difference between the 2 values.

SEC. 317. FORT PECK FISH HATCHERY, MONTANA.

(a) FINDINGS.—Congress finds that—

(1) Fort Peck Lake, Montana, is in need of a multispecies fish hatchery;

(2) the burden of carrying out efforts to raise and stock fish species in Fort Peck Lake has been disproportionately borne by the State of Montana despite the existence of a Federal project at Fort Peck Lake;

(3)(A) as of the date of enactment of this Act, eastern Montana has only 1 warm water fish hatchery, which is inadequate to meet the demands of the region; and

(B) a disease or infrastructure failure at that hatchery could imperil fish populations throughout the region;

(4) although the multipurpose project at Fort Peck, Montana, authorized by the first

section of the Act of August 30, 1935 (49 Stat. 1034, chapter 831), was intended to include irrigation projects and other activities designed to promote economic growth, many of those projects were never completed, to the detriment of the local communities flooded by the Fort Peck Dam;

(5) the process of developing an environmental impact statement for the update of the Corps of Engineers Master Manual for the operation of the Missouri River recognized the need for greater support of recreation activities and other authorized purposes of the Fort Peck project;

(6)(A) although fish stocking is included among the authorized purposes of the Fort Peck project, the State of Montana has funded the stocking of Fort Peck Lake since 1947; and

(B) the obligation to fund the stocking constitutes an undue burden on the State; and

(7) a viable multispecies fishery would spur economic development in the region.

(b) PURPOSES.—The purposes of this section are—

(1) to authorize and provide funding for the design and construction of a multispecies fish hatchery at Fort Peck Lake, Montana; and

(2) to ensure stable operation and maintenance of the fish hatchery.

(c) DEFINITIONS.—In this section:

(1) FORT PECK LAKE.—The term ''Fort Peck Lake'' means the reservoir created by the damming of the upper Missouri River in northeastern Montana.

(2) HATCHERY PROJECT.—The term ''hatchery project'' means the project authorized by subsection (d).

(d) AUTHORIZATION.—The Secretary shall carry out a project at Fort Peck Lake, Montana, for the design and construction of a fish hatchery and such associated facilities as are necessary to sustain a multispecies fishery.

(e) COST SHARING.—

(1) DESIGN AND CONSTRUCTION.—

(A) FEDERAL SHARE.—The Federal share of the costs of design and construction of the hatchery project shall be 75 percent.

(B) FORM OF NON-FEDERAL SHARE.—

(i) IN GENERAL.—The non-Federal share of the costs of the hatchery project may be provided in the form of cash or in the form of land, easements, rights-of-way, services, roads, or any other form of in-kind contribution determined by the Secretary to be appropriate.

(ii) REQUIRED CREDITING.—The Secretary shall credit toward the non-Federal share of the costs of the hatchery project—

(I) the costs to the State of Montana of stocking Fort Peck Lake during the period beginning January 1, 1947; and

(II) the costs to the State of Montana and the counties having jurisdiction over land surrounding Fort Peck Lake of construction of local access roads to the lake.

(2) OPERATION, MAINTENANCE, REPAIR, AND REPLACEMENT.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the operation, maintenance, repair, and replacement of the hatchery project shall be a non-Federal responsibility.

(B) COSTS ASSOCIATED WITH THREATENED AND ENDANGERED SPECIES.—The costs of operation and maintenance associated with raising threatened or endangered species shall be a Federal responsibility.

(C) POWER.—The Secretary shall offer to the hatchery project low-cost project power for all hatchery operations.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000; and

(B) such sums as are necessary to carry out subsection (e)(2)(B).

(2) AVAILABILITY OF FUNDS.—Sums made available under paragraph (1) shall remain available until expended.

SEC. 318. SAGAMORE CREEK, NEW HAMPSHIRE.

The Secretary shall carry out maintenance dredging of the Sagamore Creek Channel, New Hampshire.

SEC. 319. PASSAIC RIVER BASIN FLOOD MANAGEMENT, NEW JERSEY.

(a) IN GENERAL.—The project for flood control, Passaic River, New Jersey and New York, authorized by section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607), is modified to emphasize nonstructural approaches for flood control as alternatives to the construction of the Passaic River tunnel element, while maintaining the integrity of other separable mainstream project elements, wetland banks, and other independent projects that were authorized to be carried out in the Passaic River Basin before the date of enactment of this Act.

(b) REEVALUATION OF FLOODWAY STUDY.—The Secretary shall review the Passaic River Floodway Buyout Study, dated October 1995, to calculate the benefits of a buyout and environmental restoration using the method used to calculate the benefits of structural projects under section 308(b) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(b)).

(c) REEVALUATION OF 10-YEAR FLOODPLAIN STUDY.—The Secretary shall review the Passaic River Buyout Study of the 10-year floodplain beyond the floodway of the Central Passaic River Basin, dated September 1995, to calculate the benefits of a buyout and environmental restoration using the method used to calculate the benefits of structural projects under section 308(b) of the Water Resources Development Act of 1990 (33 U.S.C. 2318(b)).

(d) PRESERVATION OF NATURAL STORAGE AREAS.—

(1) IN GENERAL.—The Secretary shall reevaluate the acquisition, from willing sellers, for flood protection purposes, of wetlands in the Central Passaic River Basin to supplement the wetland acquisition authorized by section 101(a)(18)(C)(vi) of the Water Resources Development Act of 1990 (104 Stat. 4609).

(2) PURCHASE.—If the Secretary determines that the acquisition of wetlands evaluated under paragraph (1) is economically justified, the Secretary shall purchase the wetlands, with the goal of purchasing not more than 8,200 acres.

(e) STREAMBANK EROSION CONTROL STUDY.—The Secretary shall review relevant reports and conduct a study to determine the feasibility of carrying out a project for environmental restoration, erosion control, and streambank restoration along the Passaic River, from Dundee Dam to Kearny Point, New Jersey.

(f) PASSAIC RIVER FLOOD MANAGEMENT TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary, in cooperation with the non-Federal interest, shall establish a task force, to be known as the ''Passaic River Flood Management Task Force'', to provide advice to the Secretary concerning all aspects of the Passaic River flood management project.

(2) MEMBERSHIP.—The task force shall be composed of 20 members, appointed as follows:

(A) APPOINTMENT BY SECRETARY.—The Secretary shall appoint 1 member to represent the Corps of Engineers and to provide technical advice to the task force.

(B) APPOINTMENTS BY GOVERNOR OF NEW JERSEY.—The Governor of New Jersey shall appoint 18 members to the task force, as follows:

(i) 2 representatives of the New Jersey legislature who are members of different political parties.

(ii) 1 representative of the State of New Jersey.

(iii) 1 representative of each of Bergen, Essex, Morris, and Passaic Counties, New Jersey.

(iv) 6 representatives of governments of municipalities affected by flooding within the Passaic River Basin.

(v) 1 representative of the Palisades Interstate Park Commission.

(vi) 1 representative of the North Jersey District Water Supply Commission.

(vii) 1 representative of each of—

(I) the Association of New Jersey Environmental Commissions;

(II) the Passaic River Coalition; and

(III) the Sierra Club.

(C) APPOINTMENT BY GOVERNOR OF NEW YORK.—The Governor of New York shall appoint 1 representative of the State of New York to the task force.

(3) MEETINGS.—

(A) REGULAR MEETINGS.—The task force shall hold regular meetings.

(B) OPEN MEETINGS.—The meetings of the task force shall be open to the public.

(4) ANNUAL REPORT.—The task force shall submit annually to the Secretary and to the non-Federal interest a report describing the achievements of the Passaic River flood management project in preventing flooding and any impediments to completion of the project.

(5) EXPENDITURE OF FUNDS.—The Secretary may use funds made available to carry out the Passaic River Basin flood management project to pay the administrative expenses of the task force.

(6) TERMINATION.—The task force shall terminate on the date on which the Passaic River flood management project is completed.

(g) ACQUISITION OF LANDS IN THE FLOODWAY.—Section 1148 of the Water Resources Development Act of 1986 (100 Stat. 4254; 110 Stat. 3718), is amended by adding at the end the following:

''(e) CONSISTENCY WITH NEW JERSEY BLUE ACRES PROGRAM.—The Secretary shall carry out this section in a manner that is consistent with the Blue Acres Program of the State of New Jersey.''.

(h) STUDY OF HIGHLANDS LAND CONSERVATION.—The Secretary, in cooperation with the Secretary of Agriculture and the State of New Jersey, may study the feasibility of conserving land in the Highlands region of New Jersey and New York to provide additional flood protection for residents of the Passaic River Basin in accordance with section 212 of the Water Resources Development Act of 1999 (33 U.S.C. 2332).

(i) RESTRICTION ON USE OF FUNDS.—The Secretary shall not obligate any funds to carry out design or construction of the tunnel element of the Passaic River flood control project, as authorized by section 101(a)(18)(A) of the Water Resources Development Act of 1990 (104 Stat. 4607).

(j) CONFORMING AMENDMENT.—Section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607) is amended in the paragraph heading by striking ''MAIN STEM,'' and inserting ''FLOOD MANAGEMENT PROJECT,''.

SEC. 320. ROCKAWAY INLET TO NORTON POINT, NEW YORK.

(a) IN GENERAL.—The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point (Coney Island Area), New York, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4135) is modified to authorize the Secretary to construct T-groins to improve sand retention down drift

of the West 37th Street groin, in the Sea Gate area of Coney Island, New York, as identified in the March 1998 report prepared for the Corps of Engineers, entitled ''Field Data Gathering Project Performance Analysis and Design Alternative Solutions to Improve Sandfill Retention'', at a total cost of $9,000,000, with an estimated Federal cost of $5,850,000 and an estimated non-Federal cost of $3,150,000.

(b) COST SHARING.—The non-Federal share of the costs of constructing the T-groins under subsection (a) shall be 35 percent.

SEC. 321. JOHN DAY POOL, OREGON AND WASHINGTON.

(a) EXTINGUISHMENT OF REVERSIONARY INTERESTS AND USE RESTRICTIONS.—With respect to the land described in each deed specified in subsection (b)—

(1) the reversionary interests and the use restrictions relating to port or industrial purposes are extinguished;

(2) the human habitation or other building structure use restriction is extinguished in each area where the elevation is above the standard project flood elevation; and

(3) the use of fill material to raise low areas above the standard project flood elevation is authorized, except in any low area constituting wetland for which a permit under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) would be required.

(b) AFFECTED DEEDS.—Subsection (a) applies to deeds with the following county auditors' numbers:

(1) Auditor's Microfilm Numbers 229 and 16226 of Morrow County, Oregon, executed by the United States.

(2) The portion of the land conveyed in a deed executed by the United States and bearing Benton County, Washington, Auditor's File Number 601766, described as a tract of land lying in sec. 7, T. 5 N., R. 28 E., Willamette meridian, Benton County, Washington, being more particularly described by the following boundaries:

(A) Commencing at the point of intersection of the centerlines of Plymouth Street and Third Avenue in the First Addition to the Town of Plymouth (according to the duly recorded plat thereof).

(B) Thence west along the centerline of Third Avenue, a distance of 565 feet.

(C) Thence south 54° 10' west, to a point on the west line of Tract 18 of that Addition and the true point of beginning.

(D) Thence north, parallel with the west line of that sec. 7, to a point on the north line of that sec. 7.

(E) Thence west along the north line thereof to the northwest corner of that sec. 7.

(F) Thence south along the west line of that sec. 7 to a point on the ordinary high water line of the Columbia River.

(G) Thence northeast along that high water line to a point on the north and south coordinate line of the Oregon Coordinate System, North Zone, that coordinate line being east 2,291,000 feet.

(H) Thence north along that line to a point on the south line of First Avenue of that Addition.

(I) Thence west along First Avenue to a point on the southerly extension of the west line of T. 18.

(J) Thence north along that west line of T. 18 to the point of beginning.

SEC. 322. FOX POINT HURRICANE BARRIER, PROVIDENCE, RHODE ISLAND.

Section 352 of the Water Resources Development Act of 1999 (113 Stat. 310) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(2) by adding at the end the following:

''(b) CREDIT TOWARD NON-FEDERAL SHARE.—The non-Federal interest shall receive credit toward the non-Federal share of project costs, or reimbursement, for the Federal share of the costs of repairs authorized under subsection (a) that are incurred by the non-Federal interest before the date of execution of the project cooperation agreement.''.

SEC. 323. CHARLESTON HARBOR, SOUTH CAROLINA.

(a) ESTUARY RESTORATION.—

(1) SUPPORT PLAN.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for activities of the Corps of Engineers to support the restoration of the ecosystem of the Charleston Harbor estuary, South Carolina.

(B) COOPERATION.—The Secretary shall develop the plan in cooperation with—

(i) the State of South Carolina; and

(ii) other affected Federal and non-Federal interests.

(2) PROJECTS.—The Secretary shall plan, design, and construct projects to support the restoration of the ecosystem of the Charleston Harbor estuary.

(3) EVALUATION PROGRAM.—

(A) IN GENERAL.—The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (2) in meeting ecosystem restoration goals.

(B) STUDIES.—Evaluations under subparagraph (A) shall be conducted in consultation with the appropriate Federal, State, and local agencies.

(b) COST SHARING.—

(1) DEVELOPMENT OF PLAN.—The Federal share of the cost of development of the plan under subsection (a)(1) shall be 65 percent.

(2) PROJECT PLANNING, DESIGN, CONSTRUCTION, AND EVALUATION.—The Federal share of the cost of planning, design, construction, and evaluation of a project under paragraphs (2) and (3) of subsection (a) shall be 65 percent.

(3) NON-FEDERAL SHARE.—

(A) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out a project under subsection (a)(2).

(B) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(4) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(5) NON-FEDERAL INTERESTS.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEVELOPMENT OF PLAN.—There is authorized to be appropriated to carry out subsection (a)(1) $300,000.

(2) OTHER ACTIVITIES.—There is authorized to be appropriated to carry out paragraphs (2) and (3) of subsection (a) $5,000,000 for each of fiscal years 2001 through 2004.

SEC. 324. SAVANNAH RIVER, SOUTH CAROLINA.

(a) DEFINITION OF NEW SAVANNAH BLUFF LOCK AND DAM.—In this section, the term ''New Savannah Bluff Lock and Dam'' means—

(1) the lock and dam at New Savannah Bluff, Savannah River, Georgia and South Carolina; and

(2) the appurtenant features to the lock and dam, including—

(A) the adjacent approximately 50-acre park and recreation area with improvements made under the project for navigation, Savannah River below Augusta, Georgia, authorized by the first section of the Act of July 3, 1930 (46 Stat. 924, chapter 847) and the first section of the Act of August 30, 1935 (49 Stat. 1032, chapter 831); and

(B) other land that is part of the project and that the Secretary determines to be appropriate for conveyance under this section.

(b) REPAIR AND CONVEYANCE.—After execution of an agreement between the Secretary and the city of North Augusta and Aiken County, South Carolina, the Secretary—

(1) shall repair and rehabilitate the New Savannah Bluff Lock and Dam, at full Federal expense estimated at $5,300,000; and

(2) after repair and rehabilitation, may convey the New Savannah Bluff Lock and Dam, without consideration, to the city of North Augusta and Aiken County, South Carolina.

(c) TREATMENT OF NEW SAVANNAH BLUFF LOCK AND DAM.—The New Savannah Bluff Lock and Dam shall not be considered to be part of any Federal project after the conveyance under subsection (b).

(d) OPERATION AND MAINTENANCE.—

(1) BEFORE CONVEYANCE.—Before the conveyance under subsection (b), the Secretary shall continue to operate and maintain the New Savannah Bluff Lock and Dam.

(2) AFTER CONVEYANCE.—After the conveyance under subsection (b), operation and maintenance of all features of the project for navigation, Savannah River below Augusta, Georgia, described in subsection (a)(2)(A), other than the New Savannah Bluff Lock and Dam, shall continue to be a Federal responsibility.

SEC. 325. HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS.

(a) IN GENERAL.—Subject to the completion, not later than December 31, 2000, of a favorable report by the Chief of Engineers, the project for navigation and environmental restoration, Houston-Galveston Navigation Channels, Texas, authorized by section 101(a)(30) of the Water Resources Development Act of 1996 (110 Stat. 3666), is modified to authorize the Secretary to design and construct barge lanes adjacent to both sides of the Houston Ship Channel from Redfish Reef to Morgan Point, a distance of approximately 15 miles, to a depth of 12 feet, at a total cost of $34,000,000, with an estimated Federal cost of $30,600,000 and an estimated non-Federal cost of $3,400,000.

(b) COST SHARING.—The non-Federal interest shall pay a portion of the costs of construction of the barge lanes under subsection (a) in accordance with section 101 of the Water Resources Development Act of 1986 (33 U.S.C. 2211).

(c) FEDERAL INTEREST.—If the modification under subsection (a) is in compliance with all applicable environmental requirements, the modification shall be considered to be in the Federal interest.

(d) NO AUTHORIZATION OF MAINTENANCE.—No maintenance is authorized to be carried out for the modification under subsection (a).

SEC. 326. JOE POOL LAKE, TRINITY RIVER BASIN, TEXAS.

(a) IN GENERAL.—The Secretary shall enter into an agreement with the city of Grand Prairie, Texas, under which the city agrees to assume all responsibilities of the Trinity River Authority of the State of Texas under Contract No. DACW63–76–C–0166, other than financial responsibilities, except the responsibility described in subsection (d).

(b) RESPONSIBILITIES OF TRINITY RIVER AUTHORITY.—The Trinity River Authority shall be relieved of all financial responsibilities under the contract described in subsection (a) as of the date on which the Secretary enters into the agreement with the city under that subsection.

(c) PAYMENTS BY CITY.—In consideration of the agreement entered into under subsection (a), the city shall pay the Federal Government $4,290,000 in 2 installments—

(1) 1 installment in the amount of $2,150,000, which shall be due and payable not later than December 1, 2000; and

(2) 1 installment in the amount of $2,140,000, which shall be due and payable not later than December 1, 2003.

(d) OPERATION AND MAINTENANCE COSTS.—The agreement entered into under subsection (a) shall include a provision requiring the city to assume responsibility for all costs associated with operation and maintenance of the recreation facilities included in the contract described in that subsection.

SEC. 327. LAKE CHAMPLAIN WATERSHED, VERMONT AND NEW YORK.

(a) DEFINITIONS.—In this section:

(1) CRITICAL RESTORATION PROJECT.—The term ''critical restoration project'' means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(2) LAKE CHAMPLAIN WATERSHED.—The term ''Lake Champlain watershed'' means—

(A) the land areas within Addison, Bennington, Caledonia, Chittenden, Franklin, Grand Isle, Lamoille, Orange, Orleans, Rutland, and Washington Counties in the State of Vermont; and

(B)(i) the land areas that drain into Lake Champlain and that are located within Essex, Clinton, Franklin, Warren, and Washington Counties in the State of New York; and

(ii) the near-shore areas of Lake Champlain within the counties referred to in clause (i).

(b) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—The Secretary may participate in critical restoration projects in the Lake Champlain watershed.

(2) TYPES OF PROJECTS.—A critical restoration project shall be eligible for assistance under this section if the critical restoration project consists of—

(A) implementation of an intergovernmental agreement for coordinating regulatory and management responsibilities with respect to the Lake Champlain watershed;

(B) acceleration of whole farm planning to implement best management practices to maintain or enhance water quality and to promote agricultural land use in the Lake Champlain watershed;

(C) acceleration of whole community planning to promote intergovernmental cooperation in the regulation and management of activities consistent with the goal of maintaining or enhancing water quality in the Lake Champlain watershed;

(D) natural resource stewardship activities on public or private land to promote land uses that—

(i) preserve and enhance the economic and social character of the communities in the Lake Champlain watershed; and

(ii) protect and enhance water quality; or

(E) any other activity determined by the Secretary to be appropriate.

(c) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a critical restoration project under this section only if—

(1) the critical restoration project is publicly owned; or

(2) the non-Federal interest with respect to the critical restoration project demonstrates that the critical restoration project will provide a substantial public benefit in the form of water quality improvement.

(d) PROJECT SELECTION.—

(1) IN GENERAL.—In consultation with the Lake Champlain Basin Program and the heads of other appropriate Federal, State, tribal, and local agencies, the Secretary may—

(A) identify critical restoration projects in the Lake Champlain watershed; and

(B) carry out the critical restoration projects after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and this section.

(2) CERTIFICATION.—

(A) IN GENERAL.—A critical restoration project shall be eligible for financial assistance under this section only if the State director for the critical restoration project certifies to the Secretary that the critical restoration project will contribute to the protection and enhancement of the quality or quantity of the water resources of the Lake Champlain watershed.

(B) SPECIAL CONSIDERATION.—In certifying critical restoration projects to the Secretary, State directors shall give special consideration to projects that implement plans, agreements, and measures that preserve and enhance the economic and social character of the communities in the Lake Champlain watershed.

(e) COST SHARING.—

(1) IN GENERAL.—Before providing assistance under this section with respect to a critical restoration project, the Secretary shall enter into a project cooperation agreement that shall require the non-Federal interest—

(A) to pay 35 percent of the total costs of the critical restoration project;

(B) to acquire any land, easements, rights-of-way, relocations, and dredged material disposal areas necessary to carry out the critical restoration project;

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the critical restoration project; and

(D) to hold the United States harmless from any claim or damage that may arise from carrying out the critical restoration project, except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

(2) NON-FEDERAL SHARE.—

(A) CREDIT FOR DESIGN WORK.—The non-Federal interest shall receive credit for the reasonable costs of design work carried out by the non-Federal interest before the date of execution of a project cooperation agreement for the critical restoration project, if the Secretary finds that the design work is integral to the critical restoration project.

(B) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out the critical restoration project.

(C) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of Federal or State law with respect to a critical restoration project carried out with assistance provided under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000, to remain available until expended.

SEC. 328. WATERBURY DAM, VERMONT.

The Secretary shall implement the recommendations contained in the New England District report, dated August 2000, entitled ''Waterbury Dam, Waterbury, Vermont, Dam Safety Assurance Program Report'', at a total cost of $26,000,000, with an estimated Federal cost of $17,680,000 and an estimated non-Federal cost of $8,320,000.

SEC. 329. MOUNT ST. HELENS, WASHINGTON.

The project for sediment control, Mount St. Helens, Washington, authorized by the matter under the heading ''TRANSFER OF FEDERAL TOWNSITES'' in chapter IV of title I of the Supplemental Appropriations Act, 1985 (99 Stat. 318), is modified to authorize the Secretary to maintain, for Longview, Kelso, Lexington, and Castle Rock on the Cowlitz River, Washington, the flood protection levels specified in the October 1985 report entitled ''Mount St. Helens, Washington, Decision Document (Toutle, Cowlitz, and Columbia Rivers)'', published as House Document No. 135, 99th Congress, signed by the Chief of Engineers, and endorsed and submitted to Congress by the Acting Assistant Secretary of the Army.

SEC. 330. PUGET SOUND AND ADJACENT WATERS RESTORATION, WASHINGTON.

(a) DEFINITION OF CRITICAL RESTORATION PROJECT.—In this section, the term ''critical restoration project'' means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(b) CRITICAL RESTORATION PROJECTS.—The Secretary may participate in critical restoration projects in the area of Puget Sound, Washington, and adjacent waters, including—

(1) the watersheds that drain directly into Puget Sound;

(2) Admiralty Inlet;

(3) Hood Canal;

(4) Rosario Strait; and

(5) the Strait of Juan de Fuca to Cape Flattery.

(c) PROJECT SELECTION.—

(1) IN GENERAL.—The Secretary may identify critical restoration projects in the area described in subsection (b) based on—

(A) studies to determine the feasibility of carrying out the critical restoration projects; and

(B) analyses conducted before the date of enactment of this Act by non-Federal interests.

(2) CRITERIA AND PROCEDURES FOR REVIEW AND APPROVAL.—

(A) IN GENERAL.—In consultation with the Secretary of Commerce, the Secretary of the Interior, the Governor of the State of Washington, tribal governments, and the heads of other appropriate Federal, State, and local agencies, the Secretary may develop criteria and procedures for prioritizing critical restoration projects identified under paragraph (1).

(B) CONSISTENCY WITH FISH RESTORATION GOALS.—The criteria and procedures developed under subparagraph (A) shall be consistent with fish restoration goals of the National Marine Fisheries Service and the State of Washington.

(C) USE OF EXISTING STUDIES AND PLANS.—In carrying out subparagraph (A), the Secretary shall use, to the maximum extent practicable, studies and plans in existence on the date of enactment of this Act to identify project needs and priorities.

(3) LOCAL PARTICIPATION.—In prioritizing critical restoration projects for implementation under this section, the Secretary shall consult with, and give full consideration to the priorities of, public and private entities that are active in watershed planning and ecosystem restoration in Puget Sound watersheds, including—

(A) the Salmon Recovery Funding Board;

(B) the Northwest Straits Commission;

(C) the Hood Canal Coordinating Council;

(D) county watershed planning councils; and

(E) salmon enhancement groups.

(d) IMPLEMENTATION.—The Secretary may carry out critical restoration projects identified under subsection (c) after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and this section.

(e) COST SHARING.—

(1) IN GENERAL.—Before carrying out any critical restoration project under this section, the Secretary shall enter into a binding agreement with the non-Federal interest that shall require the non-Federal interest—

(A) to pay 35 percent of the total costs of the critical restoration project;

(B) to acquire any land, easements, rights-of-way, relocations, and dredged material disposal areas necessary to carry out the critical restoration project;

(C) to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs associated with the critical restoration project; and

(D) to hold the United States harmless from any claim or damage that may arise from carrying out the critical restoration project, except any claim or damage that may arise from the negligence of the Federal Government or a contractor of the Federal Government.

(2) CREDIT.—

(A) IN GENERAL.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out the critical restoration project.

(B) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share in the form of services, materials, supplies, or other in-kind contributions.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000, of which not more than $5,000,000 may be used to carry out any 1 critical restoration project.

SEC. 331. FOX RIVER SYSTEM, WISCONSIN.

Section 332(a) of the Water Resources Development Act of 1992 (106 Stat. 4852) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) PAYMENTS TO STATE.—The terms and conditions may include 1 or more payments to the State of Wisconsin to assist the State in paying the costs of repair and rehabilitation of the transferred locks and appurtenant features.''.

SEC. 332. CHESAPEAKE BAY OYSTER RESTORATION.

Section 704(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2263(b)) is amended—

(1) in the second sentence, by striking ''$7,000,000'' and inserting ''$20,000,000''; and

(2) by striking paragraph (4) and inserting the following:

''(4) the construction of reefs and related clean shell substrate for fish habitat, including manmade 3-dimensional oyster reefs, in the Chesapeake Bay and its tributaries in Maryland and Virginia—

''(A) which reefs shall be preserved as permanent sanctuaries by the non-Federal interests, consistent with the recommendations of the scientific consensus document on Chesapeake Bay oyster restoration dated June 1999; and

''(B) for assistance in the construction of which reefs the Chief of Engineers shall solicit participation by and the services of commercial watermen.''.

SEC. 333. GREAT LAKES DREDGING LEVELS ADJUSTMENT.

(a) DEFINITION OF GREAT LAKE.—In this section, the term ''Great Lake'' means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(b) DREDGING LEVELS.—In operating and maintaining Federal channels and harbors of, and the connecting channels between, the Great Lakes, the Secretary shall conduct such dredging as is necessary to ensure minimal operation depths consistent with the original authorized depths of the channels and harbors when water levels in the Great Lakes are, or are forecast to be, below the International Great Lakes Datum of 1985.

SEC. 334. GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.

(a) FINDINGS.—Congress finds that—

(1) the Great Lakes comprise a nationally and internationally significant fishery and ecosystem;

(2) the Great Lakes fishery and ecosystem should be developed and enhanced in a coordinated manner; and

(3) the Great Lakes fishery and ecosystem provides a diversity of opportunities, experiences, and beneficial uses.

(b) DEFINITIONS.—In this section:

(1) GREAT LAKE.—

(A) IN GENERAL.—The term ''Great Lake'' means Lake Superior, Lake Michigan, Lake Huron (including Lake St. Clair), Lake Erie, and Lake Ontario (including the St. Lawrence River to the 45th parallel of latitude).

(B) INCLUSIONS.—The term ''Great Lake'' includes any connecting channel, historically connected tributary, and basin of a lake specified in subparagraph (A).

(2) GREAT LAKES COMMISSION.—The term ''Great Lakes Commission'' means The Great Lakes Commission established by the Great Lakes Basin Compact (82 Stat. 414).

(3) GREAT LAKES FISHERY COMMISSION.—The term ''Great Lakes Fishery Commission'' has the meaning given the term ''Commission'' in section 2 of the Great Lakes Fishery Act of 1956 (16 U.S.C. 931).

(4) GREAT LAKES STATE.—The term ''Great Lakes State'' means each of the States of Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin.

(c) GREAT LAKES FISHERY AND ECOSYSTEM RESTORATION.—

(1) SUPPORT PLAN.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop a plan for activities of the Corps of Engineers that support the management of Great Lakes fisheries.

(B) USE OF EXISTING DOCUMENTS.—To the maximum extent practicable, the plan shall make use of and incorporate documents that relate to the Great Lakes and are in existence on the date of enactment of this Act, such as lakewide management plans and remedial action plans.

(C) COOPERATION.—The Secretary shall develop the plan in cooperation with—

(i) the signatories to the Joint Strategic Plan for Management of the Great Lakes Fisheries; and

(ii) other affected interests.

(2) PROJECTS.—The Secretary shall plan, design, and construct projects to support the restoration of the fishery, ecosystem, and beneficial uses of the Great Lakes.

(3) EVALUATION PROGRAM.—

(A) IN GENERAL.—The Secretary shall develop a program to evaluate the success of the projects carried out under paragraph (2) in meeting fishery and ecosystem restoration goals.

(B) STUDIES.—Evaluations under subparagraph (A) shall be conducted in consultation with the Great Lakes Fishery Commission and appropriate Federal, State, and local agencies.

(d) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into a cooperative agreement with the Great Lakes Commission or any other agency established to facilitate active State participation in management of the Great Lakes.

(e) RELATIONSHIP TO OTHER GREAT LAKES ACTIVITIES.—No activity under this section shall affect the date of completion of any other activity relating to the Great Lakes that is authorized under other law.

(f) COST SHARING.—

(1) DEVELOPMENT OF PLAN.—The Federal share of the cost of development of the plan under subsection (c)(1) shall be 65 percent.

(2) PROJECT PLANNING, DESIGN, CONSTRUCTION, AND EVALUATION.—The Federal share of the cost of planning, design, construction, and evaluation of a project under paragraph (2) or (3) of subsection (c) shall be 65 percent.

(3) NON-FEDERAL SHARE.—

(A) CREDIT FOR LAND, EASEMENTS, AND RIGHTS-OF-WAY.—The non-Federal interest shall receive credit for the value of any land, easement, right-of-way, relocation, or dredged material disposal area provided for carrying out a project under subsection (c)(2).

(B) FORM.—The non-Federal interest may provide up to 50 percent of the non-Federal share required under paragraphs (1) and (2) in the form of services, materials, supplies, or other in-kind contributions.

(4) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, rehabilitation, and replacement of projects carried out under this section shall be a non-Federal responsibility.

(5) NON-FEDERAL INTERESTS.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), for any project carried out under this section, a non-Federal interest may include a private interest and a nonprofit entity.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEVELOPMENT OF PLAN.—There is authorized to be appropriated for development of the plan under subsection (c)(1) $300,000.

(2) OTHER ACTIVITIES.—There is authorized to be appropriated to carry out paragraphs (2) and (3) of subsection (c) $8,000,000 for each of fiscal years 2002 through 2006.

SEC. 335. GREAT LAKES REMEDIAL ACTION PLANS AND SEDIMENT REMEDIATION.

Section 401 of the Water Resources Development Act of 1990 (33 U.S.C. 1268 note; 104 Stat. 4644; 110 Stat. 3763; 113 Stat. 338) is amended—

(1) in subsection (a)(2)(A), by striking ''50 percent'' and inserting ''35 percent'';

(2) in subsection (b)—

(A) by striking paragraph (3);

(B) in the first sentence of paragraph (4), by striking ''50 percent'' and inserting ''35 percent''; and

(C) by redesignating paragraph (4) as paragraph (3); and

(3) in subsection (c), by striking ''$5,000,000 for each of fiscal years 1998 through 2000.'' and inserting ''$10,000,000 for each of fiscal years 2001 through 2010.''.

SEC. 336. GREAT LAKES TRIBUTARY MODEL.

Section 516 of the Water Resources Development Act of 1996 (33 U.S.C. 2326b) is amended—

(1) in subsection (e), by adding at the end the following:

''(3) COST SHARING.—The non-Federal share of the costs of developing a tributary sediment transport model under this subsection shall be 50 percent.''; and

(2) in subsection (g)—

(A) by striking ''There is authorized'' and inserting the following:

''(1) IN GENERAL.—There is authorized''; and

(B) by adding at the end the following:

''(2) GREAT LAKES TRIBUTARY MODEL.—In addition to amounts made available under paragraph (1), there is authorized to be appropriated to carry out subsection (e) $5,000,000 for each of fiscal years 2001 through 2008.''.

SEC. 337. TREATMENT OF DREDGED MATERIAL FROM LONG ISLAND SOUND.

(a) IN GENERAL.—Not later than December 31, 2002, the Secretary shall carry out a demonstration project for the use of innovative sediment treatment technologies for the treatment of dredged material from Long Island Sound.

(b) PROJECT CONSIDERATIONS.—In carrying out subsection (a), the Secretary shall, to the maximum extent practicable—

(1) encourage partnerships between the public and private sectors;

(2) build on treatment technologies that have been used successfully in demonstration or full-scale projects (such as projects carried out in the State of New York, New Jersey, or Illinois), such as technologies described in—

(A) section 405 of the Water Resources Development Act of 1992 (33 U.S.C. 2239 note; 106 Stat. 4863); or

(B) section 503 of the Water Resources Development Act of 1999 (33 U.S.C. 2314 note; 113 Stat. 337);

(3) ensure that dredged material from Long Island Sound that is treated under the demonstration project is disposed of by beneficial reuse, by open water disposal, or at a licensed waste facility, as appropriate; and

(4) ensure that the demonstration project is consistent with the findings and requirements of any draft environmental impact statement on the designation of 1 or more dredged material disposal sites in Long Island Sound that is scheduled for completion in 2001.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000.

SEC. 338. NEW ENGLAND WATER RESOURCES AND ECOSYSTEM RESTORATION.

(a) DEFINITIONS.—In this section:

(1) CRITICAL RESTORATION PROJECT.—The term ''critical restoration project'' means a project that will produce, consistent with Federal programs, projects, and activities, immediate and substantial ecosystem restoration, preservation, and protection benefits.

(2) NEW ENGLAND.—The term ''New England'' means all watersheds, estuaries, and related coastal areas in the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(b) ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in coordination with appropriate Federal, State, tribal, regional, and local agencies, shall perform an assessment of the condition of water resources and related ecosystems in New England to identify problems and needs for restoring, preserving, and protecting water resources, ecosystems, wildlife, and fisheries.

(2) MATTERS TO BE ADDRESSED.—The assessment shall include—

(A) development of criteria for identifying and prioritizing the most critical problems and needs; and

(B) a framework for development of watershed or regional restoration plans.

(3) USE OF EXISTING INFORMATION.—In performing the assessment, the Secretary shall, to the maximum extent practicable, use—

(A) information that is available on the date of enactment of this Act; and

(B) ongoing efforts of all participating agencies.

(4) CRITERIA; FRAMEWORK.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop and make available for public review and comment—

(i) criteria for identifying and prioritizing critical problems and needs; and

(ii) a framework for development of watershed or regional restoration plans.

(B) USE OF RESOURCES.—In developing the criteria and framework, the Secretary shall make full use of all available Federal, State, tribal, regional, and local resources.

(5) REPORT.—Not later than October 1, 2002, the Secretary shall submit to Congress a report on the assessment.

(c) RESTORATION PLANS.—

(1) IN GENERAL.—After the report is submitted under subsection (b)(5), the Secretary, in coordination with appropriate Federal, State, tribal, regional, and local agencies, shall—

(A) develop a comprehensive plan for restoring, preserving, and protecting the water resources and ecosystem in each watershed and region in New England; and

(B) submit the plan to Congress.

(2) CONTENTS.—Each restoration plan shall include—

(A) a feasibility report; and

(B) a programmatic environmental impact statement covering the proposed Federal action.

(d) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—After the restoration plans are submitted under subsection (c)(1)(B), the Secretary, in coordination with appropriate Federal, State, tribal, regional, and local agencies, shall identify critical restoration projects that will produce independent, immediate, and substantial restoration, preservation, and protection benefits.

(2) AGREEMENTS.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b) and this section.

(3) PROJECT JUSTIFICATION.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out a critical restoration project under this subsection, the Secretary may determine that the project—

(A) is justified by the environmental benefits derived from the ecosystem; and

(B) shall not need further economic justification if the Secretary determines that the project is cost effective.

(4) TIME LIMITATION.—No critical restoration project may be initiated under this subsection after September 30, 2005.

(5) COST LIMITATION.—Not more than $5,000,000 in Federal funds may be used to carry out a critical restoration project under this subsection.

(e) COST SHARING.—

(1) ASSESSMENT.—

(A) IN GENERAL.—The non-Federal share of the cost of the assessment under subsection (b) shall be 25 percent.

(B) IN-KIND CONTRIBUTIONS.—The non-Federal share may be provided in the form of services, materials, or other in-kind contributions.

(2) RESTORATION PLANS.—

(A) IN GENERAL.—The non-Federal share of the cost of developing the restoration plans under subsection (c) shall be 35 percent.

(B) IN-KIND CONTRIBUTIONS.—Up to 50 percent of the non-Federal share may be provided in the form of services, materials, or other in-kind contributions.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—The non-Federal share of the cost of carrying out a critical restoration project under subsection (d) shall be 35 percent.

(B) IN-KIND CONTRIBUTIONS.—Up to 50 percent of the non-Federal share may be provided in the form of services, materials, or other in-kind contributions.

(C) REQUIRED NON-FEDERAL CONTRIBUTION.—For any critical restoration project, the non-Federal interest shall—

(i) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(ii) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(iii) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(D) CREDIT.—The non-Federal interest shall receive credit for the value of the land, easements, rights-of-way, dredged material disposal areas, and relocations provided under subparagraph (C).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) ASSESSMENT AND RESTORATION PLANS.—There is authorized to be appropriated to carry out subsections (b) and (c) $2,000,000 for each of fiscal years 2001 through 2005.

(2) CRITICAL RESTORATION PROJECTS.—There is authorized to be appropriated to carry out subsection (d) $30,000,000.

SEC. 339. PROJECT DEAUTHORIZATIONS.

The following projects or portions of projects are not authorized after the date of enactment of this Act:

(1) KENNEBUNK RIVER, KENNEBUNK AND KENNEBUNKPORT, MAINE.—The following portion of the project for navigation, Kennebunk River, Maine, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173), is not authorized after the date of enactment of this Act: the portion of the northernmost 6-foot deep anchorage the boundaries of which begin at a point with coordinates N1904693.6500, E418084.2700, thence running south 01 degree 04 minutes 50.3 seconds 35 feet to a point with coordinates N190434.6562, E418084.9301, thence running south 15 degrees 53 minutes 45.5 seconds 416.962 feet to a point with coordinates N190033.6386, E418199.1325, thence running north 03 degrees 11 minutes 30.4 seconds 70 feet to a point with coordinates N190103.5300, E418203.0300, thence running north 17 degrees 58 minutes 18.3 seconds west 384.900 feet to the point of origin.

(2) WALLABOUT CHANNEL, BROOKLYN, NEW YORK.—

(A) IN GENERAL.—The northeastern portion of the project for navigation, Wallabout Channel, Brooklyn, New York, authorized by the Act of March 3, 1899 (30 Stat. 1124, chapter 425), beginning at a point N682,307.40, E638,918.10, thence running along the courses and distances described in subparagraph (B).

(B) COURSES AND DISTANCES.—The courses and distances referred to in subparagraph (A) are the following:

(i) South 85 degrees, 44 minutes, 13 seconds East 87.94 feet (coordinate: N682,300.86, E639,005.80).

(ii) North 74 degrees, 41 minutes, 30 seconds East 271.54 feet (coordinate: N682,372.55, E639,267.71).

(iii) South 4 degrees, 46 minutes, 02 seconds West 170.95 feet (coordinate: N682,202.20, E639,253.50).

(iv) South 4 degrees, 46 minutes, 02 seconds West 239.97 feet (coordinate: N681,963.06, E639,233.56).

(v) North 50 degrees, 48 minutes, 26 seconds West 305.48 feet (coordinate: N682,156.10, E638,996.80).

(vi) North 3 degrees, 33 minutes, 25 seconds East 145.04 feet (coordinate: N682.300.86, E639,005.80).

(3) NEW YORK AND NEW JERSEY CHANNELS, NEW YORK AND NEW JERSEY.—The portion of the project for navigation, New York and

New Jersey Channels, New York and New Jersey, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030, chapter 831), and modified by section 101 of the River and Harbor Act of 1950 (64 Stat. 164), consisting of a 35-foot-deep channel beginning at a point along the western limit of the authorized project, N644100.411, E2129256.91, thence running southeast about 38.25 feet to a point N644068.885, E2129278.565, thence running south about 1163.86 feet to a point N642912.127, E2129150.209, thence running southwest about 56.9 feet to a point N642864.09, E2129119.725, thence running north along the western limit of the project to the point of origin.

(4) WARWICK COVE, RHODE ISLAND.—The portion of the project for navigation, Warwick Cove, Rhode Island, authorized under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), which is located within the 5-acre, 6-foot anchorage area west of the channel: beginning at a point with coordinates N221,150.027, E528,960.028, thence running southerly about 257.39 feet to a point with coordinates N220,892.638, E528,960.028, thence running northwesterly about 346.41 feet to a point with coordinates N221,025.270, E528,885.780, thence running northeasterly about 145.18 feet to the point of origin.

TITLE IV—STUDIES

SEC. 401. BALDWIN COUNTY, ALABAMA.

The Secretary shall conduct a study to determine the feasibility of carrying out beach erosion control, storm damage reduction, and other measures along the shores of Baldwin County, Alabama.

SEC. 402. BONO, ARKANSAS.

The Secretary shall conduct a study to determine the feasibility of, and need for, a reservoir and associated improvements to provide for flood control, recreation, water quality, and fish and wildlife in the vicinity of Bono, Arkansas.

SEC. 403. CACHE CREEK BASIN, CALIFORNIA.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the project for flood control, Cache Creek Basin, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112), to authorize construction of features to mitigate impacts of the project on the storm drainage system of the city of Woodland, California, that have been caused by construction of a new south levee of the Cache Creek Settling Basin.

(b) REQUIRED ELEMENTS.—The study shall include consideration of—

(1) an outlet works through the Yolo Bypass capable of receiving up to 1,600 cubic feet per second of storm drainage from the city of Woodland and Yolo County;

(2) a low-flow cross-channel across the Yolo Bypass, including all appurtenant features, that is sufficient to route storm flows of 1,600 cubic feet per second between the old and new south levees of the Cache Creek Settling Basin, across the Yolo Bypass, and into the Tule Canal; and

(3) such other features as the Secretary determines to be appropriate.

SEC. 404. ESTUDILLO CANAL WATERSHED, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of constructing flood control measures in the Estudillo Canal watershed, San Leandro, Calfornia.

SEC. 405. LAGUNA CREEK WATERSHED, CALIFORNIA.

The Secretary shall conduct a study to determine the feasibility of constructing flood control measures in the Laguna Creek watershed, Fremont, California, to provide a 100-year level of flood protection.

SEC. 406. OCEANSIDE, CALIFORNIA.

Not later than 32 months after the date of enactment of this Act, the Secretary shall conduct a special study, at full Federal expense, of plans—

(1) to mitigate for the erosion and other impacts resulting from the construction of Camp Pendleton Harbor, Oceanside, California, as a wartime measure; and

(2) to restore beach conditions along the affected public and private shores to the conditions that existed before the construction of Camp Pendleton Harbor.

SEC. 407. SAN JACINTO WATERSHED, CALIFORNIA.

(a) IN GENERAL.—The Secretary shall conduct a watershed study for the San Jacinto watershed, California.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000.

SEC. 408. CHOCTAWHATCHEE RIVER, FLORIDA.

The Secretary shall conduct a reconnaissance study to determine the Federal interest in dredging the mouth of the Choctawhatchee River, Florida, to remove the sand plug.

SEC. 409. EGMONT KEY, FLORIDA.

The Secretary shall conduct a study to determine the feasibility of stabilizing the historic fortifications and beach areas of Egmont Key, Florida, that are threatened by erosion.

SEC. 410. FERNANDINA HARBOR, FLORIDA.

The Secretary shall conduct a study to determine the feasibility of realigning the access channel in the vicinity of the Fernandina Beach Municipal Marina as part of project for navigation, Fernandina, Florida, authorized by the first section of the Act of June 14, 1880 (21 Stat. 186, chapter 211).

SEC. 411. UPPER OCKLAWAHA RIVER AND APOPKA/PALATLAKAHA RIVER BASINS, FLORIDA.

(a) IN GENERAL.—The Secretary shall conduct a restudy of flooding and water quality issues in—

(1) the upper Ocklawaha River basin, south of the Silver River; and

(2) the Apopka River and Palatlakaha River basins.

(b) REQUIRED ELEMENTS.—In carrying out subsection (a), the Secretary shall review the report of the Chief of Engineers on the Four River Basins, Florida, project, published as House Document No. 585, 87th Congress, and other pertinent reports to determine the feasibility of measures relating to comprehensive watershed planning for water conservation, flood control, environmental restoration and protection, and other issues relating to water resources in the river basins described in subsection (a).

SEC. 412. BOISE RIVER, IDAHO.

The Secretary shall conduct a study to determine the feasibility of carrying out multi-objective flood control activities along the Boise River, Idaho.

SEC. 413. WOOD RIVER, IDAHO.

The Secretary shall conduct a study to determine the feasibility of carrying out multi-objective flood control and flood mitigation planning projects along the Wood River in Blaine County, Idaho.

SEC. 414. CHICAGO, ILLINOIS.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out projects for water-related urban improvements, including infrastructure development and improvements, in Chicago, Illinois.

(b) SITES.—Under subsection (a), the Secretary shall study—

(1) the USX/Southworks site;

(2) Calumet Lake and River;

(3) the Canal Origins Heritage Corridor; and

(4) Ping Tom Park.

(c) USE OF INFORMATION; CONSULTATION.—In carrying out this section, the Secretary shall use available information from, and consult with, appropriate Federal, State, and local agencies.

SEC. 415. BOEUF AND BLACK, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of deepening the navigation channel of the Atchafalaya River and Bayous Chene, Boeuf and Black, Louisiana, from 20 feet to 35 feet.

SEC. 416. PORT OF IBERIA, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of constructing navigation improvements for ingress and egress between the Port of Iberia, Louisiana, and the Gulf of Mexico, including channel widening and deepening.

SEC. 417. SOUTH LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of constructing projects for hurricane protection in the coastal area of the State of Louisiana between Morgan City and the Pearl River.

SEC. 418. ST. JOHN THE BAPTIST PARISH, LOUISIANA.

The Secretary shall conduct a study to determine the feasibility of constructing urban flood control measures on the east bank of the Mississippi River in St. John the Baptist Parish, Louisiana.

SEC. 419. PORTLAND HARBOR, MAINE.

The Secretary shall conduct a study to determine the adequacy of the channel depth at Portland Harbor, Maine.

SEC. 420. PORTSMOUTH HARBOR AND PISCATAQUA RIVER, MAINE AND NEW HAMPSHIRE.

The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Portsmouth Harbor and Piscataqua River, Maine and New Hampshire, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and modified by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), to increase the authorized width of turning basins in the Piscataqua River to 1000 feet.

SEC. 421. SEARSPORT HARBOR, MAINE.

The Secretary shall conduct a study to determine the adequacy of the channel depth at Searsport Harbor, Maine.

SEC. 422. MERRIMACK RIVER BASIN, MASSACHUSETTS AND NEW HAMPSHIRE.

(a) IN GENERAL.—The Secretary shall conduct a comprehensive study of the water resources needs of the Merrimack River basin, Massachusetts and New Hampshire, in the manner described in section 729 of the Water Resources Development Act of 1986 (100 Stat. 4164).

(b) CONSIDERATION OF OTHER STUDIES.—In carrying out this section, the Secretary may take into consideration any studies conducted by the University of New Hampshire on environmental restoration of the Merrimack River System.

SEC. 423. PORT OF GULFPORT, MISSISSIPPI.

The Secretary shall conduct a study to determine the feasibility of modifying the project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094) and modified by section 4(n) of the Water Resources Development Act of 1988 (102 Stat. 4017)—

(1) to widen the channel from 300 feet to 450 feet; and

(2) to deepen the South Harbor channel from 36 feet to 42 feet and the North Harbor channel from 32 feet to 36 feet.

SEC. 424. UPLAND DISPOSAL SITES IN NEW HAMPSHIRE.

In conjunction with the State of New Hampshire, the Secretary shall conduct a study to identify and evaluate potential upland disposal sites for dredged material originating from harbor areas located within the State.

SEC. 425. SOUTHWEST VALLEY, ALBUQUERQUE, NEW MEXICO.

Section 433 of the Water Resources Development Act of 1999 (113 Stat. 327) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The''; and

(2) by adding at the end the following:

''(b) EVALUATION OF FLOOD DAMAGE REDUCTION MEASURES.—In conducting the study, the Secretary shall evaluate flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies of the Corps of Engineers concerning the frequency of flooding, the drainage area, and the amount of runoff.''.

SEC. 426. CUYAHOGA RIVER, OHIO.

Section 438 of the Water Resources Development Act of 1996 (110 Stat. 3746) is amended to read as follows:

''SEC. 438. CUYAHOGA RIVER, OHIO.

''(a) IN GENERAL.—The Secretary shall—

''(1) conduct a study to evaluate the structural integrity of the bulkhead system located on the Federal navigation channel along the Cuyahoga River near Cleveland, Ohio; and

''(2) provide to the non-Federal interest design analysis, plans and specifications, and cost estimates for repair or replacement of the bulkhead system.

''(b) COST SHARING.—The non-Federal share of the cost of the study shall be 35 percent.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.''.

SEC. 427. DUCK CREEK WATERSHED, OHIO.

The Secretary shall conduct a study to determine the feasibility of carrying out flood control, environmental restoration, and aquatic ecosystem restoration measures in the Duck Creek watershed, Ohio.

SEC. 428. FREMONT, OHIO.

In consultation with appropriate Federal, State, and local agencies, the Secretary shall conduct a study to determine the feasibility of carrying out projects for water supply and environmental restoration at the Ballville Dam, on the Sandusky River at Fremont, Ohio.

SEC. 429. GRAND LAKE, OKLAHOMA.

(a) EVALUATION.—The Secretary shall—

(1) evaluate the backwater effects specifically due to flood control operations on land around Grand Lake, Oklahoma; and

(2) not later than 180 days after the date of enactment of this Act, submit to Congress a report on whether Federal actions have been a significant cause of the backwater effects.

(b) FEASIBILITY STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of—

(A) addressing the backwater effects of the operation of the Pensacola Dam, Grand/Neosho River basin; and

(B) purchasing easements for any land that has been adversely affected by backwater flooding in the Grand/Neosho River basin.

(2) COST SHARING.—If the Secretary determines under subsection (a)(2) that Federal actions have been a significant cause of the backwater effects, the Federal share of the costs of the feasibility study under paragraph (1) shall be 100 percent.

SEC. 430. DREDGED MATERIAL DISPOSAL SITE, RHODE ISLAND.

In consultation with the Administrator of the Environmental Protection Agency, the Secretary shall conduct a study to determine the feasibility of designating a permanent site in the State of Rhode Island for the disposal of dredged material.

SEC. 431. CHICKAMAUGA LOCK AND DAM, TENNESSEE.

(a) IN GENERAL.—The Secretary shall use $200,000, from funds transferred from the Tennessee Valley Authority, to prepare a report of the Chief of Engineers for a replacement lock at Chickamauga Lock and Dam, Tennessee.

(b) FUNDING.—As soon as practicable after the date of enactment of this Act, the Tennessee Valley Authority shall transfer the funds described in subsection (a) to the Secretary.

SEC. 432. GERMANTOWN, TENNESSEE.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood control and related purposes along Miller Farms Ditch, Howard Road Drainage, and Wolf River Lateral D, Germantown, Tennessee.

(b) JUSTIFICATION ANALYSIS.—The Secretary shall include environmental and water quality benefits in the justification analysis for the project.

(c) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study under subsection (a) shall not exceed 25 percent.

(2) NON-FEDERAL SHARE.—The Secretary—

(A) shall credit toward the non-Federal share of the costs of the feasibility study the value of the in-kind services provided by the non-Federal interests relating to the planning, engineering, and design of the project, whether carried out before or after execution of the feasibility study cost-sharing agreement; and

(B) for the purposes of subparagraph (A), shall consider the feasibility study to be conducted as part of the Memphis Metro Tennessee and Mississippi study authorized by resolution of the Committee on Transportation and Infrastructure, dated March 7, 1996.

SEC. 433. HORN LAKE CREEK AND TRIBUTARIES, TENNESSEE AND MISSISSIPPI.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of modifying the project for flood control, Horn Lake Creek and Tributaries, Tennessee and Mississippi, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), to provide a high level of urban flood protection to development along Horn Lake Creek.

(b) REQUIRED ELEMENT.—The study shall include a limited reevaluation of the project to determine the appropriate design, as desired by the non-Federal interests.

SEC. 434. CEDAR BAYOU, TEXAS.

The Secretary shall conduct a study to determine the feasibility of constructing a 12-foot-deep and 125-foot-wide channel from the Houston Ship Channel to Cedar Bayou, mile marker 11, Texas.

SEC. 435. HOUSTON SHIP CHANNEL, TEXAS.

The Secretary shall conduct a study to determine the feasibility of constructing barge lanes adjacent to both sides of the Houston Ship Channel from Bolivar Roads to Morgan Point, Texas, to a depth of 12 feet.

SEC. 436. SAN ANTONIO CHANNEL, TEXAS.

The Secretary shall conduct a study to determine the feasibility of modifying the project for San Antonio Channel improvement, Texas, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1259), and modified by section 103 of the Water Resources Development Act of 1976 (90 Stat. 2921), to add environmental restoration and recreation as project purposes.

SEC. 437. VERMONT DAMS REMEDIATION.

(a) IN GENERAL.—The Secretary shall—

(1) conduct a study to evaluate the structural integrity and need for modification or removal of each dam located in the State of Vermont and described in subsection (b); and

(2) provide to the non-Federal interest design analysis, plans and specifications, and cost estimates for repair, restoration, modification, and removal of each dam described in subsection (b).

(b) DAMS TO BE EVALUATED.—The dams referred to in subsection (a) are the following:

(1) East Barre Dam, Barre Town.

(2) Wrightsville Dam, Middlesex-Montpelier.

(3) Lake Sadawga Dam, Whitingham.

(4) Dufresne Pond Dam, Manchester.

(5) Knapp Brook Site 1 Dam, Cavendish.

(6) Lake Bomoseen Dam, Castleton.

(7) Little Hosmer Dam, Craftsbury.

(8) Colby Pond Dam, Plymouth.

(9) Silver Lake Dam, Barnard.

(10) Gale Meadows Dam, Londonderry.

(c) COST SHARING.—The non-Federal share of the cost of the study under subsection (a) shall be 35 percent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000.

SEC. 438. WHITE RIVER WATERSHED BELOW MUD MOUNTAIN DAM, WASHINGTON.

(a) REVIEW.—The Secretary shall review the report of the Chief of Engineers on the Upper Puyallup River, Washington, dated 1936, authorized by section 5 of the Act of June 22, 1936 (49 Stat. 1591, chapter 688), the Puget Sound and adjacent waters report authorized by section 209 of the Flood Control Act of 1962 (76 Stat. 1197), and other pertinent reports, to determine whether modifications to the recommendations contained in the reports are advisable to provide improvements to the water resources and watershed of the White River watershed downstream of Mud Mountain Dam, Washington.

(b) ISSUES.—In conducting the review under subsection (a), the Secretary shall review, with respect to the Lake Tapps community and other parts of the watershed—

(1) constructed and natural environs;

(2) capital improvements;

(3) water resource infrastructure;

(4) ecosystem restoration;

(5) flood control;

(6) fish passage;

(7) collaboration by, and the interests of, regional stakeholders;

(8) recreational and socioeconomic interests; and

(9) other issues determined by the Secretary.

SEC. 439. WILLAPA BAY, WASHINGTON.

(a) STUDY.—The Secretary shall conduct a study to determine the feasibility of providing coastal erosion protection for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington.

(b) PROJECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including any requirement for economic justification), the Secretary may construct and maintain a project to provide coastal erosion protection for the Tribal Reservation of the Shoalwater Bay Indian Tribe on Willapa Bay, Washington, at full Federal expense, if the Secretary determines that the project—

(A) is a cost-effective means of providing erosion protection;

(B) is environmentally acceptable and technically feasible; and

(C) will improve the economic and social conditions of the Shoalwater Bay Indian Tribe.

(2) LAND, EASEMENTS, AND RIGHTS-OF-WAY.—As a condition of the project described in paragraph (1), the Shoalwater Bay Indian Tribe shall provide land, easements, rights-of-way, and dredged material disposal areas necessary for the implementation of the project.

SEC. 440. UPPER MISSISSIPPI RIVER BASIN SEDIMENT AND NUTRIENT STUDY.

(a) IN GENERAL.—The Secretary, in conjunction with the Secretary of Agriculture

and the Secretary of the Interior, shall conduct a study to—

(1) identify and evaluate significant sources of sediment and nutrients in the upper Mississippi River basin;

(2) quantify the processes affecting mobilization, transport, and fate of those sediments and nutrients on land and in water; and

(3) quantify the transport of those sediments and nutrients to the upper Mississippi River and the tributaries of the upper Mississippi River.

(b) STUDY COMPONENTS.—

(1) COMPUTER MODELING.—In carrying out the study under this section, the Secretary shall develop computer models of the upper Mississippi River basin, at the subwatershed and basin scales, to—

(A) identify and quantify sources of sediment and nutrients; and

(B) examine the effectiveness of alternative management measures.

(2) RESEARCH.—In carrying out the study under this section, the Secretary shall conduct research to improve the understanding of—

(A) fate processes and processes affecting sediment and nutrient transport, with emphasis on nitrogen and phosphorus cycling and dynamics;

(B) the influences on sediment and nutrient losses of soil type, slope, climate, vegetation cover, and modifications to the stream drainage network; and

(C) river hydrodynamics, in relation to sediment and nutrient transformations, retention, and transport.

(c) USE OF INFORMATION.—On request of a relevant Federal agency, the Secretary may provide information for use in applying sediment and nutrient reduction programs associated with land-use improvements and land management practices.

(d) REPORTS.—

(1) PRELIMINARY REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a preliminary report that outlines work being conducted on the study components described in subsection (b).

(2) FINAL REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the results of the study under this section, including any findings and recommendations of the study.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2001 through 2005.

(2) FEDERAL SHARE.—The Federal share of the cost of carrying out this section shall be 50 percent.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. VISITORS CENTERS.

(a) JOHN PAUL HAMMERSCHMIDT VISITORS CENTER, ARKANSAS.—Section 103(e) of the Water Resources Development Act of 1992 (106 Stat. 4813) is amended by striking ''Arkansas River, Arkansas.'' and inserting ''at Fort Smith, Arkansas, on land provided by the city of Fort Smith.''.

(b) LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE, MISSISSIPPI.—Section 103(c)(2) of the Water Resources Development Act of 1992 (106 Stat. 4811) is amended in the first sentence by striking ''in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi.'' and inserting ''between the Mississippi River Bridge and the waterfront in downtown Vicksburg, Mississippi.''.

SEC. 502. CALFED BAY-DELTA PROGRAM ASSISTANCE, CALIFORNIA.

(a) IN GENERAL.—The Secretary—

(1) may participate with the appropriate Federal and State agencies in the planning and management activities associated with the CALFED Bay-Delta Program referred to in the California Bay-Delta Environmental Enhancement and Water Security Act (division E of Public Law 104–208; 110 Stat. 3009–748); and

(2) shall, to the maximum extent practicable and in accordance with applicable law, integrate the activities of the Corps of Engineers in the San Joaquin and Sacramento River basins with the long-term goals of the CALFED Bay-Delta Program.

(b) COOPERATIVE ACTIVITIES.—In participating in the CALFED Bay-Delta Program under subsection (a), the Secretary may—

(1) accept and expend funds from other Federal agencies and from non-Federal public, private, and nonprofit entities to carry out ecosystem restoration projects and activities associated with the CALFED Bay-Delta Program; and

(2) in carrying out the projects and activities, enter into contracts, cooperative research and development agreements, and cooperative agreements with Federal and non-Federal private, public, and nonprofit entities.

(c) AREA COVERED BY PROGRAM.—For the purposes of this section, the area covered by the CALFED Bay-Delta Program shall be the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and its watershed (known as the ''Bay-Delta Estuary''), as identified in the Framework Agreement Between the Governor's Water Policy Council of the State of California and the Federal Ecosystem Directorate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2002 through 2005.

SEC. 503. LAKE SIDNEY LANIER, GEORGIA, HOME PRESERVATION.

(a) DEFINITIONS.—In this section:

(1) EASEMENT PROHIBITION.—The term ''easement prohibition'' means the rights acquired by the United States in the flowage easements to prohibit structures for human habitation.

(2) ELIGIBLE PROPERTY OWNER.—The term ''eligible property owner'' means a person that owns a structure for human habitation that was constructed before January 1, 2000, and is located on fee land or in violation of the flowage easement.

(3) FEE LAND.—The term ''fee land'' means the land acquired in fee title by the United States for the Lake.

(4) FLOWAGE EASEMENT.—The term ''flowage easement'' means an interest in land that the United States acquired that provides the right to flood, to the elevation of 1,085 feet above mean sea level (among other rights), land surrounding the Lake.

(5) LAKE.—The term ''Lake'' means the Lake Sidney Lanier, Georgia, project of the Corps of Engineers authorized by the first section of the Act of July 24, 1946 (60 Stat. 635, chapter 595).

(b) ESTABLISHMENT OF PROGRAM.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish, and provide public notice of, a program—

(1) to convey to eligible property owners the right to maintain existing structures for human habitation on fee land; or

(2) to release eligible property owners from the easement prohibition as it applies to existing structures for human habitation on the flowage easements (if the floor elevation of the human habitation area is above the elevation of 1,085 feet above mean sea level).

(c) REGULATIONS.—To carry out subsection (b), the Secretary shall promulgate regulations that—

(1) require the Corps of Engineers to suspend any activities to require eligible property owners to remove structures for human habitation that encroach on fee land or flowage easements;

(2) provide that a person that owns a structure for human habitation on land adjacent to the Lake shall have a period of 1 year after the date of enactment of this Act—

(A) to request that the Corps of Engineers resurvey the property of the person to determine if the person is an eligible property owner under this section; and

(B) to pay the costs of the resurvey to the Secretary for deposit in the Corps of Engineers account in accordance with section 2695 of title 10, United States Code;

(3) provide that when a determination is made, through a private survey or through a boundary line maintenance survey conducted by the Federal Government, that a structure for human habitation is located on the fee land or a flowage easement—

(A) the Corps of Engineers shall immediately notify the property owner by certified mail; and

(B) the property owner shall have a period of 90 days from receipt of the notice in which to establish that the structure was constructed prior to January 1, 2000, and that the property owner is an eligible property owner under this section;

(4) provide that any private survey shall be subject to review and approval by the Corps of Engineers to ensure that the private survey conforms to the boundary line established by the Federal Government;

(5) require the Corps of Engineers to offer to an eligible property owner a conveyance or release that—

(A) on fee land, conveys by quitclaim deed the minimum land required to maintain the human habitation structure, reserving the right to flood to the elevation of 1,085 feet above mean sea level, if applicable;

(B) in a flowage easement, releases by quitclaim deed the easement prohibition;

(C) provides that—

(i) the existing structure shall not be extended further onto fee land or into the flowage easement; and

(ii) additional structures for human habitation shall not be placed on fee land or in a flowage easement; and

(D) provides that—

(i)(I) the United States shall not be liable or responsible for damage to property or injury to persons caused by operation of the Lake; and

(II) no claim to compensation shall accrue from the exercise of the flowage easement rights; and

(ii) the waiver described in clause (i) of any and all claims against the United States shall be a covenant running with the land and shall be fully binding on heirs, successors, assigns, and purchasers of the property subject to the waiver; and

(6) provide that the eligible property owner shall—

(A) agree to an offer under paragraph (5) not later than 90 days after the offer is made by the Corps of Engineers; or

(B) comply with the real property rights of the United States and remove the structure for human habitation and any other unauthorized real or personal property.

(d) OPTION TO PURCHASE INSURANCE.—Nothing in this section precludes a property owner from purchasing flood insurance to which the property owner may be eligible.

(e) PRIOR ENCROACHMENT RESOLUTIONS.—Nothing in this section affects any resolution, before the date of enactment of this Act, of an encroachment at the Lake, whether the resolution was effected through sale, exchange, voluntary removal, or alteration or removal through litigation.

(f) PRIOR REAL PROPERTY RIGHTS.—Nothing in this section—

(1) takes away, diminishes, or eliminates any other real property rights acquired by the United States at the Lake; or

(2) affects the ability of the United States to require the removal of any and all encroachments that are constructed or placed on United States real property or flowage easements at the Lake after December 31, 1999.

SEC. 504. CONVEYANCE OF LIGHTHOUSE, ONTONAGON, MICHIGAN.

(a) IN GENERAL.—The Secretary may convey to the Ontonagon County Historical Society, at full Federal expense—

(1) the lighthouse at Ontonagon, Michigan; and

(2) the land underlying and adjacent to the lighthouse (including any improvements on the land) that is under the jurisdiction of the Secretary.

(b) MAP.—The Secretary shall—

(1) determine—

(A) the extent of the land conveyance under this section; and

(B) the exact acreage and legal description of the land to be conveyed under this section; and

(2) prepare a map that clearly identifies any land to be conveyed.

(c) CONDITIONS.—The Secretary may—

(1) obtain all necessary easements and rights-of-way; and

(2) impose such terms, conditions, reservations, and restrictions on the conveyance;

as the Secretary determines to be necessary to protect the public interest.

(d) ENVIRONMENTAL RESPONSE.—To the extent required under any applicable law, the Secretary shall be responsible for any necessary environmental response required as a result of the prior Federal use or ownership of the land and improvements conveyed under this section.

(e) RESPONSIBILITIES AFTER CONVEYANCE.—After the conveyance of land under this section, the Ontonagon County Historical Society shall be responsible for any additional operation, maintenance, repair, rehabilitation, or replacement costs associated with—

(1) the lighthouse; or

(2) the conveyed land and improvements.

(f) APPLICABILITY OF ENVIRONMENTAL LAW.—Nothing in this section affects the potential liability of any person under any applicable environmental law.

SEC. 505. LAND CONVEYANCE, CANDY LAKE, OKLAHOMA.

Section 563(c) of the Water Resources Development Act of 1999 (113 Stat. 357) is amended—

(1) in paragraph (1)(B), by striking ''a deceased'' and inserting ''an''; and

(2) by adding at the end the following:

''(4) COSTS OF NEPA COMPLIANCE.—The Federal Government shall assume the costs of any Federal action under this subsection that is carried out for the purpose of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.''.

SEC. 506. LAND CONVEYANCE, RICHARD B. RUSSELL DAM AND LAKE, SOUTH CAROLINA.

Section 563 of the Water Resources Development Act of 1999 (113 Stat. 355) is amended by striking subsection (i) and inserting the following:

''(i) RICHARD B. RUSSELL DAM AND LAKE, SOUTH CAROLINA.—

''(1) IN GENERAL.—The Secretary shall convey to the State of South Carolina all right, title, and interest of the United States in and to the parcels of land described in paragraph (2)(A) that are being managed, as of August 17, 1999, by the South Carolina Department of Natural Resources for fish and wildlife mitigation purposes for the Richard B. Russell Dam and Lake, South Carolina, project authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1420).

''(2) LAND DESCRIPTION.—

''(A) IN GENERAL.—The parcels of land to be conveyed are described in Exhibits A, F, and H of Army Lease No. DACW21–1–93–0910 and associated supplemental agreements.

''(B) SURVEY.—The exact acreage and legal description of the land shall be determined by a survey satisfactory to the Secretary, with the cost of the survey borne by the State.

''(3) COSTS OF CONVEYANCE.—The State shall be responsible for all costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

''(4) PERPETUAL STATUS.—

''(A) IN GENERAL.—All land conveyed under this subsection shall be retained in public ownership and shall be managed in perpetuity for fish and wildlife mitigation purposes in accordance with a plan approved by the Secretary.

''(B) REVERSION.—If any parcel of land is not managed for fish and wildlife mitigation purposes in accordance with the plan, title to the parcel shall revert to the United States.

''(5) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this subsection as the Secretary considers appropriate to protect the interests of the United States.

''(6) FISH AND WILDLIFE MITIGATION AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall pay the State of South Carolina $4,850,000, subject to the Secretary and the State entering into a binding agreement for the State to manage for fish and wildlife mitigation purposes in perpetuity the parcels of land conveyed under this subsection.

''(B) FAILURE OF PERFORMANCE.—The agreement shall specify the terms and conditions under which payment will be made and the rights of, and remedies available to, the Federal Government to recover all or a portion of the payment if the State fails to manage any parcel in a manner satisfactory to the Secretary.''.

SEC. 507. CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION.

(a) TERRESTRIAL WILDLIFE HABITAT RESTORATION.—Section 602 of the Water Resources Development Act of 1999 (113 Stat. 385) is amended—

(1) in subsection (a)(4)(C)(i), by striking subclause (I) and inserting the following:

''(I) fund, from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program and through grants to the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe—

''(aa) the terrestrial wildlife habitat restoration programs being carried out as of August 17, 1999, on Oahe and Big Bend project land at a level that does not exceed the greatest amount of funding that was provided for the programs during a previous fiscal year; and

''(bb) the carrying out of plans developed under this section; and''; and

(2) in subsection (b)(4)(B), by striking ''section 604(d)(3)(A)(iii)'' and inserting ''section 604(d)(3)(A)''.

(b) SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.—Section 603 of the Water Resources Development Act of 1999 (113 Stat. 388) is amended—

(1) in subsection (c)(2), by striking ''The'' and inserting ''In consultation with the State of South Dakota, the''; and

(2) in subsection (d)—

(A) in paragraph (2), by inserting ''Department of Game, Fish and Parks of the'' before ''State of''; and

(B) in paragraph (3)(A)(ii)—

(i) in subclause (I), by striking ''transferred'' and inserting ''transferred, or to be transferred,''; and

(ii) by striking subclause (II) and inserting the following:

''(II) fund all costs associated with the lease, ownership, management, operation, administration, maintenance, or development of recreation areas and other land that are transferred, or to be transferred, to the State of South Dakota by the Secretary;''.

(c) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.—Section 604 of the Water Resources Development Act of 1999 (113 Stat. 389) is amended—

(1) in subsection (c)(2), by striking ''The'' and inserting ''In consultation with the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe, the''; and

(2) in subsection (d)—

(A) in paragraph (2), by inserting ''as tribal funds'' after ''for use''; and

(B) in paragraph (3)(A)(ii)—

(i) in subclause (I), by striking ''transferred'' and inserting ''transferred, or to be transferred,''; and

(ii) by striking subclause (II) and inserting the following:

''(II) fund all costs associated with the lease, ownership, management, operation, administration, maintenance, or development of recreation areas and other land that are transferred, or to be transferred, to the respective affected Indian Tribe by the Secretary;''.

(d) TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.—Section 605 of the Water Resources Development Act of 1999 (113 Stat. 390) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (B), by striking ''in perpetuity'' and inserting ''for the life of the Mni Wiconi project'';

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) DEADLINE FOR TRANSFER OF RECREATION AREAS.—Under subparagraph (A), the Secretary shall transfer recreation areas not later than January 1, 2002.'';

(2) in subsection (c)—

(A) by redesignating paragraph (1) as paragraph (1)(A);

(B) by redesignating paragraphs (2) through (4) as subparagraphs (B) through (D), respectively, of paragraph (1);

(C) in paragraph (1)—

(i) in subparagraph (C), (as redesignated by subparagraph (B)), by inserting ''and'' after the semicolon; and

(ii) in subparagraph (D) (as redesignated by subparagraph (B)), by striking ''and'' and inserting ''or''; and

(D) by redesignating paragraph (5) as paragraph (2);

(3) in subsection (d), by striking paragraph (2) and inserting the following:

''(2) STRUCTURES.—

''(A) IN GENERAL.—The map shall identify all land and structures to be retained as necessary for continuation of the operation, maintenance, repair, replacement, rehabilitation, and structural integrity of the dams and related flood control and hydropower structures.

''(B) LEASE OF RECREATION AREAS.—

''(i) IN GENERAL.—The Secretary shall lease to the State of South Dakota in perpetuity all or part of the following recreation areas, within the boundaries determined under clause (ii), that are adjacent to land received by the State of South Dakota under this title:

''(I) OAHE DAM AND LAKE.—

''(aa) Downstream Recreation Area.

''(bb) West Shore Recreation Area.

''(cc) East Shore Recreation Area.

''(dd) Tailrace Recreation Area.

''(II) FORT RANDALL DAM AND LAKE FRANCIS CASE.—

''(aa) Randall Creek Recreation Area.

''(bb) South Shore Recreation Area.

''(cc) Spillway Recreation Area.

''(III) GAVINS POINT DAM AND LEWIS AND CLARK LAKE.—Pierson Ranch Recreation Area.

''(ii) LEASE BOUNDARIES.—The Secretary shall determine the boundaries of the recreation areas in consultation with the State of South Dakota.'';

(4) in subsection (f)(1), by striking ''Federal law'' and inserting ''a Federal law specified in section 607(a)(6) or any other Federal law'';

(5) in subsection (g), by striking paragraph (3) and inserting the following:

''(3) EASEMENTS AND ACCESS.—

''(A) IN GENERAL.—Not later than 180 days after a request by the State of South Dakota, the Secretary shall provide to the State of South Dakota easements and access on land and water below the level of the exclusive flood pool outside Indian reservations in the State of South Dakota for recreational and other purposes (including for boat docks, boat ramps, and related structures).

''(B) NO EFFECT ON MISSION.—The easements and access referred to in subparagraph (A) shall not prevent the Corps from carrying out its mission under the Act entitled 'An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved December 22, 1944 (commonly known as the 'Flood Control Act of 1944') (58 Stat. 887)).'';

(6) in subsection (h), by striking ''of this Act'' and inserting ''of law''; and

(7) by adding at the end the following:

''(j) CLEANUP OF LAND AND RECREATION AREAS.—

''(1) IN GENERAL.—Not later than 10 years after the date of enactment of this subsection, the Secretary shall clean up each open dump and hazardous waste site identified by the Secretary and located on the land and recreation areas described in subsections (b) and (c).

''(2) FUNDING.—Cleanup activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program.

''(k) CULTURAL RESOURCES ADVISORY COMMISSION.—

''(1) IN GENERAL.—The State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe may establish an advisory commission to be known as the 'Cultural Resources Advisory Commission' (referred to in this subsection as the 'Commission').

''(2) MEMBERSHIP.—The Commission shall be composed of—

''(A) 1 member representing the State of South Dakota;

''(B) 1 member representing the Cheyenne River Sioux Tribe;

''(C) 1 member representing the Lower Brule Sioux Tribe; and

''(D) upon unanimous vote of the members of the Commission described in subparagraphs (A) through (C), a member representing a federally recognized Indian Tribe located in the State of North Dakota or South Dakota that is historically or traditionally affiliated with the Missouri River Basin in South Dakota.

''(3) DUTY.—The duty of the Commission shall be to provide advice on the identification, protection, and preservation of cultural resources on the land and recreation areas described in subsections (b) and (c) of this section and subsections (b) and (c) of section 606.

''(4) RESPONSIBILITIES, POWERS, AND ADMINISTRATION.—The Governor of the State of South Dakota, the Chairman of the Cheyenne River Sioux Tribe, and the Chairman of the Lower Brule Sioux Tribe are encouraged to unanimously enter into a formal written agreement, not later than 1 year after the date of enactment of this subsection, to establish the role, responsibilities, powers, and administration of the Commission.

''(l) INVENTORY AND STABILIZATION OF CULTURAL AND HISTORIC SITES.—

''(1) IN GENERAL.—Not later than 10 years after the date of enactment of this subsection, the Secretary, through contracts entered into with the State of South Dakota, the affected Indian Tribes, and other Indian Tribes in the States of North Dakota and South Dakota, shall inventory and stabilize each cultural site and historic site located on the land and recreation areas described in subsections (b) and (c).

''(2) FUNDING.—Inventory and stabilization activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program.''.

(e) TRANSFER OF CORPS OF ENGINEERS LAND FOR AFFECTED INDIAN TRIBES.—Section 606 of the Water Resources Development Act of 1999 (113 Stat. 393) is amended—

(1) in subsection (a)(1), by striking ''The Secretary'' and inserting ''Not later than January 1, 2002, the Secretary'';

(2) in subsection (b)(1), by striking ''Big Bend and Oahe'' and inserting ''Oahe, Big Bend, and Fort Randall'';

(3) in subsection (d), by striking paragraph (2) and inserting the following:

''(2) STRUCTURES.—

''(A) IN GENERAL.—The map shall identify all land and structures to be retained as necessary for continuation of the operation, maintenance, repair, replacement, rehabilitation, and structural integrity of the dams and related flood control and hydropower structures.

''(B) LEASE OF RECREATION AREAS.—

''(i) IN GENERAL.—The Secretary shall lease to the Lower Brule Sioux Tribe in perpetuity all or part of the following recreation areas at Big Bend Dam and Lake Sharpe:

''(I) Left Tailrace Recreation Area.

''(II) Right Tailrace Recreation Area.

''(III) Good Soldier Creek Recreation Area.

''(ii) LEASE BOUNDARIES.—The Secretary shall determine the boundaries of the recreation areas in consultation with the Lower Brule Sioux Tribe.'';

(4) in subsection (f)—

(A) in paragraph (1), by striking ''Federal law'' and inserting ''a Federal law specified in section 607(a)(6) or any other Federal law'';

(B) in paragraph (2), by striking subparagraph (C) and inserting the following:

''(C) EASEMENTS AND ACCESS.—

''(i) IN GENERAL.—Not later than 180 days after a request by an affected Indian Tribe, the Secretary shall provide to the affected Indian Tribe easements and access on land and water below the level of the exclusive flood pool inside the Indian reservation of the affected Indian Tribe for recreational and other purposes (including for boat docks, boat ramps, and related structures).

''(ii) NO EFFECT ON MISSION.—The easements and access referred to in clause (i) shall not prevent the Corps from carrying out its mission under the Act entitled 'An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved December 22, 1944 (commonly known as the 'Flood Control Act of 1944') (58 Stat. 887)).''; and

(C) in paragraph (3)(B), by inserting before the period at the end the following: ''that were administered by the Corps of Engineers as of the date of the land transfer.''; and

(5) by adding at the end the following:

''(h) CLEANUP OF LAND AND RECREATION AREAS.—

''(1) IN GENERAL.—Not later than 10 years after the date of enactment of this subsection, the Secretary shall clean up each open dump and hazardous waste site identified by the Secretary and located on the land and recreation areas described in subsections (b) and (c).

''(2) FUNDING.—Cleanup activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program.

''(i) INVENTORY AND STABILIZATION OF CULTURAL AND HISTORIC SITES.—

''(1) IN GENERAL.—Not later than 10 years after the date of enactment of this subsection, the Secretary, in consultation with the Cultural Resources Advisory Commission established under section 605(k) and through contracts entered into with the State of South Dakota, the affected Indian Tribes, and other Indian Tribes in the States of North Dakota and South Dakota, shall inventory and stabilize each cultural site and historic site located on the land and recreation areas described in subsections (b) and (c).

''(2) FUNDING.—Inventory and stabilization activities under paragraph (1) shall be funded solely from funds made available for operation and maintenance under the Pick-Sloan Missouri River Basin program.

''(j) SEDIMENT CONTAMINATION.—

''(1) IN GENERAL.—Not later than 10 years after the date of enactment of this subsection, the Secretary shall—

''(A) complete a study of sediment contamination in the Cheyenne River; and

''(B) take appropriate remedial action to eliminate any public health and environmental risk posed by the contaminated sediment.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out paragraph (1).''.

(f) BUDGET CONSIDERATIONS.—Section 607 of the Water Resources Development Act of 1999 (113 Stat. 395) is amended by adding at the end the following:

''(d) BUDGET CONSIDERATIONS.—

''(1) IN GENERAL.—In developing an annual budget to carry out this title, the Corps of Engineers shall consult with the State of South Dakota and the affected Indian Tribes.

''(2) INCLUSIONS; AVAILABILITY.—The budget referred to in paragraph (1) shall—

''(A) be detailed;

''(B) include all necessary tasks and associated costs; and

''(C) be made available to the State of South Dakota and the affected Indian Tribes at the time at which the Corps of Engineers submits the budget to Congress.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 609 of the Water Resources Development Act of 1999 (113 Stat. 396) is amended by striking subsection (a) and inserting the following:

''(a) SECRETARY.—

''(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for each fiscal year such sums as are necessary—

''(A) to pay the administrative expenses incurred by the Secretary in carrying out this title;

''(B) to fund the implementation of terrestrial wildlife habitat restoration plans under section 602(a);

''(C) to fund activities described in sections 603(d)(3) and 604(d)(3) with respect to land and recreation areas transferred, or to be transferred, to an affected Indian Tribe or the State of South Dakota under section 605 or 606; and

''(D) to fund the annual expenses (not to exceed the Federal cost as of August 17, 1999) of operating recreation areas transferred, or to be transferred, under sections 605(c) and 606(c) to, or leased by, the State of South Dakota or an affected Indian Tribe, until such time as the trust funds under sections 603 and 604 are fully capitalized.

''(2) ALLOCATIONS.—

''(A) IN GENERAL.—For each fiscal year, the Secretary shall allocate the amounts made available under subparagraphs (B), (C), and (D) of paragraph (1) as follows:

''(i) $1,000,000 (or, if a lesser amount is so made available for the fiscal year, the lesser amount) shall be allocated equally among the State of South Dakota, the Cheyenne River Sioux Tribe, and the Lower Brule Sioux Tribe, for use in accordance with paragraph (1).

''(ii) Any amounts remaining after the allocation under clause (i) shall be allocated as follows:

''(I) 65 percent to the State of South Dakota.

''(II) 26 percent to the Cheyenne River Sioux Tribe.

''(III) 9 percent to the Lower Brule Sioux Tribe.

''(B) USE OF ALLOCATIONS.—Amounts allocated under subparagraph (A) may be used at the option of the recipient for any purpose described in subparagraph (B), (C), or (D) of paragraph (1).''.

(h) CLARIFICATION OF REFERENCES TO INDIAN TRIBES.—

(1) DEFINITIONS.—Section 601 of the Water Resources Development Act of 1999 (113 Stat. 385) is amended by striking paragraph (1) and inserting the following:

''(1) AFFECTED INDIAN TRIBE.—The term 'affected Indian Tribe' means each of the Cheyenne River Sioux Tribe and the Lower Brule Sioux Tribe.''.

(2) TERRESTRIAL WILDLIFE HABITAT RESTORATION.—Section 602(b)(4)(B) of the Water Resources Development Act of 1999 (113 Stat. 388) is amended by striking ''the Tribe'' and inserting ''the affected Indian Tribe''.

(3) CHEYENNE RIVER SIOUX TRIBE AND LOWER BRULE SIOUX TRIBE TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUNDS.—Section 604(d)(3)(A) of the Water Resources Development Act of 1999 (113 Stat. 390) is amended by striking ''the respective Tribe'' each place it appears and inserting ''the respective affected Indian Tribe''.

(4) TRANSFER OF FEDERAL LAND TO STATE OF SOUTH DAKOTA.—Section 605 of the Water Resources Development Act of 1999 (113 Stat. 390) is amended—

(A) in subsection (b)(3), by striking ''an Indian Tribe'' and inserting ''any Indian Tribe''; and

(B) in subsection (c)(1)(B) (as redesignated by subsection (d)(2)(B)), by striking ''an Indian Tribe'' and inserting ''any Indian Tribe''.

(5) TRANSFER OF CORPS OF ENGINEERS LAND FOR AFFECTED INDIAN TRIBES.—Section 606 of the Water Resources Development Act of 1999 (113 Stat. 393) is amended—

(A) in the section heading, by striking ''**INDIAN TRIBES**'' and inserting ''**AFFECTED INDIAN TRIBES**'';

(B) in paragraphs (1) and (4) of subsection (a), by striking ''the Indian Tribes'' each place it appears and inserting ''the affected Indian Tribes'';

(C) in subsection (c)(2), by striking ''an Indian Tribe'' and inserting ''any Indian Tribe'';

(D) in subsection (f)(2)(B)(i)—

(i) by striking ''the respective tribes'' and inserting ''the respective affected Indian Tribes''; and

(ii) by striking ''the respective Tribe's'' and inserting ''the respective affected Indian Tribe's''; and

(E) in subsection (g), by striking ''an Indian Tribe'' and inserting ''any Indian Tribe''.

(6) ADMINISTRATION.—Section 607(a) of the Water Resources Development Act of 1999 (113 Stat. 395) is amended by striking ''an Indian Tribe'' each place it appears and inserting ''any Indian Tribe''.

TITLE VI—COMPREHENSIVE EVERGLADES RESTORATION PLAN

SEC. 601. COMPREHENSIVE EVERGLADES RESTORATION PLAN.

(a) DEFINITIONS.—In this section:

(1) CENTRAL AND SOUTHERN FLORIDA PROJECT.—

(A) IN GENERAL.—The term ''Central and Southern Florida Project'' means the project for Central and Southern Florida authorized under the heading ''CENTRAL AND SOUTHERN FLORIDA'' in section 203 of the Flood Control Act of 1948 (62 Stat. 1176).

(B) INCLUSION.—The term ''Central and Southern Florida Project'' includes any modification to the project authorized by this section or any other provision of law.

(2) GOVERNOR.—The term ''Governor'' means the Governor of the State of Florida.

(3) NATURAL SYSTEM.—

(A) IN GENERAL.—The term ''natural system'' means all land and water managed by the Federal Government or the State within the South Florida ecosystem.

(B) INCLUSIONS.—The term ''natural system'' includes—

(i) water conservation areas;

(ii) sovereign submerged land;

(iii) Everglades National Park;

(iv) Biscayne National Park;

(v) Big Cypress National Preserve;

(vi) other Federal or State (including a political subdivision of a State) land that is designated and managed for conservation purposes; and

(vii) any tribal land that is designated and managed for conservation purposes, as approved by the tribe.

(4) PLAN.—The term ''Plan'' means the Comprehensive Everglades Restoration Plan contained in the ''Final Integrated Feasibility Report and Programmatic Environmental Impact Statement'', dated April 1, 1999, as modified by this section.

(5) SOUTH FLORIDA ECOSYSTEM.—

(A) IN GENERAL.—The term ''South Florida ecosystem'' means the area consisting of the land and water within the boundary of the South Florida Water Management District in effect on July 1, 1999.

(B) INCLUSIONS.—The term ''South Florida ecosystem'' includes—

(i) the Everglades;

(ii) the Florida Keys; and

(iii) the contiguous near-shore coastal water of South Florida.

(6) STATE.—The term ''State'' means the State of Florida.

(b) COMPREHENSIVE EVERGLADES RESTORATION PLAN.—

(1) APPROVAL.—

(A) IN GENERAL.—Except as modified by this section, the Plan is approved as a framework for modifications and operational changes to the Central and Southern Florida Project that are needed to restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Plan shall be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, and the improvement of the environment of the South Florida ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to this section, for as long as the project is authorized.

(B) INTEGRATION.—In carrying out the Plan, the Secretary shall integrate the activities described in subparagraph (A) with ongoing Federal and State projects and activities in accordance with section 528(c) of the Water Resources Development Act of 1996 (110 Stat. 3769). Unless specifically provided herein, nothing in this section shall be construed to modify any existing cost share or responsibility for projects as listed in subsection (c) or (e) of section 528 of the Water Resources Development Act of 1996 (110 Stat. 3769).

(2) SPECIFIC AUTHORIZATIONS.—

(A) IN GENERAL.—

(i) PROJECTS.—The Secretary shall carry out the projects included in the Plan in accordance with subparagraphs (B), (C), (D) and (E).

(ii) CONSIDERATIONS.—In carrying out activities described in the Plan, the Secretary shall—

(I) take into account the protection of water quality by considering applicable State water quality standards; and

(II) include such features as the Secretary determines are necessary to ensure that all ground water and surface water discharges from any project feature authorized by this subsection will meet all applicable water quality standards and applicable water quality permitting requirements.

(iii) REVIEW AND COMMENT.—In developing the projects authorized under subparagraph (B), the Secretary shall provide for public review and comment in accordance with applicable Federal law.

(B) PILOT PROJECTS.—The following pilot projects are authorized for implementation, after review and approval by the Secretary, at a total cost of $69,000,000, with an estimated Federal cost of $34,500,000 and an estimated non-Federal cost of $34,500,000:

(i) Caloosahatchee River (C–43) Basin ASR, at a total cost of $6,000,000, with an estimated Federal cost of $3,000,000 and an estimated non-Federal cost of $3,000,000.

(ii) Lake Belt In-Ground Reservoir Technology, at a total cost of $23,000,000, with an estimated Federal cost of $11,500,000 and an estimated non-Federal cost of $11,500,000.

(iii) L–31N Seepage Management, at a total cost of $10,000,000, with an estimated Federal cost of $5,000,000 and an estimated non-Federal cost of $5,000,000.

(iv) Wastewater Reuse Technology, at a total cost of $30,000,000, with an estimated Federal cost of $15,000,000 and an estimated non-Federal cost of $15,000,000.

(C) INITIAL PROJECTS.—The following projects are authorized for implementation, after review and approval by the Secretary, subject to the conditions stated in subparagraph (D), at a total cost of $1,100,918,000, with an estimated Federal cost of $550,459,000 and an estimated non-Federal cost of $550,459,000:

(i) C–44 Basin Storage Reservoir, at a total cost of $112,562,000, with an estimated Federal cost of $56,281,000 and an estimated non-Federal cost of $56,281,000.

(ii) Everglades Agricultural Area Storage Reservoirs—Phase I, at a total cost of $233,408,000, with an estimated Federal cost of $116,704,000 and an estimated non-Federal cost of $116,704,000.

(iii) Site 1 Impoundment, at a total cost of $38,535,000, with an estimated Federal cost of $19,267,500 and an estimated non-Federal cost of $19,267,500.

(iv) Water Conservation Areas 3A/3B Levee Seepage Management, at a total cost of $100,335,000, with an estimated Federal cost of $50,167,500 and an estimated non-Federal cost of $50,167,500.

(v) C–11 Impoundment and Stormwater Treatment Area, at a total cost of $124,837,000, with an estimated Federal cost of $62,418,500 and an estimated non-Federal cost of $62,418,500.

(vi) C–9 Impoundment and Stormwater Treatment Area, at a total cost of $89,146,000, with an estimated Federal cost of $44,573,000 and an estimated non-Federal cost of $44,573,000.

(vii) Taylor Creek/Nubbin Slough Storage and Treatment Area, at a total cost of $104,027,000, with an estimated Federal cost of $52,013,500 and an estimated non-Federal cost of $52,013,500.

(viii) Raise and Bridge East Portion of Tamiami Trail and Fill Miami Canal within Water Conservation Area 3, at a total cost of $26,946,000, with an estimated Federal cost of $13,473,000 and an estimated non-Federal cost of $13,473,000.

(ix) North New River Improvements, at a total cost of $77,087,000, with an estimated Federal cost of $38,543,500 and an estimated non-Federal cost of $38,543,500.

(x) C–111 Spreader Canal, at a total cost of $94,035,000, with an estimated Federal cost of $47,017,500 and an estimated non-Federal cost of $47,017,500.

(xi) Adaptive Assessment and Monitoring Program, at a total cost of $100,000,000, with an estimated Federal cost of $50,000,000 and an estimated non-Federal cost of $50,000,000.

(D) CONDITIONS.—

(i) PROJECT IMPLEMENTATION REPORTS.—Before implementation of a project described in any of clauses (i) through (x) of subparagraph (C), the Secretary shall review and approve for the project a project implementation report prepared in accordance with subsections (f) and (h).

(ii) SUBMISSION OF REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate the project implementation report required by subsections (f) and (h) for each project under this paragraph (including all relevant data and information on all costs).

(iii) FUNDING CONTINGENT ON APPROVAL.—No appropriation shall be made to construct any project under this paragraph if the project implementation report for the project has not been approved by resolutions adopted by the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(iv) MODIFIED WATER DELIVERY.—No appropriation shall be made to construct the Water Conservation Area 3 Decompartmentalization and Sheetflow Enhancement Project (including component AA, Additional S–345 Structures; component QQ Phase 1, Raise and Bridge East Portion of Tamiami Trail and Fill Miami Canal within WCA 3; component QQ Phase 2, WCA 3 Decompartmentalization and Sheetflow Enhancement; and component SS, North New River Improvements) or the Central Lakebelt Storage Project (including components S and EEE, Central Lake Belt Storage Area) until the completion of the project to improve water deliveries to Everglades National Park authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989 (16 U.S.C. 410r–8).

(E) MAXIMUM COST OF PROJECTS.—Section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280) shall apply to each project feature authorized under this subsection.

(c) ADDITIONAL PROGRAM AUTHORITY.—

(1) IN GENERAL.—To expedite implementation of the Plan, the Secretary may implement modifications to the Central and Southern Florida Project that—

(A) are described in the Plan; and

(B) will produce a substantial benefit to the restoration, preservation and protection of the South Florida ecosystem.

(2) PROJECT IMPLEMENTATION REPORTS.—Before implementation of any project feature authorized under this subsection, the Secretary shall review and approve for the project feature a project implementation report prepared in accordance with subsections (f) and (h).

(3) FUNDING.—

(A) INDIVIDUAL PROJECT FUNDING.—

(i) FEDERAL COST.—The total Federal cost of each project carried out under this subsection shall not exceed $12,500,000.

(ii) OVERALL COST.—The total cost of each project carried out under this subsection shall not exceed $25,000,000.

(B) AGGREGATE COST.—The total cost of all projects carried out under this subsection shall not exceed $206,000,000, with an estimated Federal cost of $103,000,000 and an estimated non-Federal cost of $103,000,000.

(d) AUTHORIZATION OF FUTURE PROJECTS.—

(1) IN GENERAL.—Except for a project authorized by subsection (b) or (c), any project included in the Plan shall require a specific authorization by Congress.

(2) SUBMISSION OF REPORT.—Before seeking congressional authorization for a project under paragraph (1), the Secretary shall submit to Congress—

(A) a description of the project; and

(B) a project implementation report for the project prepared in accordance with subsections (f) and (h).

(e) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of carrying out a project authorized by subsection (b), (c), or (d) shall be 50 percent.

(2) NON-FEDERAL RESPONSIBILITIES.—The non-Federal sponsor with respect to a project described in subsection (b), (c), or (d), shall be—

(A) responsible for all land, easements, rights-of-way, and relocations necessary to implement the Plan; and

(B) afforded credit toward the non-Federal share of the cost of carrying out the project in accordance with paragraph (5)(A).

(3) FEDERAL ASSISTANCE.—

(A) IN GENERAL.—The non-Federal sponsor with respect to a project authorized by subsection (b), (c), or (d) may use Federal funds for the purchase of any land, easement, rights-of-way, or relocation that is necessary to carry out the project if any funds so used are credited toward the Federal share of the cost of the project.

(B) AGRICULTURE FUNDS.—Funds provided to the non-Federal sponsor under the Conservation Restoration and Enhancement Program (CREP) and the Wetlands Reserve Program (WRP) for projects in the Plan shall be credited toward the non-Federal share of the cost of the Plan if the Secretary of Agriculture certifies that the funds provided may be used for that purpose. Funds to be credited do not include funds provided under section 390 of the Federal Agriculture Improvement and Reform Act of 1996 (110 Stat. 1022).

(4) OPERATION AND MAINTENANCE.—Notwithstanding section 528(e)(3) of the Water Resources Development Act of 1996 (110 Stat. 3770), the non-Federal sponsor shall be responsible for 50 percent of the cost of operation, maintenance, repair, replacement, and rehabilitation activities authorized under this section.

(5) CREDIT.—

(A) IN GENERAL.—Notwithstanding section 528(e)(4) of the Water Resources Development Act of 1996 (110 Stat. 3770), and regardless of the date of acquisition, the value of lands or interests in lands and incidental costs for land acquired by a non-Federal sponsor in accordance with a project implementation report for any project included in the Plan and authorized by Congress shall be—

(i) included in the total cost of the project; and

(ii) credited toward the non-Federal share of the cost of the project.

(B) WORK.—The Secretary may provide credit, including in-kind credit, toward the non-Federal share for the reasonable cost of any work performed in connection with a study, preconstruction engineering and design, or construction that is necessary for the implementation of the Plan, if—

(i)(I) the credit is provided for work completed during the period of design, as defined in a design agreement between the Secretary and the non-Federal sponsor; or

(II) the credit is provided for work completed during the period of construction, as defined in a project cooperation agreement for an authorized project between the Secretary and the non-Federal sponsor;

(ii) the design agreement or the project cooperation agreement prescribes the terms and conditions of the credit; and

(iii) the Secretary determines that the work performed by the non-Federal sponsor is integral to the project.

(C) TREATMENT OF CREDIT BETWEEN PROJECTS.—Any credit provided under this paragraph may be carried over between authorized projects in accordance with subparagraph (D).

(D) PERIODIC MONITORING.—

(i) IN GENERAL.—To ensure that the contributions of the non-Federal sponsor equal 50 percent proportionate share for projects in the Plan, during each 5-year period, beginning with commencement of design of the Plan, the Secretary shall, for each project—

(I) monitor the non-Federal provision of cash, in-kind services, and land; and

(II) manage, to the maximum extent practicable, the requirement of the non-Federal sponsor to provide cash, in-kind services, and land.

(ii) OTHER MONITORING.—The Secretary shall conduct monitoring under clause (i) separately for—

(I) the preconstruction engineering and design phase; and

(II) the construction phase.

(E) AUDITS.—Credit for land (including land value and incidental costs) or work provided under this subsection shall be subject to audit by the Secretary.

(f) EVALUATION OF PROJECTS.—

(1) IN GENERAL.—Before implementation of a project authorized by subsection (c) or (d) or any of clauses (i) through (x) of subsection (b)(2)(C), the Secretary, in cooperation with the non-Federal sponsor, shall, after notice and opportunity for public comment and in accordance with subsection (h), complete a project implementation report for the project.

(2) PROJECT JUSTIFICATION.—

(A) IN GENERAL.—Notwithstanding section 209 of the Flood Control Act of 1970 (42 U.S.C. 1962–2) or any other provision of law, in carrying out any activity authorized under this

section or any other provision of law to restore, preserve, or protect the South Florida ecosystem, the Secretary may determine that—

(i) the activity is justified by the environmental benefits derived by the South Florida ecosystem; and

(ii) no further economic justification for the activity is required, if the Secretary determines that the activity is cost-effective.

(B) APPLICABILITY.—Subparagraph (A) shall not apply to any separable element intended to produce benefits that are predominantly unrelated to the restoration, preservation, and protection of the natural system.

(g) EXCLUSIONS AND LIMITATIONS.—The following Plan components are not approved for implementation:

(1) WATER INCLUDED IN THE PLAN.—

(A) IN GENERAL.—Any project that is designed to implement the capture and use of the approximately 245,000 acre-feet of water described in section 7.7.2 of the Plan shall not be implemented until such time as—

(i) the project-specific feasibility study described in subparagraph (B) on the need for and physical delivery of the approximately 245,000 acre-feet of water, conducted by the Secretary, in cooperation with the non-Federal sponsor, is completed;

(ii) the project is favorably recommended in a final report of the Chief of Engineers; and

(iii) the project is authorized by Act of Congress.

(B) PROJECT-SPECIFIC FEASIBILITY STUDY.—The project-specific feasibility study referred to in subparagraph (A) shall include—

(i) a comprehensive analysis of the structural facilities proposed to deliver the approximately 245,000 acre-feet of water to the natural system;

(ii) an assessment of the requirements to divert and treat the water;

(iii) an assessment of delivery alternatives;

(iv) an assessment of the feasibility of delivering the water downstream while maintaining current levels of flood protection to affected property; and

(v) any other assessments that are determined by the Secretary to be necessary to complete the study.

(2) WASTEWATER REUSE.—

(A) IN GENERAL.—On completion and evaluation of the wastewater reuse pilot project described in subsection (b)(2)(B)(iv), the Secretary, in an appropriately timed 5-year report, shall describe the results of the evaluation of advanced wastewater reuse in meeting, in a cost-effective manner, the requirements of restoration of the natural system.

(B) SUBMISSION.—The Secretary shall submit to Congress the report described in subparagraph (A) before congressional authorization for advanced wastewater reuse is sought.

(3) PROJECTS APPROVED WITH LIMITATIONS.—The following projects in the Plan are approved for implementation with limitations:

(A) LOXAHATCHEE NATIONAL WILDLIFE REFUGE.—The Federal share for land acquisition in the project to enhance existing wetland systems along the Loxahatchee National Wildlife Refuge, including the Stazzulla tract, should be funded through the budget of the Department of the Interior.

(B) SOUTHERN CORKSCREW REGIONAL ECOSYSTEM.—The Southern Corkscrew regional ecosystem watershed addition should be accomplished outside the scope of the Plan.

(h) ASSURANCE OF PROJECT BENEFITS.—

(1) IN GENERAL.—The overarching objective of the Plan is the restoration, preservation, and protection of the South Florida Ecosystem while providing for other water-related needs of the region, including water supply and flood protection. The Plan shall be implemented to ensure the protection of water quality in, the reduction of the loss of fresh water from, the improvement of the environment of the South Florida Ecosystem and to achieve and maintain the benefits to the natural system and human environment described in the Plan, and required pursuant to this section, for as long as the project is authorized.

(2) AGREEMENT.—

(A) IN GENERAL.—In order to ensure that water generated by the Plan will be made available for the restoration of the natural system, no appropriations, except for any pilot project described in subsection (b)(2)(B), shall be made for the construction of a project contained in the Plan until the President and the Governor enter into a binding agreement under which the State shall ensure, by regulation or other appropriate means, that water made available by each project in the Plan shall not be permitted for a consumptive use or otherwise made unavailable by the State until such time as sufficient reservations of water for the restoration of the natural system are made under State law in accordance with the project implementation report for that project and consistent with the Plan.

(B) ENFORCEMENT.—

(i) IN GENERAL.—Any person or entity that is aggrieved by a failure of the United States or any other Federal Government instrumentality or agency, or the Governor or any other officer of a State instrumentality or agency, to comply with any provision of the agreement entered into under subparagraph (A) may bring a civil action in United States district court for an injunction directing the United States or any other Federal Government instrumentality or agency or the Governor or any other officer of a State instrumentality or agency, as the case may be, to comply with the agreement.

(ii) LIMITATIONS ON COMMENCEMENT OF CIVIL ACTION.—No civil action may be commenced under clause (i)—

(I) before the date that is 60 days after the Secretary receives written notice of a failure to comply with the agreement; or

(II) if the United States has commenced and is diligently prosecuting an action in a court of the United States or a State to redress a failure to comply with the agreement.

(C) TRUST RESPONSIBILITIES.—In carrying out his responsibilities under this subsection with respect to the restoration of the South Florida ecosystem, the Secretary of the Interior shall fulfill his obligations to the Indian tribes in South Florida under the Indian Trust Doctrine as well as other applicable legal obligations.

(3) PROGRAMMATIC REGULATIONS.—

(A) ISSUANCE.—Not later than 2 years after the date of enactment of this Act, the Secretary shall, after notice and opportunity for public comment—

(i) with the concurrence of—

(I) the Governor; and

(II) the Secretary of the Interior; and

(ii) in consultation with—

(I) the Seminole Tribe of Florida;

(II) the Miccosukee Tribe of Indians of Florida;

(III) the Administrator of the Environmental Protection Agency;

(IV) the Secretary of Commerce; and

(V) other Federal, State, and local agencies;

promulgate programmatic regulations to ensure that the goals and purposes of the Plan are achieved.

(B) CONCURRENCY STATEMENT.—The Secretary of the Interior and the Governor shall, not later than 180 days from the end of the public comment period on proposed programmatic regulations, provide the Secretary with a written statement of concurrence or nonconcurrence. A failure to provide a written statement of concurrence or nonconcurrence within such time frame will be deemed as meeting the concurrency requirements of subparagraph (A)(i). A copy of any concurrency or nonconcurrency statements shall be made a part of the administrative record and referenced in the final programmatic regulations. Any nonconcurrency statement shall specifically detail the reason or reasons for the nonconcurrence.

(C) CONTENT OF REGULATIONS.—Programmatic regulations promulgated under this paragraph shall establish a process—

(i) for the development of project implementation reports, project cooperation agreements, and operating manuals that ensure that the goals and objectives of the Plan are achieved;

(ii) to ensure that new information resulting from changed or unforeseen circumstances, new scientific or technical information or information that is developed through the principles of adaptive management contained in the Plan, or future authorized changes to the Plan are integrated into the implementation of the Plan; and

(iii) to ensure the protection of the natural system consistent with the goals and purposes of the Plan, including the establishment of interim goals to provide a means by which the restoration success of the Plan may be evaluated throughout the implementation process.

(D) SCHEDULE AND TRANSITION RULE.—

(i) IN GENERAL.—All project implementation reports approved before the date of promulgation of the programmatic regulations shall be consistent with the Plan.

(ii) PREAMBLE.—The preamble of the programmatic regulations shall include a statement concerning the consistency with the programmatic regulations of any project implementation reports that were approved before the date of promulgation of the regulations.

(E) REVIEW OF PROGRAMMATIC REGULATIONS.—Whenever necessary to attain Plan goals and purposes, but not less often than every 5 years, the Secretary, in accordance with subparagraph (A), shall review the programmatic regulations promulgated under this paragraph.

(4) PROJECT-SPECIFIC ASSURANCES.—

(A) PROJECT IMPLEMENTATION REPORTS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall develop project implementation reports in accordance with section 10.3.1 of the Plan.

(ii) COORDINATION.—In developing a project implementation report, the Secretary and the non-Federal sponsor shall coordinate with appropriate Federal, State, tribal, and local governments.

(iii) REQUIREMENTS.—A project implementation report shall—

(I) be consistent with the Plan and the programmatic regulations promulgated under paragraph (3);

(II) describe how each of the requirements stated in paragraph (3)(B) is satisfied;

(III) comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(IV) identify the appropriate quantity, timing, and distribution of water dedicated and managed for the natural system;

(V) identify the amount of water to be reserved or allocated for the natural system necessary to implement, under State law, subclauses (IV) and (VI);

(VI) comply with applicable water quality standards and applicable water quality permitting requirements under subsection (b)(2)(A)(ii);

(VII) be based on the best available science; and

(VIII) include an analysis concerning the cost-effectiveness and engineering feasibility of the project.

(B) PROJECT COOPERATION AGREEMENTS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall execute project cooperation agreements in accordance with section 10 of the Plan.

(ii) CONDITION.—The Secretary shall not execute a project cooperation agreement until any reservation or allocation of water for the natural system identified in the project implementation report is executed under State law.

(C) OPERATING MANUALS.—

(i) IN GENERAL.—The Secretary and the non-Federal sponsor shall develop and issue, for each project or group of projects, an operating manual that is consistent with the water reservation or allocation for the natural system described in the project implementation report and the project cooperation agreement for the project or group of projects.

(ii) MODIFICATIONS.—Any significant modification by the Secretary and the non-Federal sponsor to an operating manual after the operating manual is issued shall only be carried out subject to notice and opportunity for public comment.

(5) SAVINGS CLAUSE.—

(A) NO ELIMINATION OR TRANSFER.—Until a new source of water supply of comparable quantity and quality as that available on the date of enactment of this Act is available to replace the water to be lost as a result of implementation of the Plan, the Secretary and the non-Federal sponsor shall not eliminate or transfer existing legal sources of water, including those for—

(i) an agricultural or urban water supply;

(ii) allocation or entitlement to the Seminole Indian Tribe of Florida under section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e);

(iii) the Miccosukee Tribe of Indians of Florida;

(iv) water supply for Everglades National Park; or

(v) water supply for fish and wildlife.

(B) MAINTENANCE OF FLOOD PROTECTION.—Implementation of the Plan shall not reduce levels of service for flood protection that are—

(i) in existence on the date of enactment of this Act; and

(ii) in accordance with applicable law.

(C) NO EFFECT ON TRIBAL COMPACT.—Nothing in this section amends, alters, prevents, or otherwise abrogates rights of the Seminole Indian Tribe of Florida under the compact among the Seminole Tribe of Florida, the State, and the South Florida Water Management District, defining the scope and use of water rights of the Seminole Tribe of Florida, as codified by section 7 of the Seminole Indian Land Claims Settlement Act of 1987 (25 U.S.C. 1772e).

(i) DISPUTE RESOLUTION.—

(1) IN GENERAL.—The Secretary and the Governor shall within 180 days from the date of enactment of this Act develop an agreement for resolving disputes between the Corps of Engineers and the State associated with the implementation of the Plan. Such agreement shall establish a mechanism for the timely and efficient resolution of disputes, including—

(A) a preference for the resolution of disputes between the Jacksonville District of the Corps of Engineers and the South Florida Water Management District;

(B) a mechanism for the Jacksonville District of the Corps of Engineers or the South Florida Water Management District to initiate the dispute resolution process for unresolved issues;

(C) the establishment of appropriate timeframes and intermediate steps for the elevation of disputes to the Governor and the Secretary; and

(D) a mechanism for the final resolution of disputes, within 180 days from the date that the dispute resolution process is initiated under subparagraph (B).

(2) CONDITION FOR REPORT APPROVAL.—The Secretary shall not approve a project implementation report under this section until the agreement established under this subsection has been executed.

(3) NO EFFECT ON LAW.—Nothing in the agreement established under this subsection shall alter or amend any existing Federal or State law, or the responsibility of any party to the agreement to comply with any Federal or State law.

(j) INDEPENDENT SCIENTIFIC REVIEW.—

(1) IN GENERAL.—The Secretary, the Secretary of the Interior, and the Governor, in consultation with the South Florida Ecosystem Restoration Task Force, shall establish an independent scientific review panel convened by a body, such as the National Academy of Sciences, to review the Plan's progress toward achieving the natural system restoration goals of the Plan.

(2) REPORT.—The panel described in paragraph (1) shall produce a biennial report to Congress, the Secretary, the Secretary of the Interior, and the Governor that includes an assessment of ecological indicators and other measures of progress in restoring the ecology of the natural system, based on the Plan.

(k) OUTREACH AND ASSISTANCE.—

(1) SMALL BUSINESS CONCERNS OWNED AND OPERATED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—In executing the Plan, the Secretary shall ensure that small business concerns owned and controlled by socially and economically disadvantaged individuals are provided opportunities to participate under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) COMMUNITY OUTREACH AND EDUCATION.—

(A) IN GENERAL.—The Secretary shall ensure that impacts on socially and economically disadvantaged individuals, including individuals with limited English proficiency, and communities are considered during implementation of the Plan, and that such individuals have opportunities to review and comment on its implementation.

(B) PROVISION OF OPPORTUNITIES.—The Secretary shall ensure, to the maximum extent practicable, that public outreach and educational opportunities are provided, during implementation of the Plan, to the individuals of South Florida, including individuals with limited English proficiency, and in particular for socially and economically disadvantaged communities.

(l) REPORT TO CONGRESS.—Beginning on October 1, 2005, and periodically thereafter until October 1, 2036, the Secretary and the Secretary of the Interior, in consultation with the Environmental Protection Agency, the Department of Commerce, and the State of Florida, shall jointly submit to Congress a report on the implementation of the Plan. Such reports shall be completed not less often than every 5 years. Such reports shall include a description of planning, design, and construction work completed, the amount of funds expended during the period covered by the report (including a detailed analysis of the funds expended for adaptive assessment under subsection (b)(2)(C)(xi)), and the work anticipated over the next 5-year period. In addition, each report shall include—

(1) the determination of each Secretary, and the Administrator of the Environmental Protection Agency, concerning the benefits to the natural system and the human environment achieved as of the date of the report and whether the completed projects of the Plan are being operated in a manner that is consistent with the requirements of subsection (h);

(2) progress toward interim goals established in accordance with subsection (h)(3)(B); and

(3) a review of the activities performed by the Secretary under subsection (k) as they relate to socially and economically disadvantaged individuals and individuals with limited English proficiency.

(m) SEVERABILITY.—If any provision or remedy provided by this section is found to be unconstitutional or unenforceable by any court of competent jurisdiction, any remaining provisions in this section shall remain valid and enforceable.

SEC. 602. SENSE OF THE SENATE CONCERNING HOMESTEAD AIR FORCE BASE.

(a) IN GENERAL.—(1) The Everglades is an American treasure and includes uniquely-important and diverse wildlife resources and recreational opportunities;

(2) the preservation of the pristine and natural character of the South Florida ecosystem is critical to the regional economy;

(3) as this legislation demonstrates, the Senate believes it to be a vital national mission to restore and preserve this ecosystem and accordingly is authorizing a significant Federal investment to do so;

(4) the Senate seeks to have the remaining property at the former Homestead Air Base conveyed and reused as expeditiously as possible, and several options for base reuse are being considered, including as a commercial airport; and

(5) the Senate is aware that the Homestead site is located in a sensitive environmental location, and that Biscayne National Park is only approximately 1.5 miles to the east, Everglades National Park approximately 8 miles to the west, and the Florida Keys National Marine Sanctuary approximately 10 miles to the south.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) development at the Homestead site could potentially cause significant air, water, and noise pollution and result in the degradation of adjacent national parks and other protected Federal resources;

(2) in their decisionmaking, the Federal agencies charged with determining the reuse of the remaining property at the Homestead base should carefully consider and weigh all available information concerning potential environmental impacts of various reuse options;

(3) the redevelopment of the former base should be consistent with restoration goals, provide desirable numbers of jobs and economic redevelopment for the community, and be consistent with other applicable laws;

(4) consistent with applicable laws, the Secretary of the Air Force should proceed as quickly as practicable to issue a final SEIS and Record of Decision so that reuse of the former air base can proceed expeditiously;

(5) following conveyance of the remaining surplus property, the Secretary, as part of his oversight for Everglades restoration, should cooperate with the entities to which the various parcels of surplus property were conveyed so that the planned use of those properties is implemented in such a manner as to remain consistent with the goals of the Everglades restoration plan; and

(6) by August 1, 2002, the Secretary should submit a report to the appropriate committees of Congress on actions taken and make any recommendations for consideration by Congress.

TITLE VII—WILDLIFE REFUGE ENHANCEMENT

SEC. 701. SHORT TITLE.

This title may be cited as the ''Charles M. Russell National Wildlife Refuge Enhancement Act of 2000''.

SEC. 702. PURPOSE.

The purpose of this title is to direct the Secretary, in consultation with the Secretary of the Interior, to convey cabin sites at Fort Peck Lake, Montana, and to acquire land with greater wildlife and other public value for the Charles M. Russell National Wildlife Refuge, to—

(1) better achieve the wildlife conservation purposes for which the Refuge was established;

(2) protect additional fish and wildlife habitat in and adjacent to the Refuge;

(3) enhance public opportunities for hunting, fishing, and other wildlife-dependent activities;

(4) improve management of the Refuge; and

(5) reduce Federal expenditures associated with the administration of cabin site leases.

SEC. 703. DEFINITIONS.

In this title:

(1) ASSOCIATION.—The term ''Association'' means the Fort Peck Lake Association.

(2) CABIN SITE.—

(A) IN GENERAL.—The term ''cabin site'' means a parcel of property within the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin areas that is—

(i) managed by the Army Corps of Engineers;

(ii) located in or near the eastern portion of Fort Peck Lake, Montana; and

(iii) leased for individual use or occupancy.

(B) INCLUSIONS.—The term ''cabin site'' includes all right, title and interest of the United States in and to the property, including—

(i) any permanent easement that is necessary to provide vehicular access to the cabin site; and

(ii) the right to reconstruct, operate, and maintain an easement described in clause (i).

(3) CABIN SITE AREA.—

(A) IN GENERAL.—The term ''cabin site area'' means a portion of the Fort Peck, Hell Creek, Pines, or Rock Creek Cabin Areas referred to in paragraph (2) that is occupied by 1 or more cabin sites.

(B) INCLUSION.—The term ''cabin site area'' includes such immediately adjacent land, if any, as is needed for the cabin site area to exist as a generally contiguous parcel of land, as determined by the Secretary with the concurrence of the Secretary of the Interior.

(4) LESSEE.—The term ''lessee'' means a person that is leasing a cabin site.

(5) REFUGE.—The term ''Refuge'' means the Charles M. Russell National Wildlife Refuge in Montana.

SEC. 704. CONVEYANCE OF CABIN SITES.

(a) IN GENERAL.—

(1) PROHIBITION.—As soon as practicable after the date of enactment of this Act, the Secretary shall prohibit the issuance of new cabin site leases within the Refuge, except as is necessary to consolidate with, or substitute for, an existing cabin lease site under paragraph (2).

(2) DETERMINATION; NOTICE.—Not later than 1 year after the date of enactment of this Act, and before proceeding with any exchange under this title, the Secretary shall—

(A) with the concurrence of the Secretary of the Interior, determine individual cabin sites that are not suitable for conveyance to a lessee—

(i) because the sites are isolated so that conveyance of 1 or more of the sites would create an inholding that would impair management of the Refuge; or

(ii) for any other reason that adversely impacts the future habitability of the sites; and

(B) provide written notice to each lessee that specifies any requirements concerning the form of a notice of interest in acquiring a cabin site that the lessee may submit under subsection (b)(1)(A) and the portion of administrative costs that would be paid to the Secretary under section 708(b), to—

(i) determine whether the lessee is interested in acquiring the cabin site area of the lessee; and

(ii) inform each lessee of the rights of the lessee under this title.

(3) OFFER OF COMPARABLE CABIN SITE.—If the Secretary determines that a cabin site is not suitable for conveyance to a lessee under paragraph (2)(A), the Secretary, in consultation with the Secretary of the Interior, shall offer to the lessee the opportunity to acquire a comparable cabin site within another cabin site area.

(b) RESPONSE.—

(1) NOTICE OF INTEREST.—

(A) IN GENERAL.—Not later than July 1, 2003, a lessee shall notify the Secretary in writing of an interest in acquiring the cabin site of the lessee.

(B) FORM.—The notice under this paragraph shall be submitted in such form as is required by the Secretary under subsection (a)(2)(B).

(2) UNPURCHASED CABIN SITES.—If the Secretary receives no notice of interest or offer to purchase a cabin site from the lessee under paragraph (1) or the lessee declines an opportunity to purchase a comparable cabin site under subsection (a)(3), the cabin site shall be subject to sections 705 and 706.

(c) PROCESS.—After providing notice to a lessee under subsection (a)(2)(B), the Secretary shall—

(1) determine whether any small parcel of land contiguous to any cabin site (not including shoreline or land needed to provide public access to the shoreline of Fort Peck Lake) should be conveyed as part of the cabin site to—

(A) protect water quality;

(B) eliminate an inholding; or

(C) facilitate administration of the land remaining in Federal ownership;

(2) if the Secretary determines that a conveyance should be completed under paragraph (1), provide notice of the intent of the Secretary to complete the conveyance to the lessee of each affected cabin site;

(3) survey each cabin site to determine the acreage and legal description of the cabin site area, including land identified under paragraph (1);

(4) take such actions as are necessary to ensure compliance with all applicable environmental laws;

(5) with the concurrence of the Secretary of the Interior, determine which covenants or deed restrictions, if any, should be placed on a cabin site before conveyance out of Federal ownership, including any covenant or deed restriction that is required to comply with—

(A) the Act of May 18, 1938 (16 U.S.C. 833 et seq.);

(B) laws (including regulations) applicable to management of the Refuge; and

(C) any other laws (including regulations) for which compliance is necessary to—

(i) ensure the maintenance of existing and adequate public access to and along Fort Peck Lake; and

(ii) limit future uses of a cabin site to—

(I) noncommercial, single-family use; and

(II) the type and intensity of use of the cabin site made on the date of enactment of this Act, as limited by terms of any lease applicable to the cabin site in effect on that date; and

(6) conduct an appraisal of each cabin site (including any expansion of the cabin site under paragraph (1)) that—

(A) is carried out in accordance with the Uniform Appraisal Standards for Federal Land Acquisition;

(B) excludes the value of any private improvement to the cabin sites; and

(C) takes into consideration any covenant or other restriction determined to be necessary under paragraph (5) and subsection (h).

(d) CONSULTATION AND PUBLIC INVOLVEMENT.—The Secretary shall—

(1) carry out subsections (b) and (c) in consultation with—

(A) the Secretary of the Interior;

(B) affected lessees;

(C) affected counties in the State of Montana; and

(D) the Association; and

(2) hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

(e) CONVEYANCE.—Subject to subsections (h) and (i) and section 708(b), the Secretary shall convey a cabin site by individual patent or deed to the lessee under this title—

(1) if each cabin site complies with Federal, State, and county septic and water quality laws (including regulations);

(2) if the lessee complies with other requirements of this section; and

(3) after receipt of the payment for the cabin site from the lessee in an amount equal to the appraised fair market value of the cabin site as determined in accordance with subsection (c)(6).

(f) VEHICULAR ACCESS.—

(1) IN GENERAL.—Nothing in this title authorizes any addition to or improvement of vehicular access to a cabin site.

(2) CONSTRUCTION.—The Secretary—

(A) shall not construct any road for the sole purpose of providing access to land sold under this section; and

(B) shall be under no obligation to service or maintain any existing road used primarily for access to that land (or to a cabin site).

(3) OFFER TO CONVEY.—The Secretary may offer to convey to the State of Montana, any political subdivision of the State of Montana, or the Association, any road determined by the Secretary to primarily service the land sold under this section.

(g) UTILITIES AND INFRASTRUCTURE.—

(1) IN GENERAL.—The purchaser of a cabin site shall be responsible for the acquisition of all utilities and infrastructure necessary to support the cabin site.

(2) NO FEDERAL ASSISTANCE.—The Secretary shall not provide any utilities or infrastructure to the cabin site.

(h) COVENANTS AND DEED RESTRICTIONS.—

(1) IN GENERAL.—Before conveying any cabin site under subsection (e), the Secretary, in consultation with the Secretary of the Interior, shall ensure that the title to the cabin site includes such covenants and deed restrictions as are determined, under subsection (c), to be necessary to make binding on all subsequent purchasers of the cabin site any other covenants or deed restrictions in the title to the cabin site.

(2) RESERVATION OF RIGHTS.—The Secretary may reserve the perpetual right, power, privilege, and easement to permanently overflow, flood, submerge, saturate, percolate, or erode a cabin site (or any portion of a cabin site) that the Secretary determines is necessary in the operation of the Fort Peck Dam.

(i) NO CONVEYANCE OF UNSUITABLE CABIN SITES.—A cabin site that is determined to be unsuitable for conveyance under subsection (a)(2) shall not be conveyed by the Secretary under this section.

(j) IDENTIFICATION OF LAND FOR EXCHANGE.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall identify land that may be acquired that meets the purposes of paragraphs (1) through (4) of section 702 and for which a willing seller exists.

(2) APPRAISAL.—On a request by a willing seller, the Secretary of the Interior shall appraise the land identified under paragraph (1).

(3) ACQUISITION.—If the Secretary of the Interior determines that the acquisition of the land would meet the purposes of paragraphs (1) through (4) of section 702, the Secretary of the Interior shall cooperate with the willing seller to facilitate the acquisition of the property in accordance with section 707.

(4) PUBLIC PARTICIPATION.—The Secretary of the Interior shall hold public hearings, and provide all interested parties with notice and an opportunity to comment, on the activities carried out under this section.

SEC. 705. RIGHTS OF NONPARTICIPATING LESSEES.

(a) CONTINUATION OF LEASE.—

(1) IN GENERAL.—A lessee that does not provide the Secretary with an offer to acquire the cabin site of the lessee under section 704 (including a lessee who declines an offer of a comparable cabin site under section 704(a)(3)) may elect to continue to lease the cabin site for the remainder of the current term of the lease, which, except as provided in paragraph (2), shall not be renewed or otherwise extended.

(2) EXPIRATION BEFORE 2010.—If the current term of a lessee described in paragraph (1) expires or is scheduled to expire before 2010, the Secretary shall offer to extend or renew the lease through 2010.

(b) IMPROVEMENTS.—Any improvements and personal property of the lessee that are not removed from the cabin site before the termination of the lease shall be considered property of the United States in accordance with the provisions of the lease.

(c) OPTION TO PURCHASE.—Subject to subsections (d) and (e) and section 708(b), if at any time before termination of the lease, a lessee described in subsection (a)(1)—

(1) notifies the Secretary of the intent of the lessee to purchase the cabin site of the lessee; and

(2) pays for an updated appraisal of the site in accordance with section 704(c)(6);

the Secretary shall convey the cabin site to the lessee, by individual patent or deed, on receipt of payment for the site from the lessee in an amount equal to the appraised fair market value of the cabin site as determined by the updated appraisal.

(d) COVENANTS AND DEED RESTRICTIONS.—Before conveying any cabin site under subsection (c), the Secretary, in consultation with the Secretary of the Interior, shall ensure that the title to the cabin site includes such covenants and deed restrictions as are determined, under section 704(c), to be necessary to make binding on all subsequent purchasers of the cabin site any other covenants or deed restrictions in the title to the cabin site.

(e) NO CONVEYANCE OF UNSUITABLE CABIN SITES.—A cabin site that is determined to be unsuitable for conveyance under subsection 704(a)(2) shall not be conveyed by the Secretary under this section.

(f) REPORT.—Not later than July 1, 2003, the Secretary shall submit to Congress a report that—

(1) describes progress made in implementing this Act; and

(2) identifies cabin owners that have filed a notice of interest under section 704(b) and have declined an opportunity to acquire a comparable cabin site under section 704(a)(3).

SEC. 706. CONVEYANCE TO THIRD PARTIES.

(a) CONVEYANCES TO THIRD PARTIES.—As soon as practicable after the expiration or surrender of a lease, the Secretary, in consultation with the Secretary of the Interior, may offer for sale, by public auction, written invitation, or other competitive sales procedure, and at the fair market value of the cabin site determined under section 704(c)(6), any cabin site that—

(1) is not conveyed to a lessee under this title; and

(2) has not been determined to be unsuitable for conveyance under section 704(a)(2).

(b) COVENANTS AND DEED RESTRICTIONS.—Before conveying any cabin site under subsection (a), the Secretary shall ensure that the title to the cabin site includes such covenants and deed restrictions as are determined, under section 704(c), to be necessary to make binding on all subsequent purchasers of the cabin site any other covenants or deed restrictions contained in the title to the cabin site.

(c) CONVEYANCE TO ASSOCIATION.—On the completion of all individual conveyances of cabin sites under this title (or at such prior time as the Secretary determines would be practicable based on the location of property to be conveyed), the Secretary shall convey to the Association all land within the outer boundaries of cabin site areas that are not conveyed to lessees under this title at fair market value based on an appraisal carried out in accordance with the Uniform Appraisal Standards for Federal Land Acquisition.

SEC. 707. USE OF PROCEEDS.

(a) PROCEEDS.—All payments for the conveyance of cabin sites under this title, except costs collected by the Secretary under section 708(b), shall be deposited in a special fund in the Treasury for use by the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and without further Act of appropriation, solely for the acquisition from willing sellers of property that—

(1) is within or adjacent to the Refuge;

(2) would be suitable to carry out the purposes of this Act described in paragraphs (1) through (4) of section 702; and

(3) on acquisition by the Secretary of the Interior, would be accessible to the general public for use in conducting activities consistent with approved uses of the Refuge.

(b) LIMITATION.—To the maximum extent practicable, acquisitions under this title shall be of land within the Refuge boundary.

SEC. 708. ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall pay all administrative costs incurred in carrying out this title.

(b) REIMBURSEMENT.—As a condition of the conveyance of any cabin site area under this title, the Secretary—

(1) may require the party to whom the property is conveyed to reimburse the Secretary for a reasonable portion, as determined by the Secretary, of the administrative costs (including survey costs), incurred in carrying out this title, with such portion to be described in the notice provided to the Association and lessees under section 704(a)(2); and

(2) shall require the party to whom the property is conveyed to reimburse the Association for a proportionate share of the costs (including interest) incurred by the Association in carrying out transactions under this Act.

SEC. 709. TERMINATION OF WILDLIFE DESIGNATION.

None of the land conveyed under this title shall be designated, or shall remain designated as, part of the National Wildlife Refuge System.

SEC. 710. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE VIII—MISSOURI RIVER RESTORATION

SEC. 801. SHORT TITLE.

This title shall be known as the ''Missouri River Restoration Act of 2000''.

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Missouri River is—

(A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and

(B) a critical source of water for drinking and irrigation;

(2) millions of people fish, hunt, and camp along the Missouri River each year;

(3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;

(4) the Missouri River provides critical wildlife habitat for threatened and endangered species;

(5) in 1944, Congress approved the Pick-Sloan program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(6) the Oahe, Big Bend, Fort Randall, and Gavins Point Dams were constructed on the Missouri River in South Dakota under the Pick-Sloan program;

(7) the dams referred to in paragraph (6)—

(A) generate low-cost electricity for millions of people in the United States;

(B) provide revenue to the Treasury; and

(C) provide flood control that has prevented billions of dollars of damage;

(8) the Oahe, Big Bend, Fort Randall, and Gavins Point Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Oahe, Lake Sharpe, Lake Francis Case, and Lewis and Clark Lake;

(9) the sediment depositions—

(A) cause shoreline flooding;

(B) destroy wildlife habitat;

(C) limit recreational opportunities;

(D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;

(E) reduce water quality; and

(F) threaten intakes for drinking water and irrigation; and

(10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program—

(A) to improve conservation;

(B) to reduce the deposition of sediment; and

(C) to take other steps necessary for proper management of the Missouri River.

(b) PURPOSES.—The purposes of this title are—

(1) to reduce the siltation of the Missouri River in the State of South Dakota;

(2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy—

(A) to improve conservation in the Missouri River watershed;

(B) to protect recreation on the Missouri River from sedimentation;

(C) to improve water quality in the Missouri River;

(D) to improve erosion control along the Missouri River; and

(E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and

(3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

SEC. 803. DEFINITIONS.

In this title:

(1) COMMITTEE.—The term ''Committee'' means the Executive Committee appointed under section 804(d).

(2) PICK-SLOAN PROGRAM.—The term ''Pick-Sloan program'' means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665).

(3) PLAN.—The term ''plan'' means the plan for the use of funds made available by this title that is required to be prepared under section 805(e).

(4) STATE.—The term ''State'' means the State of South Dakota.

(5) TASK FORCE.—The term ''Task Force'' means the Missouri River Task Force established by section 805(a).

(6) TRUST.—The term ''Trust'' means the Missouri River Trust established by section 804(a).

SEC. 804. MISSOURI RIVER TRUST.

(a) ESTABLISHMENT.—There is established a committee to be known as the Missouri River Trust.

(b) MEMBERSHIP.—The Trust shall be composed of 25 members to be appointed by the Secretary, including—

(1) 15 members recommended by the Governor of South Dakota that—

(A) represent equally the various interests of the public; and

(B) include representatives of—

(i) the South Dakota Department of Environment and Natural Resources;

(ii) the South Dakota Department of Game, Fish, and Parks;

(iii) environmental groups;

(iv) the hydroelectric power industry;

(v) local governments;

(vi) recreation user groups;

(vii) agricultural groups; and

(viii) other appropriate interests;

(2) 9 members, 1 of each of whom shall be recommended by each of the 9 Indian tribes in the State of South Dakota; and

(3) 1 member recommended by the organization known as the ''Three Affiliated Tribes of North Dakota'' (composed of the Mandan, Hidatsa, and Arikara tribes).

SEC. 805. MISSOURI RIVER TASK FORCE.

(a) ESTABLISHMENT.—There is established the Missouri River Task Force.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary (or a designee), who shall serve as Chairperson;

(2) the Secretary of Agriculture (or a designee);

(3) the Secretary of Energy (or a designee);

(4) the Secretary of the Interior (or a designee); and

(5) the Trust.

(c) DUTIES.—The Task Force shall—

(1) meet at least twice each year;

(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;

(3) review projects to meet the goals of the plan; and

(4) recommend to the Secretary critical projects for implementation.

(d) ASSESSMENT.—

(1) IN GENERAL.—Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall submit to the other members of the Task Force a report on—

(A) the impact of the siltation of the Missouri River in the State, including the impact on—

(i) the Federal, State, and regional economies;

(ii) recreation;

(iii) hydropower generation;

(iv) fish and wildlife; and

(v) flood control;

(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;

(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and

(D) other issues, as requested by the Task Force.

(2) CONSULTATION.—In preparing the report under paragraph (1), the Secretary shall consult with—

(A) the Secretary of Energy;

(B) the Secretary of the Interior;

(C) the Secretary of Agriculture;

(D) the State; and

(E) Indian tribes in the State.

(e) PLAN FOR USE OF FUNDS MADE AVAILABLE BY THIS TITLE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.

(2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote—

(A) conservation practices in the Missouri River watershed;

(B) the general control and removal of sediment from the Missouri River;

(C) the protection of recreation on the Missouri River from sedimentation;

(D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;

(E) erosion control along the Missouri River; or

(F) any combination of the activities described in subparagraphs (A) through (E).

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final, in accordance with procedures established by the Task Force.

(B) REVISION OF PLAN.—

(i) IN GENERAL.—The Task Force may, on an annual basis, revise the plan.

(ii) PUBLIC REVIEW AND COMMENT.—In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.

(f) CRITICAL RESTORATION PROJECTS.—

(1) IN GENERAL.—After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.

(2) AGREEMENT.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with—

(A) section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b); and

(B) this section.

(3) INDIAN PROJECTS.—To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are—

(A) within the boundary of an Indian reservation; or

(B) administered by an Indian tribe.

(g) COST SHARING.—

(1) ASSESSMENT.—

(A) FEDERAL SHARE.—The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out the assessment under subsection (d) may be provided in the form of services, materials, or other in-kind contributions.

(2) PLAN.—

(A) FEDERAL SHARE.—The Federal share of the cost of preparing the plan under subsection (e) shall be 75 percent.

(B) NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share of the cost of preparing the plan under subsection (e) may be provided in the form of services, materials, or other in-kind contributions.

(3) CRITICAL RESTORATION PROJECTS.—

(A) IN GENERAL.—A non-Federal cost share shall be required to carry out any critical restoration project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.

(B) FEDERAL SHARE.—The Federal share of the cost of carrying out a critical restoration project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed $5,000,000 for any critical restoration project.

(C) NON-FEDERAL SHARE.—

(i) IN GENERAL.—Not more than 50 percent of the non-Federal share of the cost of carrying out a critical restoration project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.

(ii) REQUIRED NON-FEDERAL CONTRIBUTIONS.—For any critical restoration project described in subparagraph (B), the non-Federal interest shall—

(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;

(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and

(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.

(iii) CREDIT.—The non-Federal interest shall receive credit for all contributions provided under clause (ii)(I).

SEC. 806. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;

(3) any treaty right that is in effect on the date of enactment of this Act;

(4) any external boundary of an Indian reservation of an Indian tribe;

(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or

(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—

(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

(D) the Act entitled ''An Act for the protection of the bald eagle'', approved June 8, 1940 (16 U.S.C. 668 et seq.);

(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) FEDERAL LIABILITY FOR DAMAGE.—Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.

(c) FLOOD CONTROL.—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.).

(d) USE OF FUNDS.—Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

(a) INITIAL FUNDING.—There is authorized to be appropriated to the Secretary to carry out this title $4,000,000 for each of fiscal years 2001 through 2010, to remain available until expended.

(b) EXISTING PROGRAMS.—The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

WARNER (AND OTHERS) AMENDMENT NO. 4165

Mr. WARNER (for himself, Mr. VOINOVICH, and Mr. INHOFE) proposed an amendment to the bill, S. 2796, supra; as follows:

On page 196, strike lines 1 through 7 and insert the following:

(4) OPERATION AND MAINTENANCE.—The operation, maintenance, repair, replacement, and rehabilitation of projects and activities carried out under this section shall be consistent with section 528(e)(3) of the Water Resources Development Act of 1996 (110 Stat. 3770).

HELMS AMENDMENT NO. 4166

Mr. SMITH of New Hampshire (for Mr. HELMS) proposed an amendment to the bill, S. 2796, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. ___. BOGUE BANKS, CARTERET COUNTY, NORTH CAROLINA.

(a) DEFINITION OF BEACHES.—In this section, the term ''beaches'' means the following beaches located in Carteret County, North Carolina:

(1) Atlantic Beach.
(2) Pine Knoll Shores Beach.
(3) Salter Path Beach.
(4) Indian Beach.
(5) Emerald Isle Beach.

(b) RENOURISHMENT STUDY.—The Secretary shall expedite completion a study under section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) on the expedited renourishment, through sharing of the costs of deposition of sand and other material used for beach renourishment, of the beaches of Bogue Banks in Carteret County, North Carolina.

GORTON AMENDMENT NO. 4167

Mr. SMITH of New Hampshire (for Mr. GORTON) proposed an amendment to the bill. S. 2796, supra; as follows:

SEC. . (a) The Secretary after public notice, may accept and expend funds contributed by non-Federal public entities to expedite the evaluation of permits under the jurisdiction of the Department of the Army.

(b) In carrying out this section, the Secretary shall ensure that the use of such funds as authorized in subsection (a) will result in improved efficiencies in permit evaluation and will not impact impartial decision making in the permitting process.

REED AMENDMENTS NOS. 4168–4169

Mr. BAUCUS (for Mr. REED) proposed two amendments to the bill, S. 2796, supra, as follows:

AMENDMENT NO. 4168

The Secretary shall conduct a study to determine the project deficiencies and identify the necessary measures to restore the project for Cliff Walk in Newport, Rhode Island to meet its authorized purposes.

AMENDMENT NO. 4169

The Secretary shall conduct a reconnaissance study to determine the Federal interest in dredging the Quonset Point navigation channel in Narragansett Bay, Rhode Island.

CONRAD (AND DORGAN) AMENDMENT NO. 4170

Mr. BAUCUS (for Mr. CONRAD (for himself and Mr. DORGAN)) proposed an amendment to the bill. S. 2796, supra; as follows:

After title VI, insert the following:

TITLE ____—MISSOURI RIVER PROTECTION AND IMPROVEMENT

SEC. ___01. SHORT TITLE.

This title shall be known as the ''Missouri River Protection and Improvement Act of 2000''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Missouri River is—

(A) an invaluable economic, environmental, recreational, and cultural resource to the people of the United States; and

(B) a critical source of water for drinking and irrigation;

(2) millions of people fish, hunt, and camp along the Missouri River each year;

(3) thousands of sites of spiritual importance to Native Americans line the shores of the Missouri River;

(4) the Missouri River provides critical wildlife habitat for threatened and endangered species;

(5) in 1944, Congress approved the Pick-Sloan program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(6) the Garrison Dam was constructed on the Missouri River in North Dakota and the Oahe Dam was constructed in South Dakota under the Pick-Sloan program;

(7) the dams referred to in paragraph (6)—

(A) generate low-cost electricity for millions of people in the United States;

(B) provide revenue to the Treasury; and

(C) provide flood control that has prevented billions of dollars of damage;

(8) the Garrison and Oahe Dams have reduced the ability of the Missouri River to carry sediment downstream, resulting in the accumulation of sediment in the reservoirs known as Lake Sakakawea and Lake Oahe;

(9) the sediment depositions—

(A) cause shoreline flooding;

(B) destroy wildlife habitat;

(C) limit recreational opportunities;

(D) threaten the long-term ability of dams to provide hydropower and flood control under the Pick-Sloan program;

(E) reduce water quality; and

(F) threaten intakes for drinking water and irrigation; and

(10) to meet the objectives established by Congress for the Pick-Sloan program, it is necessary to establish a Missouri River Restoration Program—

(A) to improve conservation;

(B) to reduce the deposition of sediment; and

(C) to take other steps necessary for proper management of the Missouri River.

(b) PURPOSES.—The purposes of this title are—

(1) to reduce the siltation of the Missouri River in the State of North Dakota;

(2) to meet the objectives of the Pick-Sloan program by developing and implementing a long-term strategy—

(A) to improve conservation in the Missouri River watershed;

(B) to protect recreation on the Missouri River from sedimentation;

(C) to improve water quality in the Missouri River;

(D) to improve erosion control along the Missouri River; and

(E) to protect Indian and non-Indian historical and cultural sites along the Missouri River from erosion; and

(3) to meet the objectives described in paragraphs (1) and (2) by developing and financing new programs in accordance with the plan.

SEC. ___03. DEFINITIONS.

In this title:

(1) PICK-SLOAN PROGRAM.—The term ''Pick-Sloan program'' means the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665).

(2) PLAN.—The term ''plan'' means the plan for the use of funds made available by this title that is required to be prepared under section ___05(e).

(3) STATE.—The term ''State'' means the State of North Dakota.

(4) TASK FORCE.—The term ''Task Force'' means the North Dakota Missouri River Task Force established by section ___05(a).

(5) TRUST.—The term ''Trust'' means the North Dakota Missouri River Trust established by section ___04(a).

SEC. ___04. MISSOURI RIVER TRUST.

(a) ESTABLISHMENT.—There is established a committee to be known as the North Dakota Missouri River Trust.

(b) Membership.—The Trust shall be composed of 16 members to be appointed by the Secretary, including—

(1) 12 members recommended by the Governor of North Dakota that—

(A) represent equally the various interests of the public; and

(B) include representatives of—

1. the North Dakota Department of Health;
2. the North Dakota Department of Parks and Recreation;
3. the North Dakota Department of Game and Fish;
4. the North Dakota State Water Commission; and
5. the North Dakota Indian Affairs Commission.
6. agriculture groups;
7. environmental or conservation organizations;
8. the hydroelectric power industry;
9. recreation user groups;
10. local governments; and
11. other appropriate interests;

(2) 4 members representing each of the 4 Indian tribes in the State of North Dakota.

SEC. ___05. MISSOURI RIVER TASK FORCE.

(a) ESTABLISHMENT.—There is established the Missouri River Task Force.

(b) MEMBERSHIP.—The Task Force shall be composed of—

(1) the Secretary (or a designee), who shall serve as Chairperson;
(2) the Secretary of Agriculture (or a designee);
(3) the Secretary of Energy (or a designee);
(4) the Secretary of the Interior (or a designee); and
(5) the Trust.
(c) DUTIES.—The Task Force shall—
(1) meet at least twice each year;
(2) vote on approval of the plan, with approval requiring votes in favor of the plan by a majority of the members;
(3) review projects to meet the goals of the plan; and
(4) recommend to the Secretary critical projects for implementation.
(d) ASSESSMENT.—
(1) IN GENERAL.—Not later than 18 months after the date on which funding authorized under this title becomes available, the Secretary shall submit to the other members of the Task Force a report on—
(A) the impact of the siltation of the Missouri River in the State, including the impact on—
(i) the Federal, State, and regional economies;
(ii) recreation;
(iii) hydropower generation;
(iv) fish and wildlife; and
(v) flood control;
(B) the status of Indian and non-Indian historical and cultural sites along the Missouri River;
(C) the extent of erosion along the Missouri River (including tributaries of the Missouri River) in the State; and
(D) other issues, as requested by the Task Force.
(2) CONSULTATION.—In preparing the report under paragraph (1), the Secretary shall consult with—
(A) the Secretary of Energy;
(B) the Secretary of the Interior;
(C) the Secretary of Agriculture;
(D) the State; and
(E) Indian tribes in the State.
(e) PLAN FOR USE OF FUNDS MADE AVAILABLE BY THIS TITLE.—
(1) IN GENERAL.—Not later than 3 years after the date on which funding authorized under this title becomes available, the Task Force shall prepare a plan for the use of funds made available under this title.
(2) CONTENTS OF PLAN.—The plan shall provide for the manner in which the Task Force shall develop and recommend critical restoration projects to promote—
(A) conservation practices in the Missouri River watershed;
(B) the general control and removal of sediment from the Missouri River;
(C) the protection of recreation on the Missouri River from sedimentation;
(D) the protection of Indian and non-Indian historical and cultural sites along the Missouri River from erosion;
(E) erosion control along the Missouri River; or
(F) any combination of the activities described in subparagraphs (A) through (E).
(3) PLAN REVIEW AND REVISION.—
(A) IN GENERAL.—The Task Force shall make a copy of the plan available for public review and comment before the plan becomes final, in accordance with procedures established by the Task Force.
(B) REVISION OF PLAN.—
(i) IN GENERAL.—The Task Force may, on an annual basis, revise the plan.
(ii) PUBLIC REVIEW AND COMMENT.—In revising the plan, the Task Force shall provide the public the opportunity to review and comment on any proposed revision to the plan.
(f) CRITICAL RESTORATION PROJECTS.—
(1) IN GENERAL.—After the plan is approved by the Task Force under subsection (c)(2), the Secretary, in coordination with the Task Force, shall identify critical restoration projects to carry out the plan.
(2) AGREEMENT.—The Secretary may carry out a critical restoration project after entering into an agreement with an appropriate non-Federal interest in accordance with—
(A) section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b); and
(B) this section.
(3) INDIAN PROJECTS.—To the maximum extent practicable, the Secretary shall ensure that not less than 30 percent of the funds made available for critical restoration projects under this title shall be used exclusively for projects that are—
(A) within the boundary of an Indian reservation; or
(B) administered by an Indian tribe.
(g) COST SHARING.—
(1) ASSESSMENT.—
(A) FEDERAL SHARE.—The Federal share of the cost of carrying out the assessment under subsection (d) shall be 75 percent.
(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of carrying out the assessment under subsection (d) may be provided in the form of services, materials, or other in-kind contributions.
(2) PLAN.—
(A) FEDERAL SHARE.—The Federal share of the cost of preparing the plan under subsection (e) shall be 75 percent.
(B) NON-FEDERAL SHARE.—Not more than 50 percent of the non-Federal share of the cost of preparing the plan under subsection (e) may be provided in the form of services, materials, or other in-kind contributions.
(3) CRITICAL RESTORATION PROJECTS.—
(A) IN GENERAL.—A non-Federal cost share shall be required to carry out any critical restoration project under subsection (f) that does not primarily benefit the Federal Government, as determined by the Task Force.
(B) FEDERAL SHARE.—The Federal share of the cost of carrying out a critical restoration project under subsection (f) for which the Task Force requires a non-Federal cost share under subparagraph (A) shall be 65 percent, not to exceed $5,000,000 for any critical restoration project.
(C) NON-FEDERAL SHARE.—
(i) IN GENERAL.—Not more than 50 percent of the non-Federal share of the cost of carrying out a critical restoration project described in subparagraph (B) may be provided in the form of services, materials, or other in-kind contributions.
(ii) REQUIRED NON-FEDERAL CONTRIBUTIONS.—For any critical restoration project described in subparagraph (B), the non-Federal interest shall—
(I) provide all land, easements, rights-of-way, dredged material disposal areas, and relocations;
(II) pay all operation, maintenance, replacement, repair, and rehabilitation costs; and
(III) hold the United States harmless from all claims arising from the construction, operation, and maintenance of the project.
(iii) CREDIT.—The non-Federal interest shall receive credit for all contributions provided under clause (ii)(I).

SEC. ___06. ADMINISTRATION.

(a) IN GENERAL.—Nothing in this title diminishes or affects—
(1) any water right of an Indian tribe;
(2) any other right of an Indian tribe, except as specifically provided in another provision of this title;
(3) any treaty right that is in effect on the date of enactment of this Act;
(4) any external boundary of an Indian reservation of an Indian tribe;
(5) any authority of the State that relates to the protection, regulation, or management of fish, terrestrial wildlife, and cultural and archaeological resources, except as specifically provided in this title; or
(6) any authority of the Secretary, the Secretary of the Interior, or the head of any other Federal agency under a law in effect on the date of enactment of this Act, including—
(A) the National Historic Preservation Act (16 U.S.C. 470 et seq.);
(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);
(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);
(D) the Act entitled ''An Act for the protection of the bald eagle'', approved June 8, 1940 (16 U.S.C. 668 et seq.);
(E) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);
(F) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
(G) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);
(H) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);
(I) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and
(J) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
(b) FEDERAL LIABILITY FOR DAMAGE.—Nothing in this title relieves the Federal Government of liability for damage to private property caused by the operation of the Pick-Sloan program.
(c) FLOOD CONTROL.—Notwithstanding any other provision of this title, the Secretary shall retain the authority to operate the Pick-Sloan program for the purposes of meeting the requirements of the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.).
(d) USE OF FUNDS.—Funds transferred to the Trust may be used to pay the non-Federal share required under Federal programs.

SEC. ___07. AUTHORIZATION OF APPROPRIATIONS.

(a) INITIAL FUNDING.—There is authorized to be appropriated to the Secretary to carry out this title $4,000,000 for each of fiscal years 2001 through 2004, to remain available until expended.
(b) EXISTING PROGRAMS.—The Secretary shall fund programs authorized under the Pick-Sloan program in existence on the date of enactment of this Act at levels that are not less than funding levels for those programs as of that date.

TORRICELLI AMENDMENT NO. 4171

Mr. BAUCUS (for Mr. TORRICELLI) proposed an amendment to the bill, S. 2796, supra; as follows:

At the appropriate place, insert the following section:

SEC. . SHORT TITLE.

This section may be cited as the ''Dredged Material Reuse Act''.

SEC. . FINDING.

Congress finds that the Secretary of the Army should establish a program to reuse dredged material—
(1) to ensure the long-term viability of disposal capacity for dredged material; and
(2) to encourage the reuse of dredged material for environment and economic purposes.

SEC. . DEFINITION

In this Act, the term ''Secretary'' means the Secretary of the Army, acting through the Chief of Engineers.

SEC. . PROGRAM FOR REUSE OF DREDGED MATERIAL.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the

Secretary shall establish a program to allow the direct marketing of dredged material to public agencies and private entities.

(b) LIMITATIONS.—The Secretary shall not establish the program under subsection (a) unless a determination is made that such program is in the interest of the United States and is economically justified, equitable, and environmentally acceptable.

(c) REGIONAL RESPONSIBILITY.—The program described in subsection (a) may authorize each of the 8 Division offices of the Corps of Engineers to market to public agencies and private entities any dredged material from projects under the jurisdiction of the regional office. Any revenues generated from any sale of dredged material to such entities, shall be deposited in the U.S. Treasury.

(d) REPORTS.—Not later than 180 days after the date of enactment of this Act, and annually thereafter for a period of 4 years, the Secretary shall submit to Congress a report on the program established under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this Act $2,000,000 for each fiscal year.

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 4172

Mr. SMITH of New Hampshire proposed an amendment to the bill, S. 2796, supra; as follows:

On page 49, line 1, insert a comma between ''assessment'' and ''community''.

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 4173

Mr. SMITH proposed an amendment to the bill, S. 2796, supra; as follows:

At the appropriate place insert:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. NATIONAL ACADEMY OF SCIENCES STUDIES.

(a) DEFINITIONS.—In this section:

(1) ACADEMY.—The term ''Academy'' means the National Academy of Sciences.

(2) METHOD.—The term ''method'' means a method, model, assumption, or other pertinent planning tool used in conducting an economic or environmental analysis of a water resources project, including the formulation of a feasibility report.

(3) FEASIBILITY REPORT.—The term ''feasibility report'' means each feasibility report, and each associated environmental impact statement and mitigation plan, prepared by the Corps of Engineers for a water resources project.

(4) WATER RESOURCES PROJECT.—The term ''water resources project'' means a project for navigation, a project for flood control, a project for hurricane and storm damage reduction, a project for emergency streambank and shore protection, a project for ecosystem restoration and protection, and a water resources project of any other type carried out by the Corps of Engineers.

(b) INDEPENDENT PEER REVIEW OF PROJECTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall contract with the Academy to study, and make recommendations relating to, the independent peer review of feasibility reports.

(2) STUDY ELEMENTS.—In carrying out a contract under paragraph (1), the Academy shall study the practicality and efficacy of the independent peer review of the feasibility reports, including—

(A) the cost, time requirements, and other considerations relating to the implementation of independent peer review; and

(B) objective criteria that may be used to determine the most effective application of independent peer review to feasibility reports for each type of water resources projects.

(3) ACADEMY REPORT.—Not later than 1 year after the date of a contract under paragraph (1), the Academy shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report that includes—

(A) the results of the study conducted under paragraphs (1) and (2); and

(B) in light of the results of the study, specific recommendations, if any, on a program for implementing independent peer review of feasibility reports.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,000,000, to remain available until expended.

(c) INDEPENDENT PEER REVIEW OF METHODS FOR PROJECT ANALYSIS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall contract with the Academy to conduct a study that includes—

(A) a review of state-of-the-art methods;

(B) a review of the methods currently used by the Secretary;

(C) a review of a sample of instances in which the Secretary has applied the methods identified under subparagraph (B) in the analysis of each type of water resources projects; and

(D) a comparative evaluation of the basis and validity of state-of-the-art methods identified under subparagraph (A) and the methods identified under subparagraphs (B) and (C).

(2) ACADEMY REPORT.—Not later than 1 year after the date of a contract under paragraph (1), the Academy shall submit to the Secretary, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Environment and Public Works of the Senate a report that includes—

(A) the results of the study conducted under paragraph (1); and

(B) in light of the results of the study, specific recommendations for modifying any of the methods currently used by the Secretary for conducting economic and environmental analyses of water resources projects.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000, to remain available until expended.

BEACHES ENVIRONMENTAL ASSESSMENT, CLEANUP, AND HEALTH ACT OF 2000

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 4174

Mr. SMITH of New Hampshire proposed an amendment to the bill (H.R. 999) to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Beaches Environmental Assessment and Coastal Health Act of 2000''.

SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUALITY CRITERIA AND STANDARDS BY STATES.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

''(i) COASTAL RECREATION WATER QUALITY CRITERIA.—

''(1) ADOPTION BY STATES.—

''(A) INITIAL CRITERIA AND STANDARDS.—Not later than 42 months after the date of enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).

''(B) NEW OR REVISED CRITERIA AND STANDARDS.—Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable.

''(2) FAILURE OF STATES TO ADOPT.—

''(A) IN GENERAL.—If a State fails to adopt water quality criteria and standards in accordance with paragraph (1)(A) that are as protective of human health as the criteria for pathogens and pathogen indicators for coastal recreation waters published by the Administrator, the Administrator shall promptly propose regulations for the State setting forth revised or new water quality standards for pathogens and pathogen indicators described in paragraph (1)(A) for coastal recreation waters of the State.

''(B) EXCEPTION.—If the Administrator proposes regulations for a State described in subparagraph (A) under subsection (c)(4)(B), the Administrator shall publish any revised or new standard under this subsection not later than 42 months after the date of enactment of this subsection.

''(3) APPLICABILITY.—Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection, including the requirement in subsection (c)(2)(A) that the criteria protect public health and welfare.''.

SEC. 3. REVISIONS TO WATER QUALITY CRITERIA.

(a) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by adding at the end the following:

''(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 18 months after the date of enactment of this subsection, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall initiate, and, not later than 3 years after the date of enactment of this subsection, shall complete, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—

''(1) an assessment of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including nongastrointestinal effects;

''(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;

''(3) appropriate, accurate, expeditious, and cost-effective methods (including predictive models) for detecting in a timely manner in coastal recreation waters the presence of

pathogens that are harmful to human health; and

''(4) guidance for State application of the criteria for pathogens and pathogen indicators to be published under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.''.

(b) REVISED CRITERIA.—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

''(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate), based on the results of the studies conducted under section 104(v), for the purpose of protecting human health in coastal recreation waters.

''(B) REVIEWS.—Not later than the date that is 5 years after the date of publication of water quality criteria under this paragraph, and at least once every 5 years thereafter, the Administrator shall review and, as necessary, revise the water quality criteria.''.

SEC. 4. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by adding at the end the following:

''SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

''(a) MONITORING AND NOTIFICATION.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—

''(A) monitoring and assessment (including specifying available methods for monitoring) of coastal recreation waters adjacent to beaches or similar points of access that are used by the public for attainment of applicable water quality standards for pathogens and pathogen indicators; and

''(B) the prompt notification of the public, local governments, and the Administrator of any exceeding of or likelihood of exceeding applicable water quality standards for coastal recreation waters described in subparagraph (A).

''(2) LEVEL OF PROTECTION.—The performance criteria referred to in paragraph (1) shall provide that the activities described in subparagraphs (A) and (B) of that paragraph shall be carried out as necessary for the protection of public health and safety.

''(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—The Administrator may award a grant to a State or a local government to implement a monitoring and notification program if—

''(i) the program is consistent with the performance criteria published by the Administrator under subsection (a);

''(ii) the State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;

''(iii) the State or local government makes available to the Administrator the factors used to prioritize the use of funds under clause (ii);

''(iv) the State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under subsection (a); and

''(v) the public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

''(B) GRANTS TO LOCAL GOVERNMENTS.—The Administrator may make a grant to a local government under this subsection for implementation of a monitoring and notification program only if, after the 1-year period beginning on the date of publication of performance criteria under subsection (a)(1), the Administrator determines that the State is not implementing a program that meets the requirements of this subsection, regardless of whether the State has received a grant under this subsection.

''(3) OTHER REQUIREMENTS.—

''(A) REPORT.—A State recipient of a grant under this subsection shall submit to the Administrator, in such format and at such intervals as the Administrator determines to be appropriate, a report that describes—

''(i) data collected as part of the program for monitoring and notification as described in subsection (c); and

''(ii) actions taken to notify the public when water quality standards are exceeded.

''(B) DELEGATION.—A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a monitoring and notification program consistent with the performance criteria published under subsection (a) (including any coastal recreation waters for which the authority to implement a monitoring and notification program would be subject to the delegation).

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—The Administrator, through grants awarded under this section, may pay up to 100 percent of the costs of developing and implementing a program for monitoring and notification under this subsection.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of developing and implementing a monitoring and notification program may be—

''(i) in an amount not to exceed 50 percent, as determined by the Administrator in consultation with State, tribal, and local government representatives; and

''(ii) provided in cash or in kind.

''(c) CONTENT OF STATE AND LOCAL GOVERNMENT PROGRAMS.—As a condition of receipt of a grant under subsection (b), a State or local government program for monitoring and notification under this section shall identify—

''(1) lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;

''(2) in the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

''(3) the frequency and location of monitoring and assessment of coastal recreation waters based on—

''(A) the periods of recreational use of the waters;

''(B) the nature and extent of use during certain periods;

''(C) the proximity of the waters to known point sources and nonpoint sources of pollution; and

''(D) any effect of storm events on the waters;

''(4)(A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and

''(B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

''(5) measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

''(A) the Administrator, in such form as the Administrator determines to be appropriate; and

''(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

''(6) measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and

''(7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

''(d) FEDERAL AGENCY PROGRAMS.—Not later than 3 years after the date of enactment of this section, each Federal agency that has jurisdiction over coastal recreation waters adjacent to beaches or similar points of access that are used by the public shall develop and implement, through a process that provides for public notice and an opportunity for comment, a monitoring and notification program for the coastal recreation waters that—

''(1) protects the public health and safety;

''(2) is consistent with the performance criteria published under subsection (a);

''(3) includes a completed report on the information specified in subsection (b)(3)(A), to be submitted to the Administrator; and

''(4) addresses the matters specified in subsection (c) .

''(e) DATABASE.—The Administrator shall establish, maintain, and make available to the public by electronic and other means a national coastal recreation water pollution occurrence database that provides—

''(1) the data reported to the Administrator under subsections (b)(3)(A)(i) and (d)(3); and

''(2) other information concerning pathogens and pathogen indicators in coastal recreation waters that—

''(A) is made available to the Administrator by a State or local government, from a coastal water quality monitoring program of the State or local government; and

''(B) the Administrator determines should be included.

''(f) TECHNICAL ASSISTANCE FOR MONITORING FLOATABLE MATERIAL.—The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for

floatable material to protect public health and safety in coastal recreation waters.

''(g) LIST OF WATERS.—

''(1) IN GENERAL.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall identify, and maintain a list of, discrete coastal recreation waters adjacent to beaches or similar points of access that are used by the public that—

''(A) specifies any waters described in this paragraph that are subject to a monitoring and notification program consistent with the performance criteria established under subsection (a); and

''(B) specifies any waters described in this paragraph for which there is no monitoring and notification program (including waters for which fiscal constraints will prevent the State or the Administrator from performing monitoring and notification consistent with the performance criteria established under subsection (a)).

''(2) AVAILABILITY.—The Administrator shall make the list described in paragraph (1) available to the public through—

''(A) publication in the Federal Register; and

''(B) electronic media.

''(3) UPDATES.—The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.

''(h) EPA IMPLEMENTATION.—In the case of a State that has no program for monitoring and notification that is consistent with the performance criteria published under subsection (a) after the last day of the 3-year period beginning on the date on which the Administrator lists waters in the State under subsection (g)(1)(B), the Administrator shall conduct a monitoring and notification program for the listed waters based on a priority ranking established by the Administrator using funds appropriated for grants under subsection (i)—

''(1) to conduct monitoring and notification; and

''(2) for related salaries, expenses, and travel.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (b), including implementation of monitoring and notification programs by the Administrator under subsection (h), $30,000,000 for each of fiscal years 2001 through 2005.''.

SEC. 5. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(21) COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—The term 'coastal recreation waters' means—

''(i) the Great Lakes; and

''(ii) marine coastal waters (including coastal estuaries) that are designated under section 303(c) by a State for use for swimming, bathing, surfing, or similar water contact activities.

''(B) EXCLUSIONS.—The term 'coastal recreation waters' does not include—

''(i) inland waters; or

''(ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea.

''(22) FLOATABLE MATERIAL.—

''(A) IN GENERAL.—The term 'floatable material' means any foreign matter that may float or remain suspended in the water column.

''(B) INCLUSIONS.—The term 'floatable material' includes—

''(i) plastic;

''(ii) aluminum cans;

''(iii) wood products;

''(iv) bottles; and

''(v) paper products.

''(23) PATHOGEN INDICATOR.—The term 'pathogen indicator' means a substance that indicates the potential for human infectious disease.''.

SEC. 6. INDIAN TRIBES.

Section 518(e) of the Federal Water Pollution Control Act (33 U.S.C. 1377(e)) is amended by striking ''and 404'' and inserting ''404, and 406''.

SEC. 7. REPORT.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Administrator of the Environmental Protection Agency shall submit to Congress a report that includes—

(1) recommendations concerning the need for additional water quality criteria for pathogens and pathogen indicators and other actions that should be taken to improve the quality of coastal recreation waters;

(2) an evaluation of Federal, State, and local efforts to implement this Act, including the amendments made by this Act; and

(3) recommendations on improvements to methodologies and techniques for monitoring of coastal recreation waters.

(b) COORDINATION.—The Administrator of the Environmental Protection Agency may coordinate the report under this section with other reporting requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this Act, including the amendments made by this Act, for which amounts are not otherwise specifically authorized to be appropriated, such sums as are necessary for each of fiscal years 2001 through 2005.

BEACHES ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1999

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 4175

Mr. SMITH proposed an amendment to the bill (S. 522) to amend the Federal Water Pollution Control Act to improve the quality of beaches and coastal recreation water, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Beaches Environmental Assessment and Coastal Health Act of 2000''.

SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUALITY CRITERIA AND STANDARDS BY STATES.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

''(i) COASTAL RECREATION WATER QUALITY CRITERIA.—

''(1) ADOPTION BY STATES.—

''(A) INITIAL CRITERIA AND STANDARDS.—Not later than 42 months after the date of enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).

''(B) NEW OR REVISED CRITERIA AND STANDARDS.—Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable.

''(2) FAILURE OF STATES TO ADOPT.—

''(A) IN GENERAL.—If a State fails to adopt water quality criteria and standards in accordance with paragraph (1)(A) that are as protective of human health as the criteria for pathogens and pathogen indicators for coastal recreation waters published by the Administrator, the Administrator shall promptly propose regulations for the State setting forth revised or new water quality standards for pathogens and pathogen indicators described in paragraph (1)(A) for coastal recreation waters of the State.

''(B) EXCEPTION.—If the Administrator proposes regulations for a State described in subparagraph (A) under subsection (c)(4)(B), the Administrator shall publish any revised or new standard under this subsection not later than 42 months after the date of enactment of this subsection.

''(3) APPLICABILITY.—Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection, including the requirement in subsection (c)(2)(A) that the criteria protect public health and welfare.''.

SEC. 3. REVISIONS TO WATER QUALITY CRITERIA.

(a) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by adding at the end the following:

''(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 18 months after the date of enactment of this subsection, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall initiate, and, not later than 3 years after the date of enactment of this subsection, shall complete, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—

''(1) an assessment of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including nongastrointestinal effects;

''(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;

''(3) appropriate, accurate, expeditious, and cost-effective methods (including predictive models) for detecting in a timely manner in coastal recreation waters the presence of pathogens that are harmful to human health; and

''(4) guidance for State application of the criteria for pathogens and pathogen indicators to be published under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.''.

(b) REVISED CRITERIA.—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

''(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new

or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate), based on the results of the studies conducted under section 104(v), for the purpose of protecting human health in coastal recreation waters.

''(B) REVIEWS.—Not later than the date that is 5 years after the date of publication of water quality criteria under this paragraph, and at least once every 5 years thereafter, the Administrator shall review and, as necessary, revise the water quality criteria.''.

SEC. 4. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by adding at the end the following:

''SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

''(a) MONITORING AND NOTIFICATION.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—

''(A) monitoring and assessment (including specifying available methods for monitoring) of coastal recreation waters adjacent to beaches or similar points of access that are used by the public for attainment of applicable water quality standards for pathogens and pathogen indicators; and

''(B) the prompt notification of the public, local governments, and the Administrator of any exceeding of or likelihood of exceeding applicable water quality standards for coastal recreation waters described in subparagraph (A).

''(2) LEVEL OF PROTECTION.—The performance criteria referred to in paragraph (1) shall provide that the activities described in subparagraphs (A) and (B) of that paragraph shall be carried out as necessary for the protection of public health and safety.

''(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—The Administrator may award a grant to a State or a local government to implement a monitoring and notification program if—

''(i) the program is consistent with the performance criteria published by the Administrator under subsection (a);

''(ii) the State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;

''(iii) the State or local government makes available to the Administrator the factors used to prioritize the use of funds under clause (ii);

''(iv) the State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under subsection (a); and

''(v) the public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

''(B) GRANTS TO LOCAL GOVERNMENTS.—The Administrator may make a grant to a local government under this subsection for implementation of a monitoring and notification program only if, after the 1-year period beginning on the date of publication of performance criteria under subsection (a)(1), the Administrator determines that the State is not implementing a program that meets the requirements of this subsection, regardless of whether the State has received a grant under this subsection.

''(3) OTHER REQUIREMENTS.—

''(A) REPORT.—A State recipient of a grant under this subsection shall submit to the Administrator, in such format and at such intervals as the Administrator determines to be appropriate, a report that describes—

''(i) data collected as part of the program for monitoring and notification as described in subsection (c); and

''(ii) actions taken to notify the public when water quality standards are exceeded.

''(B) DELEGATION.—A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a monitoring and notification program consistent with the performance criteria published under subsection (a) (including any coastal recreation waters for which the authority to implement a monitoring and notification program would be subject to the delegation).

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—The Administrator, through grants awarded under this section, may pay up to 100 percent of the costs of developing and implementing a program for monitoring and notification under this subsection.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of developing and implementing a monitoring and notification program may be—

''(i) in an amount not to exceed 50 percent, as determined by the Administrator in consultation with State, tribal, and local government representatives; and

''(ii) provided in cash or in kind.

''(c) CONTENT OF STATE AND LOCAL GOVERNMENT PROGRAMS.—As a condition of receipt of a grant under subsection (b), a State or local government program for monitoring and notification under this section shall identify—

''(1) lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;

''(2) in the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

''(3) the frequency and location of monitoring and assessment of coastal recreation waters based on—

''(A) the periods of recreational use of the waters;

''(B) the nature and extent of use during certain periods;

''(C) the proximity of the waters to known point sources and nonpoint sources of pollution; and

''(D) any effect of storm events on the waters;

''(4)(A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and

''(B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

''(5) measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

''(A) the Administrator, in such form as the Administrator determines to be appropriate; and

''(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

''(6) measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and

''(7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

''(d) FEDERAL AGENCY PROGRAMS.—Not later than 3 years after the date of enactment of this section, each Federal agency that has jurisdiction over coastal recreation waters adjacent to beaches or similar points of access that are used by the public shall develop and implement, through a process that provides for public notice and an opportunity for comment, a monitoring and notification program for the coastal recreation waters that—

''(1) protects the public health and safety;

''(2) is consistent with the performance criteria published under subsection (a);

''(3) includes a completed report on the information specified in subsection (b)(3)(A), to be submitted to the Administrator; and

''(4) addresses the matters specified in subsection (c).

''(e) DATABASE.—The Administrator shall establish, maintain, and make available to the public by electronic and other means a national coastal recreation water pollution occurrence database that provides—

''(1) the data reported to the Administrator under subsections (b)(3)(A)(i) and (d)(3); and

''(2) other information concerning pathogens and pathogen indicators in coastal recreation waters that—

''(A) is made available to the Administrator by a State or local government, from a coastal water quality monitoring program of the State or local government; and

''(B) the Administrator determines should be included.

''(f) TECHNICAL ASSISTANCE FOR MONITORING FLOATABLE MATERIAL.—The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for floatable material to protect public health and safety in coastal recreation waters.

''(g) LIST OF WATERS.—

''(1) IN GENERAL.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall identify, and maintain a list of, discrete coastal recreation waters adjacent to beaches or similar points of access that are used by the public that—

''(A) specifies any waters described in this paragraph that are subject to a monitoring and notification program consistent with the performance criteria established under subsection (a); and

''(B) specifies any waters described in this paragraph for which there is no monitoring and notification program (including waters for which fiscal constraints will prevent the

State or the Administrator from performing monitoring and notification consistent with the performance criteria established under subsection (a)).

''(2) AVAILABILITY.—The Administrator shall make the list described in paragraph (1) available to the public through—

''(A) publication in the Federal Register; and

''(B) electronic media.

''(3) UPDATES.—The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.

''(h) EPA IMPLEMENTATION.—In the case of a State that has no program for monitoring and notification that is consistent with the performance criteria published under subsection (a) after the last day of the 3-year period beginning on the date on which the Administrator lists waters in the State under subsection (g)(1)(B), the Administrator shall conduct a monitoring and notification program for the listed waters based on a priority ranking established by the Administrator using funds appropriated for grants under subsection (i)—

''(1) to conduct monitoring and notification; and

''(2) for related salaries, expenses, and travel.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (b), including implementation of monitoring and notification programs by the Administrator under subsection (h), $30,000,000 for each of fiscal years 2001 through 2005.''.

SEC. 5. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(21) COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—The term 'coastal recreation waters' means—

''(i) the Great Lakes; and

''(ii) marine coastal waters (including coastal estuaries) that are designated under section 303(c) by a State for use for swimming, bathing, surfing, or similar water contact activities.

''(B) EXCLUSIONS.—The term 'coastal recreation waters' does not include—

''(i) inland waters; or

''(ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea.

''(22) FLOATABLE MATERIAL.—

''(A) IN GENERAL.—The term 'floatable material' means any foreign matter that may float or remain suspended in the water column.

''(B) INCLUSIONS.—The term 'floatable material' includes—

''(i) plastic;

''(ii) aluminum cans;

''(iii) wood products;

''(iv) bottles; and

''(v) paper products.

''(23) PATHOGEN INDICATOR.—The term 'pathogen indicator' means a substance that indicates the potential for human infectious disease.''.

SEC. 6. INDIAN TRIBES.

Section 518(e) of the Federal Water Pollution Control Act (33 U.S.C. 1377(e)) is amended by striking ''and 404'' and inserting ''404, and 406''.

SEC. 7. REPORT.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Administrator of the Environmental Protection Agency shall submit to Congress a report that includes—

(1) recommendations concerning the need for additional water quality criteria for pathogens and pathogen indicators and other actions that should be taken to improve the quality of coastal recreation waters;

(2) an evaluation of Federal, State, and local efforts to implement this Act, including the amendments made by this Act; and

(3) recommendations on improvements to methodologies and techniques for monitoring of coastal recreation waters.

(b) COORDINATION.—The Administrator of the Environmental Protection Agency may coordinate the report under this section with other reporting requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this Act, including the amendments made by this Act, for which amounts are not otherwise specifically authorized to be appropriated, such sums as are necessary for each of fiscal years 2001 through 2005.

FEDERAL RESEARCH INVESTMENT ACT

FRIST (AND ROCKEFELLER) AMENDMENT NO. 4176

Mr. SMITH of New Hampshire (for Mr. FRIST (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill (S. 2046) to reauthorize the Next Generation Internet Act, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Research Investment Act''.

TITLE I—FEDERAL RESEARCH INVESTMENT

SEC. 101. GENERAL FINDINGS REGARDING FEDERAL INVESTMENT IN RESEARCH.

(a) VALUE OF RESEARCH AND DEVELOPMENT.—The Congress makes the following findings with respect to the value of research and development to the United States:

(1) Federal investment in research has resulted in the development of technology that has saved lives in the United States and around the world.

(2) The research and development investment across all Federal agencies has been effective in creating technology that has enhanced the American quality of life.

(3) The Federal investment in research and development conducted or underwritten by both military and civilian agencies has produced benefits that have been felt in both the private and public sector.

(4) Discoveries across the spectrum of scientific inquiry have the potential to raise the standard of living and quality of life for all Americans.

(5) Science, engineering, and technology play a critical role in shaping the modern world.

(6) Studies show that about half of all United States post-World War II economic growth is a direct result of technical innovation; science, engineering, and technology contribute to the creation of new goods and services, new jobs and new capital.

(7) Technical innovation is the principal driving force behind the long-term economic growth and increased standards of living of the world's modern industrial societies. Other nations are well aware of the pivotal role of science, engineering, and technology, and they are seeking to exploit it wherever possible to advance their own global competitiveness.

(8) Federal programs for investment in research, which lead to technological innovation and result in economic growth, should be structured to address current funding disparities and develop enhanced capability in States and regions that currently are underrepresented in the national science and technology enterprise.

(b) STATUS OF THE FEDERAL INVESTMENT.—The Congress makes the following findings with respect to the status of the Federal investment in research and development activities:

(1) Civilian research and development expenditures reached their pinnacle in the mid-1960s due to the Apollo Space program, declining for several years thereafter. Despite significant growth in the late 1980s and early 1990s, these expenditures, in constant dollars, have not returned to the levels of the 1960s.

(2) Fiscal realities now challenge Congress and the President to steer the Federal government's role in science, engineering, and technology in a manner that ensures a prudent use of limited public resources. There is both a long-term problem—addressing the ever-increasing level of mandatory spending—and a near-term challenge—apportioning a dwindling amount of discretionary funding to an increasing range of targets in science, engineering, and technology. This confluence of increased national dependency on technology, increased targets of opportunity, and decreased fiscal flexibility has created a problem of national urgency. Many indicators show that more funding for science, engineering, and technology is needed but, even with increased funding, priorities must be established among different programs. The United States cannot afford the luxury of fully funding all deserving programs.

SEC. 102. SPECIAL FINDINGS REGARDING HEALTH-RELATED RESEARCH.

The Congress makes the following findings with respect to health-related research:

(1) HEALTH AND ECONOMIC BENEFITS PROVIDED BY HEALTH-RELATED RESEARCH.—Because of health-related research, cures for many debilitating and fatal diseases have been discovered and deployed. At present, the medical research community is on the cusp of creating cures for a number of leading diseases and their associated burdens. In particular, medical research has the potential to develop treatments that can help manage the escalating costs associated with the aging of the United States population.

(2) FUNDING OF HEALTH-RELATED RESEARCH.—Many studies have recognized that clinical and basic science are in a state of crisis because of a failure of resources to meet the opportunity. Consequently, health-related research has emerged as a national priority and has been given significantly increased funding by Congress in both fiscal year 1999 and fiscal year 2000. In order to continue addressing this urgent national need, the pattern of substantial budgetary expansion begun in fiscal year 1999 should be maintained.

(3) INTERDISCIPLINARY NATURE OF HEALTH-RELATED RESEARCH.—Because all fields of science and engineering are interdependent, full realization of the nation's historic investment in health will depend on major advances both in the biomedical sciences and in other science and engineering disciplines. Hence, the vitality of all disciplines must be preserved, even as special considerations are given to the health research field.

SEC. 103. ADDITIONAL FINDINGS REGARDING THE LINK BETWEEN RESEARCH AND TECHNOLOGY.

The Congress makes the following findings:

(1) FLOW OF SCIENCE, ENGINEERING, AND TECHNOLOGY.—The process of science, engineering, and technology involves many

steps. The present Federal science, engineering, and technology structure reinforces the increasingly artificial distinctions between basic and applied activities. The result too often is a set of discrete programs that each support a narrow phase of research or development and are not coordinated with one another. The government should maximize its investment by encouraging the progression of science, engineering, and technology from the earliest stages of research up to a precommercialization stage, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit review at each stage, so that promising technology is not lost in a bureaucratic maze.

(2) EXCELLENCE IN AMERICAN UNIVERSITY RESEARCH INFRASTRUCTURE.—Federal investment in science, engineering, and technology programs must foster a close relationship between research and education. Investment in research at the university level creates more than simply world-class research. It creates world-class researchers as well. The Federal strategy must continue to reflect this commitment to a strong geographically-diverse research infrastructure. Furthermore, the United States must find ways to extend the excellence of its university system to primary and secondary educational institutions and to better utilize the community college system to prepare many students for vocational opportunities in an increasingly technical workplace.

(3) COMMITMENT TO A BROAD RANGE OF RESEARCH INITIATIVES.—An increasingly common theme in many recent technical breakthroughs has been the importance of revolutionary innovations that were sparked by overlapping of research disciplines. The United States must continue to encourage this trend by providing and encouraging opportunities for interdisciplinary projects that foster collaboration among fields of research.

(4) PARTNERSHIPS AMONG INDUSTRY, UNIVERSITIES, AND FEDERAL LABORATORIES.—Each of these contributors to the national science and technology delivery system has special talents and abilities that complement the others. In addition, each has a central mission that must provide their focus and each has limited resources. The nation's investment in science, engineering, and technology can be optimized by seeking opportunities for leveraging the resources and talents of these three major players through partnerships that do not distort the missions of each partner. For that reason, Federal dollars are wisely spent forming such partnerships.

SEC. 104. MAINTENANCE OF FEDERAL RESEARCH EFFORT; GUIDING PRINCIPLES.

(a) MAINTAINING UNITED STATES LEADERSHIP IN SCIENCE, ENGINEERING, AND TECHNOLOGY.—It is imperative for the United States to nurture its superb resources in science, engineering, and technology carefully in order to maintain its own globally competitive position.

(b) GUIDING PRINCIPLES.—Federal research and development programs should be conducted in accordance with the following guiding principles:

(1) GOOD SCIENCE.—Federal science, engineering, and technology programs include both knowledge-driven science together with its applications, and mission-driven, science-based requirements. In general, both types of programs must be focused, peer- and merit-reviewed, and not unnecessarily duplicative, although the details of these attributes must vary with different program objectives.

(2) FISCAL ACCOUNTABILITY.—The Congress must exercise oversight to ensure that programs funded with scarce Federal dollars are well managed. The United States cannot tolerate waste of money through inefficient management techniques, whether by government agencies, by contractors, or by Congress itself. Fiscal resources would be better utilized if program and project funding levels were predictable across several years to enable better project planning; a benefit of such predictability would be that agencies and Congress can better exercise oversight responsibilities through comparisons of a project's and program's progress against carefully planned milestones and international benchmarks.

(3) PROGRAM EFFECTIVENESS.—The United States needs to make sure that government programs achieve their goals. As the Congress crafts science, engineering, and technology legislation, it must include a process for gauging program effectiveness, selecting criteria based on sound scientific judgment and avoiding unnecessary bureaucracy. The Congress should also avoid the trap of measuring the effectiveness of a broad science, engineering, and technology program by passing judgment on individual projects. Lastly, the Congress must recognize that a negative result in a well-conceived and executed project or program may still be critically important to the funding agency.

(4) CRITERIA FOR GOVERNMENT FUNDING.—Program selection for Federal funding should continue to reflect the nation's 2 traditional research and development priorities: (A) basic, scientific, and technological research that represents investments in the nation's long-term future scientific and technological capacity, for which government has traditionally served as the principal resource; and (B) mission research investments, that is, investments in research that derive from necessary public functions, such as defense, health, education, environmental protection, all of which may also raise the standard of living, which may include pre-commercial, pre-competitive engineering research and technology development. Additionally, government funding should not compete with or displace the short-term, market-driven, and typically more specific nature of private-sector funding. Government funding should be restricted to pre-competitive activities, leaving competitive activities solely for the private sector. As a rule, the government should not invest in commercial technology that is in the product development stage, very close to the broad commercial marketplace, except to meet a specific agency goal. When the government provides funding for any science, engineering, and technology investment program, it must take reasonable steps to ensure that the potential benefits derived from the program will accrue broadly.

SEC. 105. POLICY STATEMENT.

(a) POLICY.—This title is intended to—

(1) assure a doubling of the base level of Federal funding for basic scientific, biomedical, and pre-competitive engineering research, achieved by steadily increasing the annual funding of civilian research and development programs so that the total annual investment equals 10 percent of the Federal government's discretionary budget by fiscal year 2011;

(2) invest in the future economic growth of the United States by expanding the research activities referred to in paragraph (1);

(3) enhance the quality of life and health for all people of the United States through expanded support for health-related research;

(4) allow for accelerated growth of individual agencies to meet critical national needs;

(5) guarantee the leadership of the United States in science, engineering, medicine, and technology;

(6) ensure that the opportunity and the support for undertaking good science is widely available throughout the United States by supporting a geographically-diverse research and development enterprise; and

(7) continue aggressive Congressional oversight and annual budgetary authorization of the individual agencies listed in subsection (b).

(b) AGENCIES COVERED.—The agencies and trust instrumentality intended to be covered to the extent that they are engaged in science, engineering, and technology activities for basic scientific, medical, or pre-competitive engineering research by this title are—

(1) the National Institutes of Health, within the Department of Health and Human Services;

(2) the National Science Foundation;

(3) the National Institute for Standards and Technology, within the Department of Commerce;

(4) the National Aeronautics and Space Administration;

(5) the National Oceanic and Atmospheric Administration, within the Department of Commerce;

(6) the Centers for Disease Control, within the Department of Health and Human Services.

(7) the Department of Energy (to the extent that it is not engaged in defense-related activities);

(8) the Department of Agriculture;

(9) the Department of Transportation;

(10) the Department of the Interior;

(11) the Department of Veterans Affairs;

(12) the Smithsonian Institution;

(13) the Department of Education;

(14) the Environmental Protection Agency;

(15) the Food and Drug Administration, within the Department of Health and Human Services; and

(16) the Federal Emergency Management Agency.

(c) DAMAGE TO RESEARCH INFRASTRUCTURE.—A funding trend equal to or lower than current budgetary levels will lead to permanent damage to the United States research infrastructure. This could threaten American dominance of high-technology industrial leadership.

(d) FUTURE FISCAL YEAR ALLOCATIONS.—

(1) GOAL.—The goal of this title is to increase the percentage of the Federal discretionary budget allocated for civilian research and development by 0.3 percent annually to realize a total of 10 percent of the Federal discretionary budget by fiscal year 2011.

(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated to the agencies listed in subsection (b) for civilian research and development the following amounts:

(A) $43,080,000,000 for fiscal year 2001.

(B) $45,160,000,000 for fiscal year 2002.

(C) $47,820,000,000 for fiscal year 2003.

(D) $50,540,000,000 for fiscal year 2004.

(E) $53,410,000,000 for fiscal year 2005.

(3) FISCAL YEARS 2006–2011.—There is authorized to be appropriated to the agencies listed in subsection (b) for civilian research and development for each of the fiscal years 2006 through 2011 an amount that, on the basis of projections of Federal discretionary budget amounts as such projections become available, will meet the goal established by paragraph (1).

(4) ACCELERATION TO MEET NATIONAL NEEDS.—

(A) IN GENERAL.—If an agency listed in subsection (b) has an accelerated funding fiscal year, then, except as provided by subparagraph (C), the amount authorized by paragraph (2) or determined under paragraph (3) for the fiscal year following the accelerated funding fiscal year shall be determined in accordance with subparagraph (B).

(B) EXCLUSION OF ACCELERATED FUNDING AGENCY.—The amount authorized to be appropriated for civilian research and development under this subparagraph for a fiscal year shall be determined—

(i) by reducing the total amount that, but for subparagraph (A), would be authorized to be appropriated by paragraph (2) or paragraph (3) by a percentage equal to the percentage of total amount authorized by that paragraph for the fiscal year preceding the accelerated funding fiscal year to the agency that had the accelerated funding fiscal year; and

(ii) allocating the reduced amount among all agencies listed in subsection (b) other than the agency that had the accelerated funding fiscal year.

(C) EXCEPTION TO ACCELERATED FUNDING AGENCY RULE.—Subparagraph (B) does not apply if the amount appropriated to an agency for civilian research and development purposes for a fiscal year, adjusted for inflation (assuming an annual rate of inflation of 3 percent), does not exceed the amount appropriated to that agency for those purposes for fiscal year 2000 increased by 2.5 percent a year for each fiscal year after fiscal year 2000.

(D) ACCELERATED FUNDING FISCAL YEAR DEFINED.—In this subsection, the term ''accelerated funding fiscal year'' means a fiscal year for which the amount appropriated to an agency for civilian research and development purposes is an increase of more than 8 percent over the amount appropriated to that agency for the preceding fiscal year for those purposes.

(e) CONFORMANCE WITH BUDGETARY CAPS.—Notwithstanding any other provision of law, no funds may be made available under this title in a manner that does not conform with the discretionary spending caps provided in the most recently adopted concurrent resolution on the budget or threatens the economic stability of the annual budget.

(f) BALANCED RESEARCH PORTFOLIO.—Because of the interdependent nature of the scientific and engineering disciplines, the aggregate funding levels authorized by the section assume that the Federal research portfolio will be well-balanced among the various scientific and engineering disciplines, and geographically dispersed throughout the States.

(g) CONGRESSIONAL AUTHORIZATION PROCESS.—The policies and authorizations in this Act establish minimum levels for the overall Federal civilian research portfolio across the agencies listed in subsection (b) under the procedures defined in subsection (d). The amounts authorized by subsection (d) establish a framework within which the authorizing committees of the Congress are to work when authorizing funding for specific Federal agencies engaged in science, engineering, and technology activities.

SEC. 106. ANNUAL RESEARCH AND DEVELOPMENT ANALYSES.

The Director of the Office of Science and Technology shall provide, no later than February 15th of each year, a report to Congress that includes—

(1) a detailed summary of the total level of funding for civilian research and development programs throughout all Federal agencies;

(2) a focused strategy that is consistent with the funding projections of this title for each future fiscal year until 2011, including specific targets for each agency that funds civilian research and development;

(3) an analysis which details funding levels across Federal agencies by methodology of funding, including grant agreements, procurement contracts, and cooperative agreements (within the meaning given those terms in chapter 63 of title 31, United States Code);

(4) a Federal strategy for infrastructure development and research and development capacity building in States with less concentrated research and development resources in order to create a nationwide research and development community; and

(5) an annual analysis of the total level of funding for civilian research and development programs throughout all Federal agencies as compared to the previous fiscal year's Congressional budget appropriations for science, engineering, and technology activities of the agencies described in section 105(b), that details for the current fiscal year—

(A) how total funding levels compare to those authorized according to section 105(d);

(B) how the differences in those funding levels will affect the health, stability, and international standing of the Federal civilian research and development infrastructure;

(C) how the disparities in those levels affect the ability of the agencies covered by this Act to perform their missions; and

(D) which agencies are excluded under this Act due to accelerated funding and the aggregate amount to be authorized to other agencies under section 105(d).

SEC. 107. COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH.

(a) STUDY.—The Director of the Office of Science and Technology Policy shall enter into agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. The Director shall report the results of the study to the Congress not later than 18 months after the date of enactment of this Act. This study shall—

(1) recommend processes to determine an acceptable level of success for Federally-funded research and development programs by—

(A) describing the research process in the various scientific and engineering disciplines;

(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measures are considered reliable—both for exploratory long-range work and for short-range goals; and

(C) recommending how these measures may be adapted for use by the Federal government to evaluate Federally-funded research and development programs;

(2) assess the extent to which civilian research and development agencies incorporate independent merit-based review into the formulation of their strategic plans and performance plans;

(3) recommend mechanisms for identifying Federally-funded research and development programs which are unsuccessful or unproductive;

(4) evaluate the extent to which independent, merit-based evaluation of Federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

(A) administrative burden on contractors and recipients of financial assistance awards;

(B) administrative burdens on external participants in independent, merit-based evaluations;

(C) cost and schedule control for construction projects funded by the program;

(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

(E) the timeliness of program responses to requests for funding, participation, or equipment use.

(6) examine the extent to which program selection for Federal funding across all agencies exemplifies our nation's historical research and development priorities—

(A) basic, scientific, and technological research in the long-term future scientific and technological capacity of the nation; and

(B) mission research derived from a high-priority public function.

(b) ALTERNATIVE FORMS FOR PERFORMANCE GOALS.—Not later than 6 months after transmitting the report under subsection (a) to Congress, the Director of the Office of Management and Budget, after public notice, public comment, and approval by the Director of the Office of Science and Technology Policy and in consultation with the National Science and Technology Council shall promulgate one or more alternative forms for performance goals under section 1115(b)(10)(B) of title 31, United States Code, based on the recommendations of the study under subsection (a) of this section. The head of each agency containing a program activity that is a research and development program may apply an alternative form promulgated under this section for a performance goal to such a program activity without further authorization by the Director of the Office of Management and Budget.

(c) STRATEGIC PLANS.—Not later than one year after promulgation of the alternative performance goals in subsection (b) of this section, the head of each agency carrying out research and development activities, upon updating or revising a strategic plan under subsection 306(b) of title 5, United States Code, shall describe the current and future use of methods for determining an acceptable level of success as recommended by the study under subsection (a).

(d) DEFINITIONS.—In this section:

(1) DIRECTOR.—The Term ''Director'' means the Director of the Office of Science and Technology Policy.

(2) PROGRAM ACTIVITY.—The term ''program activity'' has the meaning given that term by section 1115(f)(6) of title 31, United States Code.

(3) INDEPENDENT MERIT-BASED EVALUATION.—The term ''independent merit-based evaluation'' means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

(A) in the case of the review of a program activity, do not derive long-term support from the program activity; or

(B) in the case of the review of a project proposal, are not seeking funds in competition with the proposal.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by subsection (a) $600,000, which shall remain available until expended.

SEC. 108. EFFECTIVE PERFORMANCE ASSESSMENT PROGRAM FOR FEDERALLY-FUNDED RESEARCH.

(a) IN GENERAL.—Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

''§ 1120. Accountability for research and development programs

''(a) IDENTIFICATION OF UNSUCCESSFUL PROGRAMS.—Based upon program performance reports for each fiscal year submitted to the President under section 1116, the Director of the Office of Management and Budget shall identify the civilian research and development program activities, or components

thereof, which do not meet an acceptable level of success as defined in section 1115(b)(1)(B). Not later than 30 days after the submission of the reports under section 1116, the Director shall furnish a copy of a report listing the program activities or component identified under this subsection to the President and the Congress.

''(b) ACCOUNTABILITY IF NO IMPROVEMENT SHOWN.—For each program activity or component that is identified by the Director under subsection (a) as being below the acceptable level of success for 2 fiscal years in a row, the head of the agency shall no later than 30 days after the Director submits the second report so identifying the program, submit to the appropriate congressional committees of jurisdiction—

''(1) a concise statement of the steps necessary to—

''(A) bring such program into compliance with performance goals; or

''(B) terminate such program should compliance efforts fail; and

''(2) any legislative changes needed to put the steps contained in such statement into effect.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

''1120. Accountability for research and development programs''.

(2) Section 1115(f) of title 31, United States Code, is amended by striking ''section and sections 1116 through 1119,'' and inserting ''section, sections 1116 through 1120,''.

TITLE II—NETWORKING AND INFORMATION TECHNOLOGY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Networking and Information Technology Research and Development Act''.

SEC. 202. FINDINGS.

The Congress makes the following findings:

(1) Information technology will continue to change the way Americans live, learn, and work. The information revolution will improve the workplace and the quality and accessibility of health care and education and make government more responsible and accessible. It is important that access to information technology be available to all citizens, including elderly Americans and Americans with disabilities.

(2) Information technology is an imperative enabling technology that contributes to scientific disciplines. Major advances in biomedical research, public safety, engineering, and other critical areas depend on further advances in computing and communications.

(3) The United States is the undisputed global leader in information technology.

(4) Information technology is recognized as a catalyst for economic growth and prosperity.

(5) Information technology represents one of the fastest growing sectors of the United States economy, with electronic commerce alone projected to become a trillion-dollar business by 2005.

(6) Businesses producing computers, semiconductors, software, and communications equipment account for one-third of the total growth in the United States economy since 1992.

(7) According to the United States Census Bureau, between 1993 and 1997, the information technology sector grew an average of 12.3 percent per year.

(8) Fundamental research in information technology has enabled the information revolution.

(9) Fundamental research in information technology has contributed to the creation of new industries and new, high-paying jobs.

(10) Our Nation's well-being will depend on the understanding, arising from fundamental research, of the social and economic benefits and problems arising from the increasing pace of information technology transformations.

(11) Scientific and engineering research and the availability of a skilled workforce are critical to continued economic growth driven by information technology.

(12) In 1997, private industry provided most of the funding for research and development in the information technology sector. The information technology sector now receives, in absolute terms, one-third of all corporate spending on research and development in the United States economy.

(13) The private sector tends to focus its spending on short-term, applied research.

(14) The Federal Government is uniquely positioned to support long-term fundamental research.

(15) Federal applied research in information technology has grown at almost twice the rate of Federal basic research since 1986.

(16) Federal science and engineering programs must increase their emphasis on long-term, high-risk research.

(17) Current Federal programs and support for fundamental research in information technology is inadequate if we are to maintain the Nation's global leadership in information technology.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) NATIONAL SCIENCE FOUNDATION.—Section 201(b) of the High-Performance Computing Act of 1991 (15 U.S.C. 5521(b)) is amended—

(1) by striking ''From sums otherwise authorized to be appropriated, there'' and inserting ''There'';

(2) by striking ''1995; and'' and inserting ''1995;''; and

(3) by striking the period at the end and inserting ''; $580,000,000 for fiscal year 2000; $699,300,000 for fiscal year 2001; $728,150,000 for fiscal year 2002; $801,550,000 for fiscal year 2003; and $838,500,000 for fiscal year 2004. Amounts authorized under this subsection shall be the total amounts authorized to the National Science Foundation for a fiscal year for the Program, and shall not be in addition to amounts previously authorized by law for the purposes of the Program.''.

(b) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—Section 202(b) of the High-Performance Computing Act of 1991 (15 U.S.C 5522(b)) is amended—

(1) by striking ''From sums otherwise authorized to be appropriated, there'' are inserting ''There'';

(2) by striking ''1995; and'' and inserting ''1995;''; and

(3) by striking the period at the end and inserting ''; $164,400,000 for fiscal year 2000; $201,000,000 for fiscal year 2001; $208,000,000 for fiscal year 2002; $224,000,000 for fiscal year 2003; and $231,000,000 for fiscal year 2004.''.

(c) DEPARTMENT OF ENERGY.—Section 203(e)(1) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(e)(1)) is amended—

(1) by striking ''1995; and'' and inserting ''1995;''; and

(2) by striking the period at the end and inserting ''; $119,500,000 for fiscal year 2000; $175,000,000 for fiscal year 2001; $220,000,000 for fiscal year 2002; $250,000,000 for fiscal year 2003; and $300,000,000 for fiscal year 2004.''.

(d) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—(1) Section 204(d)(1) of the High-Performance Computing Act of 1991 (15 U.S.C. 5524(d)(1)) is amended—

(A) by striking ''1995; and'' and inserting ''1995;''; and

(B) by striking ''1996; and'' and inserting ''1996; $9,000,000 for fiscal year 2000; $9,500,000 for fiscal year 2001; $10,500,000 for fiscal year 2002; $16,000,000 for fiscal year 2003; and $17,000,000 for fiscal year 2004; and''.

(2) Section 204(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5524(d)) is amended by striking ''From sums otherwise authorized to be appropriated, there'' and inserting ''There''.

(e) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 204(d)(2) of the High-Performance Computing Act of 1991 (15 U.S.C. 5524(d)(2)) is amended—

(1) by striking ''1995; and'' and inserting ''1995;''; and

(2) by striking the period at the end and inserting ''; $13,500,000 for fiscal year 2000; $13,900,000 for fiscal year 2001; $14,300,000 for fiscal year 2002; $14,800,000 for fiscal year 2003; and $15,200,000 for fiscal year 2004.''.

(f) ENVIRONMENTAL PROTECTION AGENCY.—Section 205(b) of the High-Performance Computing Act of 1991 (15 U.S.C. 5525(b)) is amended—

(1) by striking ''From sums otherwise authorized to be appropriated, there'' and inserting ''There'';

(2) by striking ''1995; and'' and inserting ''1995;''; and

(3) by striking the period at the end and inserting ''; $4,200,000 for fiscal year 2000; $4,300,000 for fiscal year 2001; $4,500,000 for fiscal year 2002; $4,600,000 for fiscal year 2003; and $4,700,000 for fiscal year 2004.''.

(g) NATIONAL INSTITUTES OF HEALTH.—Title II of the High-Performance Computing Act of 1991 (15 U.S.C. 5521 et seq.) is amended by inserting after section 205 the following new section:

''SEC. 205A. NATIONAL INSTITUTES OF HEALTH ACTIVITIES.

''(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the National Institutes of Health shall support activities directed toward establishing University-based centers of excellence pursuing research and training in areas of intersection of information technology and the biomedical, life sciences, and behavioral research; research and development on technologies and processes to better manage genomic and related life science data bases; and, computation infrastructure for and related research on modeling and simulation, as applied to biomedical, life science, and behavioral research. In pursuing the above programs and in support of its mission of biomedical, life sciences, and behavioral research, National Institutes of Health should work in close cooperation with agencies involved in related information technology research and application efforts.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services for the purposes of the Program $223,000,000 for fiscal year 2000, $233,000,000 for fiscal year 2001, $242,000,000 for fiscal year 2002, $250,000,000 for fiscal year 2003, and $250,000,000 for fiscal year 2004.''.

SEC. 204. NETWORKING AND INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT.

(a) NATIONAL SCIENCE FOUNDATION.—Section 201 of the High-Performance Computing Act of 1991 (15 U.S.C. 5521) is amended by adding at the end the following new subsections:

''(c) NETWORKING AND INFORMATION TECHNOLOGY RESEARCH AND DEVELOPMENT.—(1) Of the amounts authorized under subsection (b), $350,000,000 for fiscal year 2000; $421,000,000 for fiscal year 2001, $442,000,000 for fiscal year 2002, $486,000,000 for fiscal year 2003, and $515,000,000 for fiscal year 2004 shall be available for grants for long-term basic research on networking and information technology, with priority given to research that helps address issues related to high end computing and software; network stability, fragility, reliability, security (including privacy and

counterinitiatives), and scalability; and the social and economic consequences (including the consequences for healthcare) of information technology.

''(2) In each of the fiscal years 2000 and 2001, the National Science Foundation shall award under this subsection up to 25 large grants of up to $1,000,000 each, and in each of the fiscal years 2002, 2003, and 2004, the National Science Foundation shall award under this subsection up to 35 large grants of up to $1,000,000 each.

''(3)(A) Of the amounts described in paragraph (1), $40,000,000 for fiscal year 2000, $45,000,000 for fiscal year 2001, $50,000,000 for fiscal year 2002, $55,000,000 for fiscal year 2003, and $60,000,000 for fiscal year 2004 shall be available for grants of up to $5,000,000 each for Information Technology Research Centers.

''(B) For purposes of this paragraph, the term 'Information Technology Research Centers' means groups of six or more researchers collaborating across scientific and engineering disciplines on large-scale long-term research projects which will significantly advance the science supporting the development of information technology or the use of information technology in addressing scientific issues of national importance.

''(d) MAJOR RESEARCH EQUIPMENT.—(1) In addition to the amounts authorized under subsection (b), there are authorized to be appropriated to the National Science Foundation $70,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, $80,000,000 for fiscal year 2002, $80,000,000 for fiscal year 2003, and $85,000,000 for fiscal year 2004 for grants for the development of major research equipment to establish terascale computing capabilities at one or more sites and to promote diverse computing architectures. Awards made under this subsection shall provide for support for the operating expenses of facilities established to provide the terascale computing capabilities, with funding for such operating expenses derived from amounts available under subsection (b).

''(2) Grants awarded under this subsection shall be awarded through an open, nationwide, peer-reviewed competition. Awardees may include consortia consisting of members from some or all of the following types of institutions:

''(A) Academic supercomputer centers.

''(B) State-supported supercomputer centers.

''(C) Supercomputer centers that are supported as part of federally funded research and development centers.

Notwithstanding any other provision of law, regulation, or agency policy, a federally funded research and development center may apply for a grant under this subsection, and may compete on an equal basis with any other applicant for the awarding of such a grant.

''(3) As a condition of receiving a grant under this subsection, an awardee must agree—

''(A) to connect to the National Science Foundation's Partnership for Advanced Computational Infrastructure network;

''(B) to the maximum extent practicable, to coordinate with other federally funded large-scale computing and simulation efforts; and

''(C) to provide open access to all grant recipients under this subsection or subsection (c).

''(e) INFORMATION TECHNOLOGY EDUCATION AND TRAINING GRANTS—

''(1) INFORMATION TECHNOLOGY GRANTS.—The National Science Foundation shall provide grants under the Scientific and Advanced Technology Act of 1992 for the purposes of section 3(a) and (b) of that Act, except that the activities supported pursuant to this paragraph shall be limited to improving education in fields related to information technology. The Foundation shall encourage institutions with a substantial percentage of student enrollments from groups underrepresented in information technology industries to participate in the competition for grants provided under this paragraph.

''(2) INTERNSHIP GRANTS.—The National Science Foundation shall provide—

''(A) grants to institutions of higher education to establish scientific internship programs in information technology research at private sector companies; and

''(B) supplementary awards to institutions funded under the Louis Stokes Alliances for Minority Participation program for internships in information technology research at private sector companies.

''(3) MATCHING FUNDS.—Awards under paragraph (2) shall be made on the condition that at least an equal amount of funding for the internship shall be provided by the private sector company at which the internship will take place.

''(4) DEFINITION.—For purposes of this subsection, the term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

''(5) AVAILABILITY OF FUNDS.—Of the amounts described in subsection (c)(1), $10,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, $25,000,000 for fiscal year 2003, and $25,000,000 for fiscal year 2004 shall be available for carrying out this subsection.

''(f) EDUCATIONAL TECHNOLOGY RESEARCH.—

''(1) RESEARCH PROGRAM.—As part of its responsibilities under subsection (a)(1), the National Science Foundation shall establish a research program to develop, demonstrate, assess, and disseminate effective applications of information and computer technologies for elementary and secondary education. Such program shall—

''(A) support research, including collaborative projects involving academic researchers and elementary and secondary schools, to develop innovative educational materials, including software, and pedagogical approaches based on applications of information and computer technology;

''(B) support empirical studies to determine the educational effectiveness and the cost effectiveness of specific, promising educational approaches, techniques, and materials that are based on applications of information and computer technologies; and

''(C) include provision for the widespread dissemination of the results of the studies carried out under subparagraphs (A) and (B), including maintenance of electronic libraries of the best educational materials identified accessible through the Internet.

''(2) REPLICATION.—The research projects and empirical studies carried out under paragraph (1)(A) and (B) shall encompass a wide variety of educational settings in order to identify approaches, techniques, and materials that have a high potential for being successfully replicated throughout the United States.

''(3) AVAILABILITY OF FUNDS.—Of the amounts authorized under subsection (b), $10,000,000 for fiscal year 2000, $10,500,000 for fiscal year 2001, $11,000,000 for fiscal year 2002, $12,000,000 for fiscal year 2003, $12,500,000 for fiscal year 2004 shall be available for the purposes of this subsection.

''(g) PEER REVIEW.—All grants made under this section shall be made only after being subject to peer review by panels or groups having private sector representation.''.

(b) OTHER PROGRAM AGENCIES.—

(1) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.—Section 202(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5522(a)) is amended by inserting '', and may participate in or support research described in section 201(c)(1)'' after ''and experimentation''.

(2) DEPARTMENT OF ENERGY.—Section 203(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(a)) is amended by striking the period at the end and inserting a comma, and by adding after paragraph (4) the following:

''conduct an integrated program of research, development, and provision of facilities to develop and deploy to scientific and technical users the high performance computing and collaboration tools needed to fulfill the statutory mission of the Department of Energy, and may participate in or support research described in section 201(c)(1).''.

(3) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Section 204(a)(1) of the High-Performance Computing Act of 1991 (15 U.S.C. 5524(a)(1)) is amended by striking ''; and'' at the end of subparagraph (C) and inserting a comma, and by adding after subparagraph (C) the following: ''and may participate in or support research described in section 201(c)(1); and''.

(4) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 204(a)(2) of the High-Performance Computing Act of 1991 (15 U.S.C. 5524(a)(2)) is amended by inserting '', and may participate in or support research described in section 201(c)(1)'' after ''agency missions''.

(5) ENVIRONMENTAL PROTECTION AGENCY.—Section 205(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5525(a)) is amended by inserting '', and may participate in or support research described in section 201(c)(1)'' after ''dynamics models''.

(6) UNITED STATES GEOLOGICAL SURVEY.—Title II of the High-Performance Computing Act of 1991 (15 U.S.C. 5521 et seq.) is amended—

(A) by redesignating sections 207 and 208 as sections 208 and 209, respectively; and

(B) by inserting after section 206 the following new section:

''SEC. 207. UNITED STATES GEOLOGICAL SURVEY.

''The United States Geological Survey may participate in or support research described in section 201(c)(1).''.

SEC. 205. NEXT GENERATION INTERNET.

(a) IN GENERAL.—Section 103(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5513(d)) is amended—

(1) in paragraph (1)—

(A) by striking ''1999 and'' and inserting ''1999,''; and

(B) by inserting '', $15,000,000 for fiscal year 2001, and $15,000,000 for fiscal year 2002'' after ''fiscal year 2000'';

(2) in paragraph (2), by inserting '', and $25,000,000 for fiscal year 2001 and $25,000,000 fiscal year 2002'' after ''Act of 1998'';

(3) in paragraph (4)—

(A) by striking ''1999 and'' and inserting ''1999,''; and

(B) by inserting '', $10,000,000 for fiscal year 2001, and $10,000,000 for fiscal year 2002'' after ''fiscal year 2000''; and

(4 in paragraph (5)—

(A) by striking ''1999 and'' and inserting ''1999,''; and

(B) by inserting '', $5,500,000 for fiscal year 2001, and $5,500,000 for fiscal year 2002'' after ''fiscal year 2000''.

(b) RURAL INFRASTRUCTURE.—Section 103 of the High-Performance Computing Act of 1991 (15 U.S.C. 5513) is amended by adding at the end thereof the following:

''(e) RURAL INFRASTRUCTURE.—Out of appropriated amounts authorized by subsection (d), not less than 10 percent of the total amounts shall be made available to fund research grants for making high-speech

connectivity more accessible to users in geographically-remote areas. The research shall include investigations of wireless, hybrid, and satellite technologies. In awarding grants under this subsection, the administering agency shall give priority to qualified, post-secondary educational institutions that participate in the Experimental Program to Stimulate Competitive Research.''.

(c) MINORITY AND SMALL COLLEGE INTERNET ACCESS.—Section 103 of the High-Performance Computing Act of 1991 (51 U.S.C. 5513), as amended by subsection (b), is further amended by adding at the end thereof the following:

''(f) MINORITY AND SMALL COLLEGE INTERNET ACCESS.—Not less than 5 percent of the amounts made available for research under subsection (d) shall be used for grants to institutions of higher education that are Hispanic-serving, Native American, Native Hawaiian, Native Alaskan, Historically Black, or small colleges and universities.''.

(d) DIGITAL DIVIDE STUDY.—

(1) IN GENERAL.—The National Academy of Sciences shall conduct a study to determine the extent to which the Internet backbone and network infrastructure contribute to the uneven ability to access to Internet-related technologies and services by rural and low-income Americans. The study shall include—

(A) an assessment of the existing geographical penalty (as defined in section 7(a)(1) of the Next General Internet Research Act of 1998 (15 U.S.C. 5501 nt.)) and its impact on all users and their ability to obtain secure and reliable Internet access;

(B) a review of all current Federally-funded research to decrease the inequity of Internet access to rural and low-income users; and

(C) an estimate of the potential impact of Next Generation Internet research institutions acting as aggregators and mentors for nearby smaller or disadvantaged institutions.

(2) REPORT.—The National Academy of Sciences shall transmit a report containing the results of the study and recommendations required by paragraph (1) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science within 1 year after the date of enactment of this Act.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Academy of Sciences such sums as may be necessary to carry out this subsection.

SEC. 206. REPORTING REQUIREMENTS.

Section 101 of the High-Performance Computing Act of 1991 (15 U.S.C. 5511) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(B) by inserting ''(1)'' after ''ADVISORY COMMITTEE.—''; and

(C) by adding at the end the following new paragraph:

''(2) In addition to the duties outlined in paragraph (1), the advisory committee shall conduct periodic evaluations of the funding, management, implementation, and activities of the Program, the Next Generation Internet program, and the Networking and Information Technology Research and Development program, and shall report not less frequently than once every 2 fiscal years to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on its findings and recommendations. The first report shall be due within 1 year after the date of the enactment of the Federal Research Investment Act.''; and

(2) in subsection (c)(1)(A) and (2), by inserting '', including the Next Generation Internet program and the Networking and Information Technology Research and Development program'' after ''Program'' each place it appears.

SEC. 207. REPORT TO CONGRESS.

Section 103 of the High-Performance computing Act of 1991 (15 U.S.C. 5513), as amended by section 205 of this title, is further amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

''(b) REPORT TO CONGRESS.—

''(1) REQUIREMENT.—The Director of the National Science Foundation shall conduct a study of the issues described in paragraph (3), and not later than 1 year after the date of the enactment of the Federal Research Investment Act, shall transmit to the Congress a report including recommendations to address those issues. Such report shall be updated annually for 6 additional years.

''(2) CONSULTATION.—In preparing the reports under paragraph (1), the Director of the National Science Foundation shall consult with the National Aeronautics and Space Administration, the National Institute of Standards and Technology, and such other Federal agencies and educational entities as the Director of the National Science Foundation considers appropriate.

''(3) ISSUES.—The reports shall—

''(A) identify the current status of high-speed, large bandwidth capacity access to all public elementary and secondary schools and libraries in the United States;

''(B) identify how high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

''(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

''(D) include options and recommendations for the various entities responsible for elementary and secondary education to address the challenges and issues identified in the reports.''.

SEC. 208. STUDY OF ACCESSIBILITY TO INFORMATION TECHNOLOGY.

Section 301 of the High-Performance Computing Act of 1991 (15 U.S.C. 5524), as amended by sections 3(a) and 4(a) of this Act, is amended further by inserting after subsection (g) the following new subsection:

''(h) STUDY OF ACCESSIBILITY TO INFORMATION TECHNOLOGY—

''(1) STUDY.—Not later than 90 days after the date of the enactment of the Federal Research Investment Act, the Director of the National Science Foundation, in consultation with the National Institute on Disability and Rehabilitation Research, shall enter into an arrangement with the National Research Council of the National Academy of Sciences for that Council to conduct a study of accessibility to information technologies by individuals who are elderly, individuals who are elderly with a disability, and individuals with disabilities.

''(2) SUBJECTS.—The study shall address—

''(A) current barriers to access to information technologies by individuals who are elderly, individuals who are elderly with a disability, and individuals with disabilities;

''(B) research and development needed to remove those barriers;

''(C) Federal legislative, policy, or regulatory changes needed to remove those barriers; and

''(D) other matters that the National Research Council determines to be relevant to access to information technologies by individuals who are elderly, individuals who are elderly with a disability, and individuals with disabilities.

''(3) TRANSMITTAL TO CONGRESS.—The Director of the National Science Foundation shall transmit to the Congress within 2 years of the date of the enactment of the Federal Research Investment Act a report setting for the findings, conclusions, and recommendations of the National Research Council.

''(4) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the National Research Council in its activities in carrying out the study under this subsection.

''(5) AVAILABILITY OF FUNDS.— Funding for the study described in this subsection shall be available, in the amount of $700,000, from amounts described in subsection (c)(1).''.

SEC. 209. COMPTROLLER GENERAL STUDY.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to the Congress a report on the results of a detailed study analyzing the effects of this Act, and the amendments made by this Act, on lower income families, minorities, and women.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, September 28, 2000 at 10:00 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to examine the impacts of the recent United States Federal Circuit Court of Appeals decisions regarding the Federal government's breach of contract for failure to accept high level nuclear waste by January 1998.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Commtitee on Energy and Natural Resources, United States Senate, 364 Dirsken Senate Office Building, Washington, D.C. 20510–6150.

For further information, please call Trici Heninger, Staff Assistant, or Colleen Deegan, Counsel, at (202) 224–8115.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a joint hearing has been scheduled before the Committee on Energy and Natural Resources and the Committee on Foreign Relations. The hearing is titled: Climate Change: Status of the Kyoto Protocol After Three Years.

The hearing will take place on Thursday, September 28, 2000 at 3:00 p.m. in room SD–419 of the Dirksen Senate Office Building in Washington, D.C.

Because of the limited time available for the hearing, witnesses may testify

by invitation only. However, those wishing to submit testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources or the Committee on Foreign Relations.

For further information, please call Trici Heninger, Staff Assistant, or Bryan Hannegan, Staff Scientist, at (202) 224–7875.

SUBCOMMITTEE ON FORESTRY, CONSERVATION AND RURAL REVITALIZATION

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Forestry, Conservation and Rural Revitalization will meet on September 25, 2000 in SR–328A at 9:30 a.m. The purpose of this hearing will be to review the Trade Injury Compensation Act of 2000.

SUBCOMMITTEE ON RESEARCH, NUTRITION AND GENERAL LEGISLATION

Mr. LUGAR. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Research, Nutrition and General Legislation will meet on September 27, 2000 in SR–328A at 9:30 a.m. The purpose of this hearing will be to review U.S. Department of Agriculture financial management issues.

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Janko Mitric, an intern, for today.

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

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that Peter Washburg, a fellow on the minority staff of the Environment and Public Works Committee, and Rich Worthington, a fellow with Senator VOINOVICH be granted floor privileges during the consideration of S. 2796, the Water Resources Development Act of 2000.

The PRESIDING OFFICER.

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Jack Hess, a fellow in my office, be granted floor privileges during the consideration of S. 2796, the Water Resources Development Act.

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

BEACHES ENVIRONMENTAL AWARENESS, CLEANUP, AND HEALTH ACT OF 1999

Mr. SMITH of New Hampshire. I ask unanimous consent that the Senate proceed to consideration of Calendar No. 748, H.R. 999.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 999) to amend the Federal Water Pollution Control Act to improve the quality of coastal recreation waters, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4174

Mr. SMITH of New Hampshire. I send an amendment to the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 4174.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4174) was agreed to.

The bill (H.R. 999), as amended, was read the third time and passed.

BEACHES ENVIRONMENTAL ASSESSMENT AND COASTAL HEALTH ACT OF 2000

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 743, S. 522.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 522) to amend the Federal Water Pollution Control Act to improve the quality of beaches and coastal recreation water, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment as follows:

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Beaches Environmental Assessment and Coastal Health Act of 2000''.

SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUALITY CRITERIA AND STANDARDS BY STATES.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

''(i) COASTAL RECREATION WATER QUALITY CRITERIA.—

''(1) ADOPTION BY STATES.—

''(A) INITIAL CRITERIA AND STANDARDS.—Not later than 42 months after the date of enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria guidance under section 304(a).

''(B) NEW OR REVISED CRITERIA AND STANDARDS.—Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria guidance is applicable.

''(2) FAILURE OF STATES TO ADOPT.—

''(A) IN GENERAL.—If a State fails to adopt water quality criteria and standards in accordance with paragraph (1), the Administrator shall promptly propose regulations described in subparagraph (A) or (B) of that paragraph for the State setting forth revised or new water quality standards for pathogens and pathogen indicators for coastal recreation waters of the State.

''(B) EXCEPTION.—If the Administrator proposes regulations described in subparagraph (A) under section 303(c)(4)(B), the Administrator shall publish any revised or new standard under this section not later than 36 months after the date of publication of the new or revised water quality criteria under section 304(a)(9).

''(3) APPLICABILITY.—Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection, including the requirement in subsection (c)(2)(A) that the criteria protect public health and welfare.''.

SEC. 3. REVISIONS TO WATER QUALITY CRITERIA GUIDANCE.

(a) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by adding at the end the following:

''(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 18 months after the date of enactment of this subsection, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall initiate, and, not later than 3 years after the date of enactment of this subsection, shall complete, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—

''(1) an assessment of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including nongastrointestinal effects;

''(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;

''(3) appropriate, accurate, expeditious, and cost-effective methods (including predictive models) for detecting in a timely manner in coastal recreation waters the presence of pathogens that are harmful to human health; and

''(4) guidance for State application of the criteria guidance for pathogens and pathogen indicators to be published under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.''.

(b) REVISED CRITERIA GUIDANCE.—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

''(9) REVISED CRITERIA GUIDANCE FOR COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new or revised water quality criteria guidance for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate), based on the results of the studies conducted under section 104(v), for the purpose of protecting human health in coastal recreation waters.

''(B) REVIEWS.—Not later than the date that is 5 years after the date of publication of water quality criteria guidance under this paragraph, and at least once every 5 years thereafter, the

Administrator shall review and, as necessary, revise the water quality criteria guidance.''.

SEC. 4. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by adding at the end the following:

''SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

''(a) MONITORING AND NOTIFICATION.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria that provide for—

''(A) monitoring and assessment (including specifying available methods for monitoring) of coastal recreation waters adjacent to beaches or other points of access that are used by the public for attainment of applicable water quality standards for pathogens and pathogen indicators; and

''(B) the prompt notification of the public, local governments, and the Administrator of any exceeding of or likelihood of exceeding applicable water quality standards for coastal recreation waters described in subparagraph (A).

''(2) LEVEL OF PROTECTION.—The performance criteria referred to in paragraph (1) shall provide for the activities described in subparagraphs (A) and (B) of that paragraph to be carried out as necessary for the protection of public health and safety.

''(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or other points of access that are used by the public.

''(2) PRIORITIZATION.—States and local governments may prioritize the use of funds under paragraph (1) based on the greatest risks to human health.

''(3) LIMITATIONS.—

''(A) IN GENERAL.—The Administrator may award a grant to a State or a local government to implement a monitoring and notification program if—

''(i) the program is consistent with the performance criteria published by the Administrator under subsection (a); and

''(ii) the public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

''(B) GRANTS TO LOCAL GOVERNMENTS.—The Administrator is authorized to make grants for implementation of a local government program under subparagraph (A) only if the Administrator determines that the State in which the local government is located did not submit a grant application for a program that meets the requirements of subsection (c) during the 1-year period beginning on the date of publication of performance criteria under subsection (a).

''(4) OTHER REQUIREMENTS.—

''(A) LISTS OF WATERS.—On receipt of a grant under this subsection, a State, tribe, or local government shall—

''(i) apply the prioritization established by the State, tribe, or local government under paragraph (2); and

''(ii) promptly submit to the Administrator—

''(I) a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided; and

''(II) a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent compliance with the performance criteria under subsection (a).

''(B) ADDITIONAL INFORMATION.—A State recipient of a grant under this subsection shall submit to the Administrator, in such format and at such intervals as the Administrator determines to be appropriate, information collected as part of the program for monitoring and notification under this section.

''(C) DELEGATION.—A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a monitoring and notification program consistent with the performance criteria published under subsection (a) (including any coastal recreation waters for which the authority to implement a monitoring and notification program would be subject to the delegation).

''(5) FEDERAL SHARE.—

''(A) IN GENERAL.—The Administrator, through grants awarded under this section, may pay up to 100 percent of the costs of developing and implementing a program for monitoring and notification under this subsection.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of developing and implementing a monitoring and notification program may be—

''(i) in an amount not to exceed 50 percent, as determined by the Administrator in consultation with State, tribal, and local government representatives; and

''(ii) provided in cash or in kind.

''(c) CONTENT OF STATE AND LOCAL GOVERNMENT PROGRAMS.—As a condition of receipt of a grant under subsection (b), a State or local government program for monitoring and notification under this section shall identify—

''(1) lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or other points of access that are used by the public;

''(2) in the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

''(3) the frequency and location of monitoring and assessment of coastal recreation waters based on—

''(A) the periods of recreational use of the waters;

''(B) the nature and extent of use during certain periods;

''(C) the proximity of the waters to known point and nonpoint sources of pollution; and

''(D) any effect of storm events on the waters;

''(4)(A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and

''(B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

''(5) measures for prompt communication of the occurrence, nature, location, pollutant source involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

''(A) the Administrator; and

''(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

''(6) measures for the posting of signs at beaches or other points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and

''(7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

''(d) FEDERAL AGENCY PROGRAMS.—Not later than 30 months after the date of enactment of this section, each Federal agency that has jurisdiction over coastal recreation waters adjacent to beaches or other points of access that are used by the public shall develop and implement, through a process that provides for public notice and an opportunity for comment, a monitoring and notification program for the coastal recreation waters that—

''(1) protects the public health and safety; and

''(2) is consistent with the performance criteria published under subsection (a).

''(e) INFORMATION DATABASE.—The Administrator shall establish, maintain, and make available to the public by electronic and other means a national coastal recreation water pollution occurrence database that provides—

''(1) the information reported to the Administrator under subsection (b)(4)(B); and

''(2) other information concerning pathogens and pathogen indicators in coastal recreation waters that—

''(A) is made available to the Administrator by a State or local government, from a coastal water quality monitoring program of the State or local government; and

''(B) the Administrator determines should be included.

''(f) TECHNICAL ASSISTANCE FOR MONITORING FLOATABLE MATERIAL.—The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for floatable material to protect public health and safety in coastal recreation waters.

''(g) LIST OF WATERS.—

''(1) IN GENERAL.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall maintain a list of discrete coastal recreation waters adjacent to beaches or other points of access that are used by the public that—

''(A) are subject to a monitoring and notification program consistent with the performance criteria established under subsection (a); and

''(B) specifies any waters described in this paragraph for which there is no monitoring and notification program (including waters for which fiscal constraints will prevent the State from performing monitoring and notification consistent with the performance criteria established under subsection (a)).

''(2) AVAILABILITY.—The Administrator shall make the list described in paragraph (1) available to the public through—

''(A) publication in the Federal Register; and

''(B) electronic media.

''(3) UPDATES.—The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.

''(h) EPA IMPLEMENTATION.—

''(1) IN GENERAL.—In the case of a State that has no program for monitoring and notification that is consistent with the performance criteria published under subsection (a), the Administrator shall conduct a monitoring and notification program for coastal recreation waters in that State using the funds appropriated for grants under subsection (i)—

''(A) to conduct monitoring and notification; and

''(B) for related salaries, expenses, and travel.

''(2) PRIORITIZATION.—In conducting a monitoring and notification program under paragraph (1), the Administrator shall apply any prioritization developed by the State under subsection (b)(2).

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (b), including implementation of monitoring and notification programs by the Administrator under subsection (h), $30,000,000 for each of fiscal years 2001 through 2005.''.

SEC. 5. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(21) COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—The term 'coastal recreation waters' means the Great Lakes and other marine coastal waters (including coastal estuaries) that are used by the public for swimming, bathing, surfing, or other similar water contact activities.

''(B) EXCLUSION.—The term 'coastal recreation waters' does not include inland waters.

''(22) FLOATABLE MATERIAL.—

''(A) IN GENERAL.—The term 'floatable material' means any foreign matter that may float or remain suspended in the water column.

''(B) INCLUSIONS.—The term 'floatable material' includes—

''(i) plastic;

''(ii) aluminum cans;

''(iii) wood products;

''(iv) bottles; and

''(v) paper products.

''(23) PATHOGEN INDICATOR.—The term 'pathogen indicator' means a substance that indicates the potential for human infectious disease.''.

SEC. 6. INDIAN TRIBES.

Section 518(e) of the Federal Water Pollution Control Act (33 U.S.C. 1377(e)) is amended by striking ''and 404'' and inserting ''404, and 406''.

SEC. 7. REPORT.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Administrator of the Environmental Protection Agency shall submit to Congress a report that includes—

(1) recommendations concerning the need for additional water quality criteria guidance for pathogens and pathogen indicators and other actions that should be taken to improve the quality of coastal recreation waters;

(2) an evaluation of Federal, State, and local efforts to implement this Act, including the amendments made by this Act; and

(3) recommendations on improvements to methodologies and techniques for monitoring of coastal recreation waters.

(b) COORDINATION.—The Administrator of the Environmental Protection Agency may coordinate the report under this section with other reporting requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this Act, including the amendments made by this Act, for which amounts are not otherwise specifically authorized to be appropriated, such sums as are necessary for each of fiscal years 2001 through 2005.

(b) BUDGET REQUEST.—The Administrator of the Environmental Protection Agency shall request that Congress appropriate funds to carry out this Act.

AMENDMENT NO. 4175

Mr. SMITH of New Hampshire. Senator SMITH of New Hampshire has an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], proposes an amendment numbered 4175.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SMITH of New Hampshire. I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 4175) was agreed to.

Mr. LAUTENBERG. Mr. President, I am pleased that the Senate will soon pass my legislation, S. 522, the Beaches Environmental Assessment and Coastal Health Act of 2000. I ask my colleagues to support this legislation and the managers' amendment that is before the Senate. This legislation is cosponsored by Senators AKAKA, BOXER, CLELAND, DODD, FEINSTEIN, KENNEDY, KERRY, LEVIN, LIEBERMAN, MOYNIHAN, SMITH of New Hampshire, SARBANES, and TORRICELLI.

Many Americans who visited the beach this summer went home with more than just a tan. They brought back illnesses they contracted because they swam in contaminated water without realizing it.

Unfortunately, whether you get sick from your trip to the beach depends on which state you happen to be in. That's because states do not have uniform standards for coastal water quality.

For 10 straight years, Mr. President, the Natural Resources Defense Council has issued its report, ''Testing the Waters,'' which provides a comprehensive, highly reliable assessment of the quality of the nation's waters. Since 1991, first with then-Representative Bill Hughes of New Jersey and subsequently with Representative FRANK PALLONE of New Jersey, I have introduced legislation to require states to adopt consistent coastal water quality standards to protect beachgoers from contamination. This legislation also would call on states to develop beach water quality monitoring and notification programs.

Over the years, I've been greatly concerned about the increase in beach closings and advisories throughout the nation. In 1999, according to the NRDC's 10th annual report, there were more than 6,100 beach closings and advisories at our nation's oceans, bays and Great Lakes. Since 1988, there have been more than 36,156 beach closings and advisories.

There is some good news in this information, Mr. President. For one, it indicates a greater vigilance by state and local governments. Since the first NRDC report was issued and citizens learned more about the risks at their beaches, at least nine states and many local governments have initiated or expanded their coastal water quality monitoring programs. This shows that many states and local governments are deeply concerned about the health hazards faced by people who swim in contaminated water.

However, these data show us that we continue to have serious water pollution at our nation's beaches. For example, 70 percent of beach closings and advisories in 1999 were prompted by state and local government monitoring programs that detected bacteria levels exceeding state or local water quality standards. These bacteria levels have been associated with a variety of gastrointestinal diseases.

This bill would ensure that all coastal states apply the U.S. Environmental Protection Agency's criteria for detecting bacteria in their beach waters. Mr. President, the goal of this bill is to ensure that no matter where people go to the beach, they will know that a uniform level of protection is being applied.

Right now, only seven states have adopted the criteria that the EPA called on states to adopt back in 1986. This bill give states three-and-a-half years to bring their standards up to where President Reagan's EPA said they should have been 14 years ago.

The second part of my bill provides incentive grants to help states set up beach monitoring and public information programs. Right now, only nine states comprehensively monitor most or all of their beaches. These are Connecticut, Delaware, Illinois, Indiana, New Hampshire, New Jersey, North Carolina, Ohio and Pennsylvania.

My bill does not say how a state should monitor its beaches or how that information should get to the public. To help the states, the EPA would be required to develop monitoring and notification guidance.

While we often don't know the exact source of coastal water pollution, we suspect that in many cases, sewer overflows and street runoff following heavy rainstorms are partly responsible. My bill focuses on a critical need: for states to set uniform standards and provide information to the public. My bill does not seek to regulate these sources of pollution. I sincerely hope that the Senate will address this key concern in the next Congress.

Finally, my bill would require the EPA to establish a publicly available database containing the information states submit about their monitoring programs. Right now, Mr. Chairman, only California, Delaware, New Jersey, North Carolina and Rhode Island compile and publicize records of beach closings and bacteria levels. The legislation would encourage all coastal states and the EPA to provide this information to the public.

I want to thank the managers of this bill, Senator BOB SMITH and Senator BAUCUS, for their leadership in bringing this bill before the full Senate. I also want to recognize the members of the Committee staff for working so diligently on this legislation. In particular, I want to compliment John Pemberton and Ann Klee of the Majority Staff of the Environment and Public Works Committee; Jo-Ellen Darcy of the Minority staff of the Committee; and Amy Maron and Ruth Lodder of my personal staff.

Many organizations also made significant contributions to this bill. I want to thank the Natural Resources Defense Council, American Oceans Campaign, Center for Marine Conservation, Surfrider Foundation, Association of State and Interstate Water Pollution Control Administrators, and the Coastal States Organization for their hard work.

Mr. SMITH of New Hampshire. I ask unanimous consent the committee substitute, as amended, be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The committee amendment, as amended, was agreed to.

The bill (S. 522) was read the third time and passed as follows:

S. 522

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 ''Beaches Environmental Assessment and Coastal Health Act of 2000''.

SEC. 2. ADOPTION OF COASTAL RECREATION WATER QUALITY CRITERIA AND STANDARDS BY STATES.

Section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) is amended by adding at the end the following:

''(i) COASTAL RECREATION WATER QUALITY CRITERIA.—

''(1) ADOPTION BY STATES.—

''(A) INITIAL CRITERIA AND STANDARDS.—Not later than 42 months after the date of enactment of this subsection, each State having coastal recreation waters shall adopt and submit to the Administrator water quality criteria and standards for the coastal recreation waters of the State for those pathogens and pathogen indicators for which the Administrator has published criteria under section 304(a).

''(B) NEW OR REVISED CRITERIA AND STANDARDS.—Not later than 36 months after the date of publication by the Administrator of new or revised water quality criteria under section 304(a)(9), each State having coastal recreation waters shall adopt and submit to the Administrator new or revised water quality standards for the coastal recreation waters of the State for all pathogens and pathogen indicators to which the new or revised water quality criteria are applicable.

''(2) FAILURE OF STATES TO ADOPT.—

''(A) IN GENERAL.—If a State fails to adopt water quality criteria and standards in accordance with paragraph (1)(A) that are as protective of human health as the criteria for pathogens and pathogen indicators for coastal recreation waters published by the Administrator, the Administrator shall promptly propose regulations for the State setting forth revised or new water quality standards for pathogens and pathogen indicators described in paragraph (1)(A) for coastal recreation waters of the State.

''(B) EXCEPTION.—If the Administrator proposes regulations for a State described in subparagraph (A) under subsection (c)(4)(B), the Administrator shall publish any revised or new standard under this subsection not later than 42 months after the date of enactment of this subsection.

''(3) APPLICABILITY.—Except as expressly provided by this subsection, the requirements and procedures of subsection (c) apply to this subsection, including the requirement in subsection (c)(2)(A) that the criteria protect public health and welfare.''.

SEC. 3. REVISIONS TO WATER QUALITY CRITERIA.

(a) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended by adding at the end the following:

''(v) STUDIES CONCERNING PATHOGEN INDICATORS IN COASTAL RECREATION WATERS.—Not later than 18 months after the date of enactment of this subsection, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall initiate, and, not later than 3 years after the date of enactment of this subsection, shall complete, in cooperation with the heads of other Federal agencies, studies to provide additional information for use in developing—

''(1) an assessment of potential human health risks resulting from exposure to pathogens in coastal recreation waters, including nongastrointestinal effects;

''(2) appropriate and effective indicators for improving detection in a timely manner in coastal recreation waters of the presence of pathogens that are harmful to human health;

''(3) appropriate, accurate, expeditious, and cost-effective methods (including predictive models) for detecting in a timely manner in coastal recreation waters the presence of pathogens that are harmful to human health; and

''(4) guidance for State application of the criteria for pathogens and pathogen indicators to be published under section 304(a)(9) to account for the diversity of geographic and aquatic conditions.''.

(b) REVISED CRITERIA.—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

''(9) REVISED CRITERIA FOR COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—Not later than 5 years after the date of enactment of this paragraph, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), the Administrator shall publish new or revised water quality criteria for pathogens and pathogen indicators (including a revised list of testing methods, as appropriate), based on the results of the studies conducted under section 104(v), for the purpose of protecting human health in coastal recreation waters.

''(B) REVIEWS.—Not later than the date that is 5 years after the date of publication of water quality criteria under this paragraph, and at least once every 5 years thereafter, the Administrator shall review and, as necessary, revise the water quality criteria.''.

SEC. 4. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341 et seq.) is amended by adding at the end the following:

''SEC. 406. COASTAL RECREATION WATER QUALITY MONITORING AND NOTIFICATION.

''(a) MONITORING AND NOTIFICATION.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, after consultation and in cooperation with appropriate Federal, State, tribal, and local officials (including local health officials), and after providing public notice and an opportunity for comment, the Administrator shall publish performance criteria for—

''(A) monitoring and assessment (including specifying available methods for monitoring) of coastal recreation waters adjacent to beaches or similar points of access that are used by the public for attainment of applicable water quality standards for pathogens and pathogen indicators; and

''(B) the prompt notification of the public, local governments, and the Administrator of any exceeding of or likelihood of exceeding applicable water quality standards for coastal recreation waters described in subparagraph (A).

''(2) LEVEL OF PROTECTION.—The performance criteria referred to in paragraph (1) shall provide that the activities described in subparagraphs (A) and (B) of that paragraph shall be carried out as necessary for the protection of public health and safety.

''(b) PROGRAM DEVELOPMENT AND IMPLEMENTATION GRANTS.—

''(1) IN GENERAL.—The Administrator may make grants to States and local governments to develop and implement programs for monitoring and notification for coastal recreation waters adjacent to beaches or similar points of access that are used by the public.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—The Administrator may award a grant to a State or a local government to implement a monitoring and notification program if—

''(i) the program is consistent with the performance criteria published by the Administrator under subsection (a);

''(ii) the State or local government prioritizes the use of grant funds for particular coastal recreation waters based on the use of the water and the risk to human health presented by pathogens or pathogen indicators;

''(iii) the State or local government makes available to the Administrator the factors used to prioritize the use of funds under clause (ii);

''(iv) the State or local government provides a list of discrete areas of coastal recreation waters that are subject to the program for monitoring and notification for which the grant is provided that specifies any coastal recreation waters for which fiscal constraints will prevent consistency with the performance criteria under subsection (a); and

''(v) the public is provided an opportunity to review the program through a process that provides for public notice and an opportunity for comment.

''(B) GRANTS TO LOCAL GOVERNMENTS.—The Administrator may make a grant to a local government under this subsection for implementation of a monitoring and notification program only if, after the 1-year period beginning on the date of publication of performance criteria under subsection (a)(1), the Administrator determines that the State is not implementing a program that meets the requirements of this subsection, regardless of whether the State has received a grant under this subsection.

''(3) OTHER REQUIREMENTS.—

''(A) REPORT.—A State recipient of a grant under this subsection shall submit to the Administrator, in such format and at such intervals as the Administrator determines to be appropriate, a report that describes—

''(i) data collected as part of the program for monitoring and notification as described in subsection (c); and

''(ii) actions taken to notify the public when water quality standards are exceeded.

''(B) DELEGATION.—A State recipient of a grant under this subsection shall identify each local government to which the State has delegated or intends to delegate responsibility for implementing a monitoring and notification program consistent with the performance criteria published under subsection (a) (including any coastal recreation waters for which the authority to implement a monitoring and notification program would be subject to the delegation).

''(4) FEDERAL SHARE.—

''(A) IN GENERAL.—The Administrator, through grants awarded under this section, may pay up to 100 percent of the costs of developing and implementing a program for monitoring and notification under this subsection.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of developing and implementing a monitoring and notification program may be—

''(i) in an amount not to exceed 50 percent, as determined by the Administrator in consultation with State, tribal, and local government representatives; and

''(ii) provided in cash or in kind.

''(c) CONTENT OF STATE AND LOCAL GOVERNMENT PROGRAMS.—As a condition of receipt of a grant under subsection (b), a State or local government program for monitoring and notification under this section shall identify—

''(1) lists of coastal recreation waters in the State, including coastal recreation waters adjacent to beaches or similar points of access that are used by the public;

''(2) in the case of a State program for monitoring and notification, the process by which the State may delegate to local governments responsibility for implementing the monitoring and notification program;

''(3) the frequency and location of monitoring and assessment of coastal recreation waters based on—

''(A) the periods of recreational use of the waters;

''(B) the nature and extent of use during certain periods;

''(C) the proximity of the waters to known point sources and nonpoint sources of pollution; and

''(D) any effect of storm events on the waters;

''(4)(A) the methods to be used for detecting levels of pathogens and pathogen indicators that are harmful to human health; and

''(B) the assessment procedures for identifying short-term increases in pathogens and pathogen indicators that are harmful to human health in coastal recreation waters (including increases in relation to storm events);

''(5) measures for prompt communication of the occurrence, nature, location, pollutants involved, and extent of any exceeding of, or likelihood of exceeding, applicable water quality standards for pathogens and pathogen indicators to—

''(A) the Administrator, in such form as the Administrator determines to be appropriate; and

''(B) a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which the failure to meet applicable standards is identified;

''(6) measures for the posting of signs at beaches or similar points of access, or functionally equivalent communication measures that are sufficient to give notice to the public that the coastal recreation waters are not meeting or are not expected to meet applicable water quality standards for pathogens and pathogen indicators; and

''(7) measures that inform the public of the potential risks associated with water contact activities in the coastal recreation waters that do not meet applicable water quality standards.

''(d) FEDERAL AGENCY PROGRAMS.—Not later than 3 years after the date of enactment of this section, each Federal agency that has jurisdiction over coastal recreation waters adjacent to beaches or similar points of access that are used by the public shall develop and implement, through a process that provides for public notice and an opportunity for comment, a monitoring and notification program for the coastal recreation waters that—

''(1) protects the public health and safety;

''(2) is consistent with the performance criteria published under subsection (a);

''(3) includes a completed report on the information specified in subsection (b)(3)(A), to be submitted to the Administrator; and

''(4) addresses the matters specified in subsection (c) .

''(e) DATABASE.—The Administrator shall establish, maintain, and make available to the public by electronic and other means a national coastal recreation water pollution occurrence database that provides—

''(1) the data reported to the Administrator under subsections (b)(3)(A)(i) and (d)(3); and

''(2) other information concerning pathogens and pathogen indicators in coastal recreation waters that—

''(A) is made available to the Administrator by a State or local government, from a coastal water quality monitoring program of the State or local government; and

''(B) the Administrator determines should be included.

''(f) TECHNICAL ASSISTANCE FOR MONITORING FLOATABLE MATERIAL.—The Administrator shall provide technical assistance to States and local governments for the development of assessment and monitoring procedures for floatable material to protect public health and safety in coastal recreation waters.

''(g) LIST OF WATERS.—

''(1) IN GENERAL.—Beginning not later than 18 months after the date of publication of performance criteria under subsection (a), based on information made available to the Administrator, the Administrator shall identify, and maintain a list of, discrete coastal recreation waters adjacent to beaches or similar points of access that are used by the public that—

''(A) specifies any waters described in this paragraph that are subject to a monitoring and notification program consistent with the performance criteria established under subsection (a); and

''(B) specifies any waters described in this paragraph for which there is no monitoring and notification program (including waters for which fiscal constraints will prevent the State or the Administrator from performing monitoring and notification consistent with the performance criteria established under subsection (a)).

''(2) AVAILABILITY.—The Administrator shall make the list described in paragraph (1) available to the public through—

''(A) publication in the Federal Register; and

''(B) electronic media.

''(3) UPDATES.—The Administrator shall update the list described in paragraph (1) periodically as new information becomes available.

''(h) EPA IMPLEMENTATION.—In the case of a State that has no program for monitoring and notification that is consistent with the performance criteria published under subsection (a) after the last day of the 3-year period beginning on the date on which the Administrator lists waters in the State under subsection (g)(1)(B), the Administrator shall conduct a monitoring and notification program for the listed waters based on a priority ranking established by the Administrator using funds appropriated for grants under subsection (i)—

''(1) to conduct monitoring and notification; and

''(2) for related salaries, expenses, and travel.

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for making grants under subsection (b), including implementation of monitoring and notification programs by the Administrator under subsection (h), $30,000,000 for each of fiscal years 2001 through 2005.''.

SEC. 5. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(21) COASTAL RECREATION WATERS.—

''(A) IN GENERAL.—The term 'coastal recreation waters' means—

''(i) the Great Lakes; and

''(ii) marine coastal waters (including coastal estuaries) that are designated under section 303(c) by a State for use for swimming, bathing, surfing, or similar water contact activities.

''(B) EXCLUSIONS.—The term 'coastal recreation waters' does not include—

''(i) inland waters; or

''(ii) waters upstream of the mouth of a river or stream having an unimpaired natural connection with the open sea.

''(22) FLOATABLE MATERIAL.—

''(A) IN GENERAL.—The term 'floatable material' means any foreign matter that may float or remain suspended in the water column.

''(B) INCLUSIONS.—The term 'floatable material' includes—

''(i) plastic;

''(ii) aluminum cans;

''(iii) wood products;

''(iv) bottles; and

''(v) paper products.

''(23) PATHOGEN INDICATOR.—The term 'pathogen indicator' means a substance that indicates the potential for human infectious disease.''.

SEC. 6. INDIAN TRIBES.

Section 518(e) of the Federal Water Pollution Control Act (33 U.S.C. 1377(e)) is amended by striking ''and 404'' and inserting ''404, and 406''.

SEC. 7. REPORT.

(a) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, and every 4 years thereafter, the Administrator of the Environmental Protection Agency shall submit to Congress a report that includes—

(1) recommendations concerning the need for additional water quality criteria for pathogens and pathogen indicators and other actions that should be taken to improve the quality of coastal recreation waters;

(2) an evaluation of Federal, State, and local efforts to implement this Act, including the amendments made by this Act; and

(3) recommendations on improvements to methodologies and techniques for monitoring of coastal recreation waters.

(b) COORDINATION.—The Administrator of the Environmental Protection Agency may coordinate the report under this section with other reporting requirements under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this Act, including the amendments made by this Act, for which amounts are not otherwise specifically authorized to be appropriated, such sums as are necessary for each of fiscal years 2001 through 2005.

Mr. SMITH of New Hampshire. Mr. President, I am pleased that the Senate today has unanimously passed S. 522, the Beaches Environmental Assessment and Coastal Health Act of 2000 and H.R. 999, the Beaches Environmental Awareness, Cleanup, and Health Act of 1999. These bills reflect what we can do when we work together cooperatively, and on a bipartisan basis to protect the environment. Most importantly, they will result in significant environmental benefits on the ground—cleaner and safer beaches for all Americans. I am proud to be a cosponsor of the Senate version of this legislation, S. 522.

I want to thank Congressman BILBRAY for taking the lead on this Beach legislation over the years and for all his hard work in making sure we pass this legislation. Without his hard work and determination over the years we would not have passed this legislation today. I also would like to recognize Senator LAUTENBERG for his leadership on this issue in the Senate.

Every year, over 180 million people visit coastal waters for recreational purposes. Over half of the population of the United States lives near a coastal area and traditionally a great majority of Americans visit coastal areas every year to swim, fish, hunt, dive, bike, view wildlife and learn. For many states, this tourism provides significant economic benefits. In fact, coastal recreation and the tourism industry are the second largest employers in the nation, and supporting 28.3 million jobs. In New Hampshire, for example, the seacoast region is one of the most popular tourism spots in the State. Rye Beach and Hampton Beach, to name a couple, provide beautiful vacation spots for those of us in New Hampshire and many of our friends in neighboring states.

Unfortunately, pathogens found in sewage spills, storm water runoff, and combined sewer overflows are impairing water quality and threatening the health of the public who visit our nation's beaches. While some States have strong programs for monitoring and informing the public of the presence of pathogens that are harmful to human health, others do not.

In response to the need for consistency among the States in monitoring and public notification of pathogens in coastal recreation waters, Representative BILBRAY and Senator LAUTENBERG introduced their Beach bills.

The bills require all states with coastal recreation waters to adopt water quality criteria that protect public health and welfare, consistent with EPA criteria guidance for pathogens and pathogen indicators. The legislation requires the Administrator of the Environmental Protection Agency, in cooperation with State and local governments, to publish performance criteria that provide guidance for state monitoring and assessment, and public notification programs that protect human health.

The performance criteria will be used by the States as guidance to improve upon existing monitoring and notification programs or, in some States to establish monitoring and notification programs. In the case of New Hampshire, which as an extensive monitoring and notification program, these performance criteria will provide further guidance to improve upon our program.

The bills provides $30 million over 5 years in grants to States and local communities for the implementation and development of these monitoring and notification programs. In certain situations, such as the early stage of a program, EPA will be able to award as a grant a large percentage, up to 100 percent, of the costs of developing a program to some states. This provides those few States without monitoring and notification programs a great incentive through grant funding to develop and implement this comprehensive program. Improving water quality at our nation's beaches, as well as implementing monitoring and public notification programs, will benefit all Americans who have a right to expect that they can safely swim in the water.

The Committee filed the Report on S. 522 (Rept. No. 106–366) on August 25, 2000. The Committee Report and the text of S. 522, as amended in Committee, reflected a number of changes negotiated by the Committee and the two principle sponsors of the House and Senate bills, Congressman BRIAN BILBRAY of California and Senator FRANK LAUTENBERG. Over the past few months, I have worked with my colleagues on the Committee, particularly Senators LAUTENBERG and BAUCUS, and with Congressman BILBRAY to continue to improve the language of this legislation. Together, we have crafted a comprehensive Manager's Amendment that I believe provides States with needed flexibility and enhances environmental protection. As the manager of the bill, and a cosponsor of the Senate bill, I am pleased that the Senate passed this Manager's Amendment as a substitute to the text of both H.R. 999 and S. 522. Both bills, as passed by the Senate, reflect the agreements and principles set forth in Senate Report No. 106–366.

I thank Senator BAUCUS and my other Committee colleagues, as well as Senators LOTT and DASCHLE, for helping us continue the tradition of bipartisan action on environmental matters.

VETERANS PROGRAMS ENHANCEMENT ACT OF 2000

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 787, S. 1810.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1810) to amend title 38, United States Code, to clarify and improve veterans' claims in appellate procedures.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment, as follows:

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans Programs Enhancement Act of 2000''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act 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 title 38, United States Code.

TITLE I—BENEFITS MATTERS

Subtitle A—Compensation and Pension Matters

SEC. 101. CLARIFICATION AND ENHANCEMENT OF AUTHORITIES RELATING TO THE PROCESSING OF CLAIMS FOR VETERANS BENEFITS.

(a) DEFINITION OF CLAIMANT.—Chapter 51 is amended—

(1) by redesignating section 5101 as section 5101A; and

(2) by inserting before section 5101A, as so redesignated, the following new section:

''§ 5101. Definition of 'claimant'

''For purposes of this chapter, the term 'claimant' means any individual who submits a claim for benefits under the laws administered by the Secretary.''.

(b) INCOMPLETE APPLICATIONS.—Section 5103(a) is amended by striking ''evidence'' both places it appears and inserting ''information''.

(c) REAFFIRMATION AND CLARIFICATION OF DUTY TO ASSIST.—Chapter 51 is further amended by inserting after section 5103 the following new section:

''§ 5103A. Assistance to claimants

''(a) Except as provided in subsection (b), the Secretary shall make reasonable efforts to assist in the development of information and medical or lay evidence necessary to establish the eligibility of a claimant for benefits under the laws administered by the Secretary.

''(b) The Secretary is not required to provide assistance to a claimant under subsection (a) if no reasonable possibility exists, as determined in accordance with regulations prescribed under subsection (f), that such assistance would aid in the establishment of the eligibility of the claimant for benefits under the laws administered by the Secretary.

''(c) In any claim for benefits under the laws administered by the Secretary, the assistance provided by the Secretary under subsection (a) shall include the following:

''(1) Informing the claimant and the claimant's representative, if any, of the information and medical or lay evidence needed in order to aid in the establishment of the eligibility of the claimant for benefits under the laws administered by the Secretary.

''(2) Informing the claimant and the claimant's representative, if any, if the Secretary is unable to obtain any information or medical or lay evidence described in paragraph (1).

''(d)(1) In any claim for disability compensation under chapter 11 of this title, the assistance provided by the Secretary under subsection (a) shall include, in addition to the assistance provided under subsection (c), the following:

''(A) Obtaining the relevant service and medical records maintained by applicable governmental entities that pertain to the veteran for the period or periods of the veteran's service in the active military, naval, or air service.

''(B) Obtaining existing records of relevant medical treatment or examination provided at Department health-care facilities or at the expense of the Department, but only if the claimant has furnished information sufficient to locate such records.

''(C) Obtaining from governmental entities any other relevant records the claimant adequately identifies and authorizes the Secretary to obtain.

''(D) Making reasonable efforts to obtain from private persons and entities any other relevant records the claimant adequately identifies and authorizes the Secretary to obtain.

''(E) Providing a medical examination needed for the purpose of determining the existence of a current disability if the claimant submits verifiable evidence, as determined in accordance with the regulations prescribed under subsection (f), establishing that the claimant is unable to afford medical treatment.

''(F) Providing such other assistance as the Secretary considers appropriate.

''(2) The efforts made to obtain records under subparagraphs (A), (B), and (C) of paragraph (1) shall continue until it is reasonably certain, as determined in accordance with the regulations prescribed under subsection (f), that such records do not exist.

''(e) If while obtaining or after obtaining information or lay or medical evidence under subsection (d) the Secretary determines that a medical examination or a medical opinion is necessary to substantiate entitlement to a benefit, the Secretary shall provide such medical examination or obtain such medical opinion.

''(f) The Secretary shall prescribe regulations for purposes of the administration of this section.''.

(d) COST OF OTHER AGENCIES IN FURNISHING INFORMATION.—Section 5106 is amended by adding at the end the following new sentence: ''The cost of providing such information shall be borne by the department or agency providing such information.''.

(e) REPEAL OF ''WELL-GROUNDED CLAIM'' RULE.—Section 5107 is amended to read as follows:

''§ 5107. Burden of proof; benefit of the doubt

''(a) Except when otherwise provided by this title or by the Secretary in accordance with the provisions of this title, a claimant shall have the burden of proof in establishing entitlement to benefits under the laws administered by the Secretary.

''(b) The Secretary shall consider all information and lay and medical evidence of record in a case before the Department with respect to benefits under laws administered by the Secretary, and shall give the claimant the benefit of the doubt when there is an approximate balance of positive and negative evidence regarding an issue material to the determination of the matter.''.

(f) APPLICABILITY OF ENHANCED AUTHORITIES.—(1) Except as specifically provided otherwise, section 5103A of title 38, United States Code (as added by subsection (c)), and section 5107 of title 38, United States Code (as amended by subsection (e)), shall apply to any claim pending on or filed on or after the date of the enactment of this Act.

(2)(A) In the case of a claim for benefits described in subparagraph (B), the Secretary of Veterans Affairs shall, upon the request of the claimant, or upon the Secretary's motion, order such claim readjudicated in accordance with section 5103A of title 38, United States Code (as so added), and section 5107 of title 38, United States Code (as so amended), as if the denial or dismissal of such claim as described in that subparagraph had not been made.

(B) A claim for benefits described in this subparagraph is any claim for benefits—

(i) the denial of which became final during the period beginning on July 14, 1999, and ending on the date of the enactment of this Act; and

(ii) which was denied or dismissed because the claim was not well grounded (as that term was used in section 5107(a) of title 38, United States Code, during the period referred to in clause (i)).

(3) No claim shall be readjudicated under paragraph (2) unless the request for readjudication is filed, or the motion made, not later than two years after the date of the enactment of this Act.

(4) In the absence of a timely request of a claimant under paragraph (3), nothing in this subsection shall be construed as establishing a duty on the part of the Secretary to locate and readjudicate a claim described in paragraph (2)(B).

(g) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 51 is amended—

(1) by striking the item relating to section 5101 and inserting the following new items:

''5101. Definition of 'claimant'.
''5101A. Claims and forms.''; and

(2) by inserting after the item relating to section 5103 the following new item:

''5103A. Assistance to claimants.''.

SEC. 102. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE-CONNECTED FOR RADIATION-EXPOSED VETERANS.

Section 1112(c)(2) is amended by adding at the end the following:

''(P) Lung cancer.

''(Q) Colon cancer.

''(R) Tumors of the brain and central nervous system.

''(S) Ovarian cancer.''.

SEC. 103. SPECIAL MONTHLY COMPENSATION FOR FEMALE VETERANS WHO LOSE A BREAST AS A RESULT OF A SERVICE-CONNECTED DISABILITY.

(a) IN GENERAL.—Section 1114(k) is amended—

(1) by striking ''or has suffered'' and inserting ''has suffered''; and

(2) by inserting after ''air and bone conduction,'' the following: ''or, in the case of a female veteran, has suffered the anatomical loss of one or both breasts (including loss by mastectomy),''.

(b) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to payment of compensation under section 1114(k) of title 38, United States Code (as so amended), for months beginning on or after that date.

(2) No compensation may be paid for any period before the date of the enactment of this Act by reason of the amendments made by subsection (a).

Subtitle B—Education Matters

SEC. 111. MAKING UNIFORM THE REQUIREMENT FOR HIGH SCHOOL DIPLOMA OR EQUIVALENCY BEFORE APPLICATION FOR MONTGOMERY GI BILL BENEFITS.

(a) ACTIVE DUTY PROGRAM.—(1) Section 3011 is amended—

(A) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

''(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12

semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and'';

(B) by striking subsection (e); and

(C) by redesignating subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively.

(2) Section 3017(a)(1)(A)(ii) is amended by striking ''clause (2)(A)'' and inserting ''clause (2)''.

(b) SELECTED RESERVE PROGRAM.—Section 3012 is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following new paragraph (2):

''(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and'';

(2) by striking subsection (f); and

(3) by redesignating subsection (g) as subsection (f).

(c) WITHDRAWAL OF ELECTION NOT TO ENROLL.—Section 3018(b)(4) is amended to read as follows:

''(4) before applying for benefits under this section—

''(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

''(B) successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and''.

(d) EDUCATIONAL ASSISTANCE PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.—Paragraph (2) of section 16132(a) of title 10, United States Code, is amended to read as follows:

''(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or an equivalency certificate);''.

SEC. 112. REPEAL OF REQUIREMENT FOR INITIAL OBLIGATED PERIOD OF ACTIVE DUTY AS CONDITION OF ELIGIBILITY FOR MONTGOMERY GI BILL BENEFITS.

(a) ACTIVE DUTY PROGRAM.—Section 3011, as amended by section 111 of this Act, is further amended—

(1) in subsection (a)(1)(A)—

(A) by striking clause (i) and inserting the following new clause (i):

''(i) who serves an obligated period of active duty of at least two years of continuous active duty in the Armed Forces; or''; and

(B) in clause (ii)(II), by striking ''in the case of an individual who completed not less than 20 months'' and all that follows through ''was at least three years'' and inserting ''if, in the case of an individual with an obligated period of service of two years, the individual completes not less than 20 months of continuous active duty under that period of obligated service, or, in the case of an individual with an obligated period of service of three years, the individual completes not less than 30 months of continuous active duty under that period of obligated service'';

(2) in subsection (d)(1), by striking ''individual's initial obligated period of active duty'' and inserting ''obligated period of active duty on which an individual's entitlement to assistance under this section is based'';

(3) in subsection (g)(2)(A), as redesignated by section 111(a)(1)(C) of this Act, by striking ''during an initial period of active duty,'' and inserting ''during the obligated period of active duty on which entitlement to assistance under this section is based,''; and

(4) in subsection (h), as so redesignated, by striking ''initial''.

(b) SELECTED RESERVE PROGRAM.—Section 3012 is amended—

(1) in subsection (a)(1)(A)(i), by striking '', as the individual's'' and all that follows through ''Armed Forces'' and inserting ''an obligated period of active duty of at least two years of continuous active duty in the Armed Forces''; and

(2) in subsection (e)(1), by striking ''initial''.

(c) DURATION OF ASSISTANCE.—Section 3013 is amended—

(1) in subsection (a)(2), by striking ''individual's initial obligated period of active duty'' and inserting ''obligated period of active duty on which such entitlement is based''; and

(2) in subsection (b)(1), by striking ''individual's initial obligated period of active duty'' and inserting ''obligated period of active duty on which such entitlement is based''.

(d) AMOUNT OF ASSISTANCE.—Section 3015 is amended—

(1) in the second sentence of subsection (a), by inserting before ''a basic educational assistance allowance'' the following: ''in the case of an individual entitled to an educational assistance allowance under this chapter whose obligated period of active duty on which such entitlement is based is three years,'';

(2) in subsection (b), by striking ''and whose initial obligated period of active duty is two years,'' and inserting ''whose obligated period of active duty on which such entitlement is based is two years,''; and

(3) in subsection (c)(2), by striking subparagraphs (A) and (B) and inserting the following new subparagraphs (A) and (B):

''(A) whose obligated period of active duty on which such entitlement is based is less than three years;

''(B) who, beginning on the date of the commencement of such obligated period of active duty, serves a continuous period of active duty of not less than three years; and''.

SEC. 113. AVAILABILITY UNDER SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE OF PREPARATORY COURSES FOR COLLEGE AND GRADUATE SCHOOL ENTRANCE EXAMS.

Paragraph (5) of section 3501(a) is amended by adding at the end the following new sentence: ''The term also includes any preparatory course described in section 3002(3)(B) of this title.''.

SEC. 114. ELECTION OF CERTAIN RECIPIENTS OF COMMENCEMENT OF PERIOD OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

Section 3512(a)(3) is amended by striking ''8 years after,'' and all that follows through the end and inserting ''8 years after the date elected by the person (if such election is approved as the beginning date of such period by the Secretary and is made during the period between such birthdays) which beginning date—

''(A) in the case of a person whose eligibility is based on a parent who has a service-connected total disability permanent in nature, shall be between the dates described in subsection (d) of this section; and

''(B) in the case of a person whose eligibility is based on the death of a parent, shall be between—

''(i) the date of the parent's death; and

''(ii) the date of the Secretary's decision that the death was service-connected;''.

SEC. 115. ADJUSTED EFFECTIVE DATE FOR AWARD OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 5113 is amended—

(1) in subsection (a), by striking ''subsection (b) of this section,'' and inserting ''subsections (b) and (c),'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

''(b)(1) In determining the effective date of an award of educational assistance under chapter 35 of this title for an individual described in paragraph (2) based on an original claim, the Secretary shall consider the individual's application under section 3513 of this title as having been filed on the effective date from which the Secretary, by rating decision, determines that the veteran from whom eligibility for such educational assistance is derived either died of a service-connected disability or established the existence of a total service-connected disability evaluated as permanent in nature if that effective date is more than one year before the date the rating decision is made.

''(2) An individual referred to in paragraph (1) is a person eligible for educational assistance under chapter 35 of this title by reason of subparagraph (A)(i), (A)(ii), (B), or (D) of section 3501(a)(1) of this title who—

''(A) submits to the Secretary an original application under section 3513 of this title for educational assistance under that chapter within one year after the date that the Secretary issues the rating decision on which the individual's eligibility for such educational assistance is based;

''(B) claims such educational assistance for pursuit of an approved program of education during a period or periods preceding the one-year period ending on the date on which the individual's application under that section is received by the Secretary; and

''(C) would, without regard to this subsection, have been entitled to such educational assistance for pursuit of such approved program of education if the individual had submitted such application on the effective date from which the Secretary determined that the individual was eligible for such educational assistance.''.

(b) STYLISTIC AMENDMENT.—Subsection (c) of that section, as redesignated by subsection (a)(2) of this section, is amended by striking ''of this section''.

(c) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to applications first made under section 3513 of title 38, United States Code, that—

(1) are received by the Secretary of Veterans Affairs on or after the date of the enactment of this Act; or

(2) as of that date are pending with the Secretary or exhaustion of available administrative and judicial remedies.

Subtitle C—Housing Matters

SEC. 121. ELIMINATION OF REDUCTION IN ASSISTANCE FOR SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS FOR VETERANS HAVING JOINT OWNERSHIP OF HOUSING UNITS.

Section 2102 is amended by adding at the end the following new subsection:

''(c) The amount of assistance afforded under subsection (a) for a veteran authorized assistance by section 2101(a) of this title shall not be reduced by reason that title to the housing unit, which is vested in the veteran, is also vested in any other person, if the veteran resides in the housing unit.''.

SEC. 122. INCREASE IN MAXIMUM AMOUNT OF HOUSING LOAN GUARANTEE.

(a) IN GENERAL.—Subparagraph (A)(i)(IV) of section 3703(a)(1) is amended by striking ''$50,750'' and inserting ''$63,175''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of that section is amended by striking ''$50,750'' and inserting ''$63,175''.

SEC. 123. TERMINATION OF COLLECTION OF LOAN FEES FROM VETERANS RATED ELIGIBLE FOR COMPENSATION AT PRE-DISCHARGE RATING EXAMINATIONS.

Section 3729(c) is amended—

(1) by inserting ''(1)'' before ''A fee''; and

(2) by adding at the end the following new paragraph:

''(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination

and rating without regard to whether an effective date of the award of compensation is established as of that date.''.

Subtitle D—Insurance Matters

SEC. 131. PREMIUMS FOR TERM SERVICE DISABLED VETERANS' INSURANCE FOR VETERANS OLDER THAN AGE 70.

Section 1922 is amended by adding at the end the following new subsection:

''(c) The premium rate of any term insurance issued under this section shall not exceed the renewal age 70 premium rate.''.

SEC. 132. INCREASE IN AUTOMATIC MAXIMUM COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE.

(a) MAXIMUM UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.—Section 1967 is amended in subsections (a), (c), and (d) by striking ''$200,000'' each place it appears and inserting ''$250,000''.

(b) MAXIMUM UNDER VETERANS' GROUP LIFE INSURANCE.—Section 1977(a) is amended by striking ''$200,000'' each place it appears and inserting ''$250,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

SEC. 133. FAMILY COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) INSURABLE DEPENDENTS.—Section 1965 is amended by adding at the end the following:

''(10) The term 'insurable dependent', with respect to a member, means the following:

''(A) The member's spouse.

''(B) A child of the member for so long as the child is unmarried and the member is providing over 50 percent of the support of the child.''.

(b) INSURANCE COVERAGE.—(1) Subchapter III of chapter 19 is amended by inserting after section 1967 the following new section:

''§ 1967A. Insurance of dependents

''(a) Subject to the provisions of this section, any policy of insurance purchased by the Secretary under section 1966 of this title shall also automatically insure against death each insurable dependent of a member.

''(b)(1) A member insurable under this subchapter may make an election not to insure a spouse under this subchapter.

''(2) Except as provided in subsection (c)(3), a spouse covered by an election under paragraph (1) is not insured under this section.

''(3) Except as otherwise provided under this section, no insurable dependent of a member is insured under this section unless the member is insured under this subchapter.

''(c)(1) Subject to an election under paragraph (2), the amount for which a person insured under this section is insured under this subchapter is as follows:

''(A) In the case of a member's spouse, the lesser of—

''(i) the amount for which the member is insured under this subchapter; or

''(ii) $50,000.

''(B) In the case of a member's child, $5,000.

''(2) A member may elect in writing to insure the member's spouse in an amount less than the amount provided for under paragraph (1)(A). The amount of insurance so elected shall be evenly divisible by $10,000.

''(3) If a spouse eligible for insurance under this section is not so insured, or is insured for less than the maximum amount provided for under subparagraph (A) of paragraph (1) by reason of an election made by the member concerned under paragraph (2), the spouse may thereafter be insured under this section in the maximum amount or any lesser amount elected as provided for in paragraph (2) upon written application by the member, proof of good health of the spouse, and compliance with such other terms and conditions as may be prescribed by the Secretary.

''(d)(1) Insurance coverage under this section with respect to an insurable dependent of the member shall cease—

''(A) upon election made in writing by the member to terminate the coverage; or

''(B) the date that is 120 days after the earlier of—

''(i) the date of the member's death;

''(ii) the date of termination of the insurance on the member under this subchapter; or

''(iii) the date on which the insurable dependent of the member no longer meets the criteria applicable to an insurable dependent as specified in section 1965(10) of this title.

''(2)(A) At the election of an insured spouse whose insurance under this subchapter is terminated under paragraph (1), the insurance shall be converted to an individual policy of insurance upon written application for conversion made to the participating company selected by the insured spouse and the payment of the required premiums.

''(B) The individual policy of insurance of an insured spouse making an election under subparagraph (A) shall become effective on the date of the termination of the spouse's insurance under paragraph (1).

''(C) The second, fourth, and fifth sentences of section 1977(e) of this title shall apply with respect to the insurance of an insured spouse under this paragraph.

''(e)(1) During any period in which the spouse of a member is insured under this section, there shall be deducted each month from the member's basic or other pay, or otherwise collected from the member, until the member's separation or release from active duty an amount determined by the Secretary (which shall be the same for all such members) as the premium allocable to the pay period for providing that insurance coverage.

''(2)(A) The Secretary shall determine the premium amounts to be charged for insurance coverage for spouses of members under this section.

''(B) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

''(C) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary in advance of that policy year.

''(3) Any amounts deducted or collected under paragraph (1), together with the income derived from any dividends or premium rate adjustments received from insurers with respect to insurance under this section, shall be deposited to the credit of the revolving fund established by section 1969(d) of this title, and shall be available for payment and use in accordance with the provisions of that section.

''(f) Any amount of insurance in force on an insurable dependent of a member under this section on the date of the dependent's death shall be paid, upon the establishment of a valid claim therefor, to the member or, in the event of the member's death before payment to the member can be made, then to the person or persons entitled to receive payment of the proceeds of insurance on the member' life under section 1970 of this title.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1967 the following new item:

''1967A. Insurance of dependents.''.

(c) EFFECTIVE DATE AND INITIAL IMPLEMENTATION.—(1) This section and the amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act, except that paragraph (2) shall take effect on the date of the enactment of this Act.

(2) The Secretary of Veterans Affairs, in consultation with the Secretaries of the military departments, the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Health and Human Services, shall take such action as is necessary to ensure that each member of the uniformed services on active duty (other than active duty for training) during the period between the date of the enactment of this Act and the effective date under paragraph (1) is furnished an explanation of the insurance benefits available for dependents under the amendments made by this section and is afforded an opportunity before such effective date to make elections that are authorized under those amendments to be made with respect to dependents.

Subtitle E—Burial Matters

SEC. 141. ELIGIBILITY FOR INTERMENT IN THE NATIONAL CEMETERIES OF CERTAIN FILIPINO VETERANS OF WORLD WAR II.

(a) ELIGIBILITY OF CERTAIN COMMONWEALTH ARMY VETERANS.—Section 2402 is amended by adding at the end the following new paragraph:

''(8) Any individual whose service is described in section 107(a) of this title if such individual at the time of death—

''(A) was a naturalized citizen of the United States; and

''(B) resided in the United States.''.

(b) CONFORMING AMENDMENT.—Section 107(a)(3) is amended by striking the period at the end and inserting the following: '', and chapter 24 of this title to the extent provided for in section 2402(8) of this title.''.

(c) APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to deaths occurring on or after that date.

Subtitle F—Employment Matters

SEC. 151. VETERANS EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS FOR RECENTLY SEPARATED VETERANS.

(a) EMPLOYMENT EMPHASIS.—Subsection (a) of section 4212 is amended in the first sentence by inserting ''recently separated veterans,'' after ''veterans of the Vietnam era,''.

(b) CONFORMING AMENDMENTS.—Subsection (d)(1) of that section is amended by inserting ''recently separated veterans,'' after ''veterans of the Vietnam era,'' each place it appears in subparagraphs (A) and (B).

(c) RECENTLY SEPARATED VETERAN DEFINED.—Section 4211 is amended by adding at the end the following new paragraph:

''(6) The term 'recently separated veteran' means any veteran during the one-year period beginning on the date of such veteran's discharge or release from active duty.''.

SEC. 152. COMPTROLLER GENERAL AUDIT OF VETERANS EMPLOYMENT AND TRAINING SERVICE OF THE DEPARTMENT OF LABOR.

(a) REQUIREMENT.—The Comptroller General of the United States shall carry out a comprehensive audit of the Veterans Employment and Training Service of the Department of Labor. The purpose of the audit is to provide a basis for future evaluations of the effectiveness of the Service is meeting its mission.

(b) COMMENCEMENT DATE.—The audit required by subsection (a) shall commence not earlier than January 1, 2001.

(c) ELEMENTS.—In carrying out the audit of the Veterans Employment and Training Service required by subsection (a), the Comptroller General shall—

(1) review the requirements applicable to the Service under law, including requirements under title 38, United States Code, and the regulations thereunder;

(2) evaluate the organizational structure of the Service; and

(3) evaluate or assess any other matter relating to the Service that the Comptroller General considers appropriate for the purpose specified in subsection (a).

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to the Committees

on Veterans' Affairs of the Senate and House of Representatives a report on the audit carried out under subsection (a). The report shall include—

(1) the results of the audit; and

(2) any recommendations that the Comptroller General considers appropriate regarding the organization or functions of the Veterans Employment and Training Service of the Department of Labor.

Subtitle G—Benefits for Children of Female Vietnam Veterans

SEC. 161. SHORT TITLE.

This subtitle may be cited as the ''Children of Women Vietnam Veterans' Benefits Act of 2000''.

SEC. 162. BENEFITS FOR THE CHILDREN OF FEMALE VIETNAM VETERANS WHO SUFFER FROM CERTAIN BIRTH DEFECTS.

(a) IN GENERAL.—Chapter 18 is amended by adding at the end the following new subchapter:

''SUBCHAPTER II—CHILDREN OF FEMALE VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

''§ 1811. Definitions

''In this subchapter:

''(1) The term 'child', with respect to a female Vietnam veteran, means a natural child of the female Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the female Vietnam veteran first entered the Republic of Vietnam during the Vietnam era (as specified in section 101(29)(A) of this title).

''(2) The term 'covered birth defect' means each birth defect identified by the Secretary under section 1812 of this title.

''(3) The term 'female Vietnam veteran' means any female individual who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era (as so specified), without regard to the characterization of the individual's service.

''§ 1812. Birth defects covered

''(a) IDENTIFICATION.—Subject to subsection (b), the Secretary shall identify the birth defects of children of female Vietnam veterans that—

''(1) are associated with the service of female Vietnam veterans in the Republic of Vietnam during the Vietnam era (as specified in section 101(29)(A) of this title); and

''(2) result in the permanent physical or mental disability of such children.

''(b) LIMITATIONS.—(1) The birth defects identified under subsection (a) may not include birth defects resulting from the following:

''(A) A familial disorder.

''(B) A birth-related injury.

''(C) A fetal or neonatal infirmity with well-established causes.

''(2) The birth defects identified under subsection (a) may not include spina bifida.

''(c) LIST.—The Secretary shall prescribe in regulations a list of the birth defects identified under subsection (a).

''§ 1813. Benefits and assistance

''(a) HEALTH CARE.—(1) The Secretary shall provide a child of a female Vietnam veteran who was born with a covered birth defect such health care as the Secretary determines is needed by the child for such birth defect or any disability that is associated with such birth defect.

''(2) The Secretary may provide health care under this subsection directly or by contract or other arrangement with a health care provider.

''(3) For purposes of this subsection, the definitions in section 1803(c) of this title shall apply with respect to the provision of health care under this subsection, except that for such purposes—

''(A) the reference to 'specialized spina bifida clinic' in paragraph (2) of such section 1803(c) shall be treated as a reference to a specialized clinic treating the birth defect concerned under this subsection; and

''(B) the reference to 'vocational training under section 1804 of this title' in paragraph (8) of such section 1803(c) shall be treated as a reference to vocational training under subsection (b).

''(b) VOCATIONAL TRAINING.—(1) The Secretary may provide a program of vocational training to a child of a female Vietnam veteran who was born with a covered birth defect if the Secretary determines that the achievement of a vocational goal by the child is reasonably feasible.

''(2) Subsections (b) through (e) of section 1804 of this title shall apply with respect to any program of vocational training provided under paragraph (1).

''(c) MONETARY ALLOWANCE.—(1) The Secretary shall pay a monthly allowance to any child of a female Vietnam veteran who was born with a covered birth defect for any disability resulting from such birth defect.

''(2) The amount of the monthly allowance paid under this subsection shall be based on the degree of disability suffered by the child concerned, as determined in accordance with a schedule for rating disabilities resulting from covered birth defects that is prescribed by the Secretary.

''(3) In prescribing a schedule for rating disabilities under paragraph (2), the Secretary shall establish four levels of disability upon which the amount of the monthly allowance under this subsection shall be based.

''(4) The amount of the monthly allowance paid under this subsection shall be as follows:

''(A) In the case of a child suffering from the lowest level of disability prescribed in the schedule for rating disabilities under this subsection, $100.

''(B) In the case of a child suffering from the lower intermediate level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—

''(i) $214; or

''(ii) the monthly amount payable under section 1805(b)(3) of this title for the lowest level of disability prescribed for purposes of that section.

''(C) In the case of a child suffering from the higher intermediate level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—

''(i) $743; or

''(ii) the monthly amount payable under section 1805(b)(3) of this title for the intermediate level of disability prescribed for purposes of that section.

''(D) In the case of a child suffering from the highest level of disability prescribed in the schedule for rating disabilities under this subsection, the greater of—

''(i) $1,272; or

''(ii) the monthly amount payable under section 1805(b)(3) of this title for the highest level of disability prescribed for purposes of that section.

''(5) Amounts under subparagraphs (A), (B)(i), (C)(i), and (D)(i) of paragraph (4) shall be subject to adjustment from time to time under section 5312 of this title.

''(6) Subsections (c) and (d) of section 1805 of this title shall apply with respect to any monthly allowance paid under this subsection.

''(d) GENERAL LIMITATIONS ON AVAILABILITY OF BENEFITS AND ASSISTANCE.—(1) No individual receiving benefits or assistance under this section may receive any benefits or assistance under subchapter I of this chapter.

''(2) In any case where affirmative evidence establishes that the covered birth defect of a child results from a cause other than the active military, naval, or air service in the Republic of Vietnam of the female Vietnam veteran who is the mother of the child, no benefits or assistance may be provided the child under this section.

''(e) REGULATIONS.—The Secretary shall prescribe regulations for purposes of the administration of the provisions of this section.''.

(b) ADMINISTRATIVE PROVISIONS.—Chapter 18 is further amended by inserting after subchapter II, as added by subsection (a) of this section, the following new subchapter:

''SUBCHAPTER III—ADMINISTRATIVE MATTERS

''§ 1821. Applicability of certain administrative provisions

''The provisions of sections 5101(c), 5110(a), (b)(2), (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and (b)(10) of this title shall apply with respect to benefits and assistance under this chapter in the same manner as such provisions apply to veterans' disability compensation.

''§ 1822. Treatment of receipt of monetary allowance on other benefits

''(a) Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of the individual to receive any other benefit to which the individual is otherwise entitled under any law administered by the Secretary.

''(b) Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of any other individual to receive any benefit to which such other individual is entitled under any law administered by the Secretary based on the relationship of such other individual to the individual who receives such monetary allowance.

''(c) Notwithstanding any other provision of law, a monetary allowance paid an individual under this chapter shall not be considered as income or resources in determining eligibility for or the amount of benefits under any Federal or Federally-assisted program.''.

(c) REPEAL OF SUPERSEDED MATTER.—(1) Subsections (c) and (d) of section 1805 are repealed.

(2) Section 1806 is repealed.

(d) REDESIGNATION OF EXISTING MATTER.—Chapter 18 is further amended by inserting before section 1801 the following:

''SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA''.

(e) CONFORMING AMENDMENTS.—(1) Sections 1801 and 1802 are each amended by striking ''this chapter'' and inserting ''this subchapter''.

(2) Section 1805(a) is amended by striking ''this chapter'' and inserting ''this section''.

(f) CLERICAL AMENDMENTS.—(1)(A) The chapter heading of chapter 18 is amended to read as follows:

''CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS''.

(1) The tables of chapters at beginning, and at the beginning of part II, are each amended by striking the item relating to chapter 18 and inserting the following new item:

''18. Benefits for Children of Vietnam Veterans ..... 1801''.

(2) The table of sections at the beginning of chapter 18 is amended—

(A) by inserting after the chapter heading the following:

''SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA'';

(B) by striking the item relating to section 1806; and

(C) by adding at the end the following:

''SUBCHAPTER II—CHILDREN OF FEMALE VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

''1811. Definitions.
''1812. Birth defects covered.
''1813. Benefits and assistance.

''SUBCHAPTER III—ADMINISTRATIVE MATTERS

''1821. Applicability of certain administrative provisions.
''1822. Treatment of receipt of monetary allowance on other benefits.''.

(g) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the first day of the first month beginning more than one year after the date of the enactment of this Act.

(2) The Secretary of Veterans Affairs shall identify birth defects under section 1822 of title 38, United States Code (as added by subsection (a) of this section), and shall prescribe the regulations required by subchapter II of that title (as so added), not later than the effective date specified in paragraph (1).

(3) No benefit or assistance may be provided under subchapter II of chapter 18 of title 38, United States Code (as so added), for any period before the effective date specified in paragraph (1) by reason of the amendments made by this section.

Subtitle H—Other Benefits Matters

SEC. 171. REVIEW OF DOSE RECONSTRUCTION PROGRAM OF THE DEFENSE THREAT REDUCTION AGENCY.

(a) REVIEW BY NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall enter into a contract with the National Academy of Sciences to carry out periodic reviews of the dose reconstruction program of the Defense Threat Reduction Agency.

(b) REVIEW ACTIVITIES.—The periodic reviews of the dose reconstruction program under the contract under subsection (a) shall consist of the periodic selection of random samples of doses reconstructed by the Defense Threat Reduction Agency in order to determine—

(1) whether or not the reconstruction of the sampled doses is accurate;

(2) whether or not the reconstructed dosage number is accurately reported;

(3) whether or not the assumptions made regarding radiation exposure based upon the sampled doses are credible; and

(4) whether or not the data from nuclear tests used by the Defense Threat Reduction Agency as part of the reconstruction of the sampled doses is accurate.

(c) DURATION OF REVIEW.—The periodic reviews under the contract under subsection (a) shall occur over a period of 24 months.

(d) REPORT.—(1) Not later than 60 days after the conclusion of the period referred to in subsection (c) the National Academy of Sciences shall submit to Congress a report on its activities under the contract under this section.

(2) The report shall include the following:

(A) A detailed description of the activities of the National Academy of Sciences under the contract.

(B) Any recommendations that the National Academy of Sciences considers appropriate regarding a permanent system of review of the dose reconstruction program of the Defense Threat Reduction Agency.

TITLE II—HEALTH CARE MATTERS

SEC. 201. VETERANS NOT SUBJECT TO COPAYMENTS FOR MEDICATIONS.

Subparagraph (B) of section 1722A(a)(3) is amended to read as follows:

''(B) to a veteran who is considered by the Secretary to be unable to defray the expenses of necessary care under section 1722 of this title.''.

SEC. 202. ESTABLISHMENT OF POSITION OF ADVISOR ON PHYSICIAN ASSISTANTS WITHIN OFFICE OF UNDERSECRETARY FOR HEALTH.

(a) ESTABLISHMENT.—Subsection (a) of section 7306 is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by inserting after paragraph (8) the following new paragraph (9):

''(9) The Advisor on Physician Assistants, who shall carry out the responsibilities set forth in subsection (f).''.

(b) RESPONSIBILITIES.—That section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

''(f) The Advisor on Physician Assistants under subsection (a)(9) shall—

''(1) advise the Under Secretary for Health on matters regarding the optimal utilization of physician assistants by the Veterans Health Administration;

''(2) advise the Under Secretary for Health on the feasibility and desirability of establishing clinical privileges and practice areas for physician assistants in the Administration;

''(3) develop initiatives to facilitate the utilization of the full range of clinical capabilities of the physician assistants employed by the Administration;

''(4) provide advice on policies affecting the employment of physician assistants by the Administration, including policies on educational requirements, national certification, recruitment and retention, staff development, and the availability of educational assistance (including scholarship, tuition reimbursement, and loan repayment assistance); and

''(5) carry out such other responsibilities as the Under Secretary for Health shall specify.''.

SEC. 203. TEMPORARY FULL-TIME APPOINTMENTS OF CERTAIN MEDICAL PERSONNEL.

(a) PHYSICIAN ASSISTANTS AWAITING CERTIFICATION OR LICENSURE.—Paragraph (2) of section 7405(c) is amended—

(1) by striking ''nursing,'' and inserting ''nursing''; and

(2) by inserting ''who have successfully completed a full course of training as a physician assistant in a recognized school approved by the Secretary,'' before ''or who''.

(b) MEDICAL SUPPORT PERSONNEL.—That section is further amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3)(A) Temporary full-time appointments of persons in positions referred to in subsection (a)(1)(D) shall not exceed three years.

''(B) Temporary full-time appointments under this paragraph may be renewed for one or more additional periods not in excess of three years each.''.

TITLE III—CONSTRUCTION AND FACILITIES MATTERS

Subtitle A—Construction Matters

SEC. 301. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS FOR FISCAL YEAR 2001.

The Secretary of Veterans Affairs may carry out the following major medical projects, with each project to be carried out in the amount specified for that project:

(1) Construction of a 120-bed gero-psychiatric facility at the Department of Veterans Affairs Palo Alto Health Care System, Menlo Park Division, California, $26,600,000.

(2) Construction of a nursing home at the Department of Veterans Affairs Medical Center, Beckley, West Virginia, $9,500,000.

SEC. 302. AUTHORIZATION OF ADDITIONAL MAJOR MEDICAL FACILITY PROJECT FOR FISCAL YEAR 2000.

Section 401 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1572) is amended by adding at the end the following:

''(7) Renovation of psychiatric nursing units at the Department of Veterans Affairs Medical Center, Murfreesboro, Tennessee, in an amount not to exceed $14,000,000.''.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2001 PROJECTS.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2001 and for fiscal year 2002, $36,100,000 for the Construction, Major Projects, account for the projects authorized in section 301.

(b) AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL FISCAL YEAR 2000 PROJECT.—Section 403 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 113 Stat. 1573) is amended—

(1) in subsection (a)(1), by striking ''$57,500,000 for the projects authorized in paragraphs (1) through (5)'' and inserting ''$71,500,000 for the projects authorized in paragraphs (1) through (5) and (7)''; and

(2) in subsection (b), by inserting ''and (7)'' after ''through (5)'' in the matter preceding paragraph (1).

(c) LIMITATION.—The projects authorized in section 301 may only be carried out using—

(1) funds appropriated for fiscal year 2001 or fiscal year 2002 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 2001 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 2001 for a category of activity not specific to a project.

Subtitle B—Other Matters

SEC. 311. MAXIMUM TERM OF LEASE OF DEPARTMENT OF VETERANS AFFAIRS PROPERTY FOR HOMELESS PURPOSES.

Section 3735(a)(4) is amended by striking ''three years'' and inserting ''20 years''.

SEC. 312. LAND CONVEYANCE, MILES CITY VETERANS ADMINISTRATION MEDICAL COMPLEX, MILES CITY, MONTANA.

(a) CONVEYANCE REQUIRED.—The Secretary of Veterans Affairs shall convey, without consideration, to Custer County, Montana (in this section referred to as the ''County''), all right, title, and interest of the United States in and to the parcels of real property consisting of the Miles City Veterans Administration Medical Center complex, which has served as a medical and support complex for the Department of Veterans Affairs in Miles City, Montana.

(b) TIMING OF CONVEYANCE.—The conveyance required by subsection (a) shall be made as soon as practicable after the date of the enactment of this Act.

(c) CONDITIONS OF CONVEYANCE.—The conveyance required by subsection (a) shall be subject to the condition that the County—

(1) use the parcels conveyed, whether directly or through an agreement with a public or private entity, for veterans activities, community and economic development, or such other public purposes as the County considers appropriate; or

(2) convey the parcels to an appropriate public or private entity for use for the purposes specified in paragraph (1).

(d) CONVEYANCE OF IMPROVEMENTS.—(1) As part of the conveyance required by subsection (a), the Secretary may also convey to the County any improvements, equipment, fixtures, and other personal property located on the parcels conveyed under that subsection that are not required by the Secretary.

(2) Any conveyance under this subsection shall be without consideration.

(e) USE PENDING CONVEYANCE.—Until such time as the real property to be conveyed under subsection (a) is conveyed by deed under this section, the Secretary may continue to lease the real property, together with any improvements thereon, under the terms and conditions of the current lease of the real property.

(f) MAINTENANCE PENDING CONVEYANCE.—The Secretary shall be responsible for maintaining the real property to be conveyed under subsection (a), and any improvements, equipment, fixtures, and other personal property to be conveyed under subsection (d), in its condition as of the date of the enactment of this Act until such time as the real property, and such improvements, equipment, fixtures, and other personal property are conveyed by deed under this section.

(g) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms

and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 313. CONVEYANCE OF FT. LYON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER, COLORADO, TO THE STATE OF COLORADO.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and subject to the provisions of this section, the Secretary of Veterans Affairs may convey, without consideration, to the State of Colorado all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 512 acres and comprising the location of the Ft. Lyon Department of Veterans Affairs Medical Center. The purpose of the conveyance is to permit the State of Colorado to utilize the property for purposes of a correctional facility.

(b) PUBLIC ACCESS.—(1) The Secretary may not make the conveyance of real property authorized by subsection (a) unless the State of Colorado agrees to provide appropriate public access to Kit Carson Chapel, which is located on the real property, and the cemetery located adjacent to the real property.

(2) The State of Colorado may satisfy the condition specified in paragraph (1) with respect to Kit Carson Chapel by relocating the chapel to Fort Lyon National Cemetery, Colorado, or another appropriate location approved by the Secretary.

(c) PLAN REGARDING CONVEYANCE.—(1) The Secretary may not make the conveyance authorized by subsection (a) before the date on which the Secretary implements a plan providing the following:

(A) Notwithstanding sections 1720(a)(3) and 1741 of title 38, United States Code, that veterans who are receiving inpatient or institutional long-term care at Ft. Lyon Department of Veterans Affairs Medical Center as of the date of the enactment of this Act are provided appropriate inpatient or institutional long-term care under the same terms and conditions as such veterans are receiving inpatient or institutional long-term care as of that date.

(B) That the conveyance of the Ft. Lyon Department of Veterans Affairs Medical Center does not result in a reduction of health care services available to veterans in the catchment area of the Medical Center.

(C) Improvements in veterans' overall access to health care in the catchment area through, for example, the opening of additional outpatient clinics.

(2) The Secretary shall prepare the plan referred to in paragraph (1) in consultation with appropriate representatives of veterans service organizations and other appropriate organizations.

(3) The Secretary shall publish a copy of the plan referred to in paragraph (1) before implementation of the plan.

(d) ENVIRONMENTAL RESTORATION.—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary completes the evaluation and performance of any environmental restoration activities required by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and by any other provision of law.

(e) PERSONAL PROPERTY.—As part of the conveyance authorized by subsection (a), the Secretary may convey, without consideration, to the State of Colorado any furniture, fixtures, equipment, and other personal property associated with the property conveyed under that subsection that the Secretary determines is not required for purposes of the Department of Veterans Affairs health care facilities to be established by the Secretary in southern Colorado or for purposes of Fort Lyon National Cemetery.

(f) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. Any costs associated with the survey shall be borne by the State of Colorado.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions in connection with the conveyances authorized by subsections (a) and (e) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 314. EFFECT OF CLOSURE OF FT. LYON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER ON ADMINISTRATION OF HEALTH CARE FOR VETERANS.

(a) PAYMENT FOR NURSING HOME CARE.—Notwithstanding any limitation under section 1720 or 1741 of title 38, United States Code, the Secretary of Veterans Affairs may pay the State of Colorado, or any private nursing home care facility, for costs incurred in providing nursing home care to any veteran who is relocated from the Ft. Lyon Department of Veterans Affairs Medical Center, Colorado, to the State of Colorado or such private facility, as the case may be, as a result of the closure of the Ft. Lyon Department of Veterans Affairs Medical Center.

(b) OBLIGATION TO PROVIDE EXTENDED CARE SERVICES.—Nothing in section 313 of this Act or this section may be construed to alter or otherwise effect the obligation of the Secretary to meet the requirements of section 1710B(b) of title 38, United States Code, relating to staffing and levels of extended care services in fiscal years after fiscal year 1998.

(c) EXTENSION OF VOLUNTARY EARLY RETIREMENT AUTHORITY.—Notwithstanding section 1109(a) of the Department of Veterans Affairs Employment Reduction Assistance Act of 1999 (title XI of Public Law 106–117; 113 Stat. 1599; 5 U.S.C. 5597 note), the authority to pay voluntary separation incentive payments under that Act to employees of the Ft. Lyon Department of Veterans Affairs Medical Center shall apply to eligible employees (as defined by section 1110 of that Act) at the Ft. Lyon Department of Veterans Affairs Medical Center whose separation occurs before June 30, 2001.

(d) REPORT ON VETERANS HEALTH CARE IN SOUTHERN COLORADO.—Not later than one year after the conveyance, if any, authorized by section 313, the Under Secretary for Health of the Department of Veterans Affairs, acting through the Director of Veterans Integrated Service Network (VISN) 19, shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the status of the health care system for veterans under the Network in the Southern Colorado. The report shall describe any improvements to the system in Southern Colorado that have been put into effect in the period beginning on the date of the conveyance and ending on the date of the report.

Mr. SMITH of New Hampshire. I ask unanimous consent the committee substitute be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, the amendment to the title be agreed to, and any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1810) was read the third time and passed.

The title was amended so as to read: ''A Bill to amend title 38, United States Code, to expand and improve compensation and pension, education, housing loan, insurance, and other benefits for veterans, and for other purposes.''.

NEXT GENERATION INTERNET 2000

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the Senate proceed to the consideration of Calendar No. 607, S. 2046.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2046) to reauthorize the Next Generation Internet Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment, as follows:

(The parts to be stricken are shown in black brackets; the parts to be inserted are in italic.)

S. 2046

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 ''Next Generation Internet 2000''.

[SEC. 2. FINDINGS.

[The Congress makes the following findings:

[(1) The United States investment in science and technology has yielded a scientific and engineering enterprise without peer. The Federal investment in research is critical to the maintenance of our international leadership.

[(2) The Internet is at a pivotal point in its history. While promising new applications in medicine, environmental science, and other disciplines are becoming a reality, they are still constrained by the Internet's capacity and capabilities. The current Internet cannot support an emerging set of activities, many of which are essential to mission-critical applications in government, national laboratories, academia and business.

[(3) Government-sponsored network research and development is critical to the success of the Next Generation Internet. Previous Federal investment in computer networking technology and related fields has resulted in the creation of new industries and new jobs in the United States.

[(4) Since its establishment in 1998, the Next Generation Internet Program has successfully funded peer-reviewed research to address the critical need for increased network performance and management.

[SEC. 3. PURPOSES.

[The purposes of this Act are—

[(1) to authorize, through the Next Generation Internet Program and Large Scale Networking Program, research programs related to—

[(A) high-end computing and computation;

[(B) human-centered systems;

[(C) high confidence systems; and

[(D) education, training, and human resources; and

[(2) to provide, through the Next Generation Internet Program and Large Scale Networking Program, for the development and coordination of a comprehensive and integrated United States research program which will—

[(A) focus on research and development toward advancing network technologies to create a network infrastructure that can support greater speed, robustness, and flexibility;

[(B) promote connectivity and interoperability among advanced computer networks of Federal agencies and departments;

[(C) conduct research on the tools and services that hear future agency networking requirements demands, including application specific multicast, quality of service, and internet video conferencing;

[(D) focus on research and development of the next generation network fabric, particularly concerning the expansion of affordable bandwidth for users that is both economically viable and does not impose a geographic penalty (as defined in section 7(a) of the Next Generation Internet Research Act of 1998 (15 U.S.C. 5501 nt.); and

[(E) encourage researchers to pursue approaches to networking technology that lead to flexible and extensible solutions wherever feasible.

[SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

[Section 103(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5513(d)) is amended to read as follows:

[''(d) AUTHORIZATION OF APPROPRIATIONS.—

[''(1) IN GENERAL.—There are authorized to be appropriated for the purpose of carrying out the Next Generation Internet program and Large Scale Networking program the following amounts:

[''Agency	FY 2000	FY 2002	FY 2003
[''Department of Defense ..	$70,300,000	$74,200,000	$78,300,000
[''Department of Energy	$32,000,000	$33,800,000	$35,700,000
[''National Aeronautics and Space Administration	$19,500,000	$20,600,000	$21,700,000
[''National Institutes of Health	$96,000,000	$101,300,000	$106,300,000
[''National Institute of Standards and Technology	$4,200,000	$4,400,000	$4,600,000
[''National Science Foundation	$111,200,000	$117,300,000	$123,800,000
[''National Security Agency	$1,900,000	$2,000,000	$2,100,000
[''Agency for Healthcare Research and Quality	$7,400,000	$7,800,000	$8,200,000

[''(2) USE OF SUCH FUNDS.—Funds authorized by paragraph (1)—

[''(A) shall be used in a manner that contributes to achieving the goals of the Next Generation Internet Program and the Large Scale Networking program; and

[''(B) may be used only for research that is merit-based and peer-reviewed.''.

[SEC. 5. RURAL INFRASTRUCTURE.

[Section 103 of the High-Performance Computing Act of 1991 (15 U.S.C. 5513) is amended by adding at the end thereof the following:

[''(e) RURAL INFRASTRUCTURE.—Out of appropriated amounts authorized by subsection (d), not less than 10 percent of the total amounts made available to fund research shall be used to fund research grants into the reduction of the cost of Internet access services available to users in geographically-remote areas. The research shall include investigation of wireless, hybrid, and satellite technologies. In awarding grants under this subsection, the administering agency shall give priority to qualified, post-secondary educational institutions that participate in the Experimental Program to Stimulate Competitive Research.''.

[SEC. 6. MINORITY AND SMALL COLLEGE INTERNET ACCESS.

[Section 103 of the High-Performance Computing Act of 1991 (15 U.S.C. 5513), as amended by section 6, is further amended by adding at the end thereof the following:

[''(f) MINORITY AND SMALL COLLEGE INTERNET ACCESS.—Not less than 5 percent of the amounts made available for research under subsection (e) shall be used for grants to institutions of higher education that are Hispanic-serving, Native American, Historically Black, or small colleges and universities.''.

[SEC. 7. DIGITAL DIVIDE STUDY.

[(a) IN GENERAL.—The National Academy of Sciences shall conduct a study to determine the extent to which the Internet backbone and network infrastructure contribute to the uneven access to Internet-related technologies and services by rural and low-income Americans. The study shall include—

[(1) an assessment of the existing geographical penalty (as defined in section 7(a)(1) of the Next General Internet Research Act of 1998 (15 U.S.C. 5501 nt.)) and its impact on all users and their ability to obtain secure and reliable Internet access;

[(2) a review of all current Federally-funded research to decrease the inequity of Internet access to rural and low-income users; and

[(3) an estimate of the potential impact of Next Generation Internet research institutions acting as aggregators and mentors for nearby smaller or disadvantaged institutions.

[(b) REPORT.—The National Academy of Sciences shall transmit a report containing the results of the study and recommendations required by subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science within 1 year after the date of enactment of this Act.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Academy of Sciences such sums as may be necessary to carry out this section.]

Title I—Next Generation Internet

SECTION 101. SHORT TITLE.

This title may be cited as the ''Next Generation Internet 2000''.

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) The United States investment in science and technology has yielded a scientific and engineering enterprise without peer. The Federal investment in research is critical to the maintenance of our international leadership.

(2) Federal support of computing, information, and networking research and development has been instrumental in driving advances in information technology, including today's Internet, that are transforming our society, enriching the lives of Americans, enabling scientific and engineering discoveries, and improving the competitiveness and productivity of United States' businesses. We have an essential national interest in ensuring a continued flow of innovation and advances in information technology to assure the continued prosperity of future generations.

(3) The Internet is at a pivotal point in its history. While promising new applications in medicine, environmental science, and other disciplines are becoming a reality, they are still constrained by the Internet's capacity and capabilities. The current Internet cannot support an emerging set of activities, many of which are essential to mission-critical applications in government, national laboratories, academia, and business.

(4) Government-sponsored network research and development in large scale networking technologies, service, and performance is critical to enable the future growth of the Internet and to meet Federal agency mission needs.

(5) Since its establishment in 1998, the Next Generation Internet Program, which builds on the research and development activities funded under the Large Scale Networking Programs, has successfully deployed networking testbeds and funded peer-reviewed research and development to address the critical need for networks that are more powerful, reliable, and versatile than the current Internet.

(6) Networking research and development is an integral part of the Federal information technology research and development program. Balanced investments in other areas, including software design and productivity, high-end computing, high confidence software and systems, human-computer interface and information management, high-end computing infrastructure and applications, and research into the social, legal, ethical, and workforce implications of information technology should be pursued.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to authorize the Large Scale Networking Programs, including the Next Generation Internet Programs; and

(2) to provide, through the Large Scale Networking Programs, including the Next Generation Internet Programs, for the development and coordination of a comprehensive and integrated United States research program which will—

(A) focus on research and development toward advancing network technologies to create a network infrastructure that can support greater speed, robustness, and flexibility;

(B) promote connectivity and interoperability among advanced computer networks of Federal agencies and departments;

(C) conduct research on the tools and services that future agency networking requirements demand, including application specific multicast, quality of service, and Internet video conferencing;

(D) focus on research and development of the next generation network fabric, including the expansion of bandwidth for users that is both economically viable and does not impose a geographic penalty (as defined in section 7(a) of the Next Generation Internet Research Act of 1998 (15 U.S.C. 5501 nt.); and

(E) encourage researchers to pursue approaches to networking technology that lead to flexible and extensible solutions wherever feasible.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

Section 103(d) of the High-Performance Computing Act of 1991 (15 U.S.C. 5513(d)) is amended to read as follows:

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated for the purpose of carrying out the Large Scale Networking Programs, including the Next Generation Internet Programs, the following amounts:

''Agency	*FY 2001*	*FY 2002*	*FY 2003*
''Department of Defense	*$70,300,000*	*$74,200,000*	*$78,300,000*
''Department of Energy	*$32,000,000*	*$33,800,000*	*$35,700,000*
''National Aeronautics and Space Administration	*$19,500,000*	*$20,600,000*	*$21,700,000*
''National Institutes of Health	*$96,000,000*	*$101,300,000*	*$106,300,000*
''National Institute of Standards and Technology	*$4,200,000*	*$4,400,000*	*$4,600,000*
''National Science Foundation	*$111,200,000*	*$117,300,000*	*$123,800,000*
''National Security Agency	*$1,900,000*	*$2,000,000*	*$2,100,000*
''Agency for Healthcare Research and Quality	*$7,400,000*	*$7,800,000*	*$8,200,000*
''National Oceanic and Atmospheric Administration	*$2,700,000*	*$2,900,000*	*$3,100,000*

''(2) LIMITATIONS.—Funds authorized by paragraph (1) shall be used in a manner that contributes to achieving the goals of the Large Scale Networking Program, including the Next Generation Internet Programs. Research conducted under this program shall be merit-based and peer-reviewed.''.

SEC. 105. RURAL INFRASTRUCTURE.

Section 103 of the High-Performance Computing Act of 1991 (15 U.S.C. 5513) is amended by adding at the end thereof the following:

''(e) RURAL INFRASTRUCTURE.—Out of appropriated amounts authorized by subsection (d), not less than 10 percent of the total amounts shall be made available to fund research grants for making high-speed connectivity more accessible to users in geographically-remote areas. The research shall include investigations of wireless, hybrid, and satellite technologies. In awarding grants under this subsection, the administering agency shall give priority to qualified, post-secondary educational institutions that participate in the Experimental Program to Stimulate Competitive Research.''.

SEC. 106. MINORITY AND SMALL COLLEGE INTERNET ACCESS.

Section 103 of the High-Performance Computing Act of 1991 (15 U.S.C. 5513), as amended by section 6, is further amended by adding at the end thereof the following:

''(f) MINORITY AND SMALL COLLEGE INTERNET ACCESS.—Not less than 5 percent of the amounts made available for research under subsection (d) shall be used for grants to institutions of higher education that are Hispanic-serving, Native American, Native Hawaiian, Native Alaskan, Historically Black, or small colleges and universities.''.

SEC. 107. DIGITAL DIVIDE STUDY.

(a) IN GENERAL.—The National Academy of Sciences shall conduct a study to determine the extent to which the Internet backbone and network infrastructure contribute to the uneven ability to access to Internet-related technologies and services by rural and low-income Americans. The study shall include—

(1) an assessment of the existing geographical penalty (as defined in section 7(a)(1) of the Next General Internet Research Act of 1998 (15 U.S.C. 5501 nt.)) and its impact on all users and their ability to obtain secure and reliable Internet access;

(2) a review of all current Federally-funded research to decrease the inequity of Internet access to rural and low-income users; and

(3) an estimate of the potential impact of Next Generation Internet research institutions acting as aggregators and mentors for nearby smaller or disadvantaged institutions.

(b) REPORT.—The National Academy of Sciences shall transmit a report containing the results of the study and recommendations required by subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science within 1 year after the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Academy of Sciences such sums as may be necessary to carry out this section.

Title II—Federal Research Investment Act

SECTION 201. SHORT TITLE.

This title may be cited as the ''Federal Research Investment Act''.

SEC. 202. GENERAL FINDINGS REGARDING FEDERAL INVESTMENT IN RESEARCH.

(a) VALUE OF RESEARCH AND DEVELOPMENT.—The Congress makes the following findings with respect to the value of research and development to the United States:

(1) Federal investment in research has resulted in the development of technology that saved lives in the United States and around the world.

(2) Research and development investment across all Federal agencies has been effective in creating technology that has enhanced the American quality of life.

(3) The Federal investment in research and development conducted or underwritten by both military and civilian agencies has produced benefits that have been felt in both the private and public sector.

(4) Discoveries across the spectrum of scientific inquiry have the potential to raise the standard of living and the quality of life for all Americans.

(5) Science, engineering, and technology play a critical role in shaping the modern world.

(6) Studies show that about half of all United States post-World War II economic growth is a direct result of technical innovation; and science, engineering, and technology contribute to the creation of new goods and services, new jobs and new capital.

(7) Technical innovation is the principal driving force behind the long-term economic growth and increased standards of living of the world's modern industrial societies. Other nations are well aware of the pivotal role of science, engineering, and technology, and they are seeking to exploit it wherever possible to advance their own global competitiveness.

(8) Federal programs for investment in research, which lead to technological innovation and result in economic growth, should be structured to address current funding disparities and develop enhanced capability in States and regions that currently underparticipate in the national science and technology enterprise.

(b) STATUS OF THE FEDERAL INVESTMENT.—The Congress makes the following findings with respect to the status of the Federal Investment in research and development activities:

(1) Federal investment of approximately 13 to 14 percent of the Federal discretionary budget in research and development over the past 11 years has resulted in a doubling of the nominal amount of Federal funding.

(2) Fiscal realities now challenge Congress to steer the Federal government's role in science, engineering, and technology in a manner that ensures a prudent use of limited public resources. There is both a long-term problem—addressing the ever-increasing level of mandatory spending—and a near-term challenge—apportioning a dwindling amount of discretionary funding to an increasing range of targets in science, engineering, and technology. This confluence of increased national dependency on technology, increased targets of opportunity, and decreased fiscal flexibility has created a problem of national urgency. Many indicators show that more funding for science, engineering, and technology is needed but, even with increased funding, priorities must be established among different programs. The United States cannot afford the luxury of fully funding all deserving programs.

(3) Current projections of Federal research funding show a downward trend.

SEC. 203. SPECIAL FINDINGS REGARDING HEALTH-RELATED RESEARCH.

The Congress makes the following findings with respect to health-related research:

(1) HEALTH AND ECONOMIC BENEFITS PROVIDED BY HEALTH-RELATED RESEARCH.—Because of health-related research, cures for many debilitating and fatal diseases have been discovered and deployed. At present, the medical research community is on the cusp of creating cures for a number of leading diseases and their associated burdens. In particular, medical research has the potential to develop treatments that can help manage the escalating costs associated with the aging of the United States population.

(2) FUNDING OF HEALTH-RELATED RESEARCH.—Many studies have recognized that clinical and basic science are in a state of crisis because of a failure of resources to meet the opportunity. Consequently, health-related research has emerged as a national priority and has been given significantly increased funding by Congress in fiscal year 1999. In order to continue addressing this urgent national need, the pattern of substantial budgetary expansion begun in fiscal year 1999 should be maintained.

(3) INTERDISCIPLINARY NATURE OF HEALTH-RELATED RESEARCH.—Because all fields of science and engineering are interdependent, full realization of the nation's historic investment in health will depend on major advances both in the biomedical sciences and in other science and engineering disciplines. Hence, the vitality of all disciplines must be preserved, even as special considerations are given to the health research field.

SEC. 204. ADDITIONAL FINDINGS REGARDING THE LINK BETWEEN THE RESEARCH PROCESS AND USEFUL TECHNOLOGY.

The Congress makes the following findings:

(1) FLOW OF SCIENCE, ENGINEERING, AND TECHNOLOGY.—The process of science, engineering, and technology involves many steps. The present Federal science, engineering, and technology structure reinforces the increasingly artificial distinctions between basic and applied activities. The result too often is a set of discrete programs that each support a narrow phase of research or development and are not coordinated with one another. The government should maximize its investment by encouraging the progression of science, engineering, and technology from the earliest stages of research up to a precommercialization stage, through funding agencies and vehicles appropriate for each stage. This creates a flow of technology, subject to merit review at each stage, so that promising technology is not lost in a bureaucratic maze.

(2) EXCELLENCE IN THE AMERICAN RESEARCH INFRASTRUCTURE.—Federal investment in science, engineering, and technology programs must foster a close relationship between research and education. Investment in research at the university level creates more than simply world-class research. It creates world-class researchers as well. The Federal strategy must continue to reflect this commitment to a strong geographically-diverse research infrastructure. Furthermore, the United States must find ways to extend the excellence of its university system to primary and secondary educational institutions and to better utilize the community college system to prepare many students for vocational opportunities in an increasingly technical workplace.

(3) COMMITMENT TO A BROAD RANGE OF RESEARCH INITIATIVES.—An increasingly common theme in many recent technical breakthroughs has been the importance of revolutionary innovations that were sparked by overlapping of research disciplines. The United States must continue to encourage this trend by providing and encouraging opportunities for interdisciplinary projects that foster collaboration among fields of research.

(4) PARTNERSHIPS AMONG INDUSTRY, UNIVERSITIES, AND FEDERAL LABORATORIES.—Each of these contributors to the national science and technology delivery system has special talents and abilities that complement the others. In addition, each has a central mission that must provide their focus and each has limited resources. The nation's investment in science, engineering, and technology can be optimized by seeking opportunities for leveraging the resources and talents of these three major players through partnerships that do not distort the missions of each partner. For that reason, Federal dollars are wisely spent forming such partnerships.

SEC. 205. MAINTENANCE OF FEDERAL RESEARCH EFFORT; GUIDING PRINCIPLES.

(a) MAINTAINING UNITED STATES LEADERSHIP IN SCIENCE, ENGINEERING, AND TECHNOLOGY.—It is imperative for the United States to nurture its superb resources in science, engineering, and technology carefully in order to maintain its own globally competitive position.

(b) GUIDING PRINCIPLES.—Federal research and development programs should be conducted

in accordance with the following guiding principles:

(1) GOOD SCIENCE.—Federal science, engineering, and technology programs include both knowledge-driven science together with its applications, and mission-driven, science-based requirements. In general, both types of programs must be focused, peer- and merit-reviewed, and not unnecessarily duplicative, although the details of these attributes must vary with different program objectives.

(2) FISCAL ACCOUNTABILITY.—The Congress must exercise oversight to ensure that programs funded with scarce Federal dollars are well managed. The United States cannot tolerate waste of money through inefficient management techniques, whether by government agencies, by contractors, or by Congress itself. Fiscal resources would be better utilized if program and project funding levels were predictable across several years to enable better project planning; a benefit of such predictability would be that agencies and Congress can better exercise oversight responsibilities through comparisons of a project's and program's progress against carefully planned milestones.

(3) PROGRAM EFFECTIVENESS.—The United States needs to make sure that government programs achieve their goals. As the Congress crafts science, engineering, and technology legislation, it must include a process for gauging program effectiveness, selecting criteria based on sound scientific judgment and avoiding unnecessary bureaucracy. The Congress should also avoid the trap of measuring the effectiveness of a broad science, engineering, and technology program by passing judgment on individual projects. Lastly, the Congress must recognize that a negative result in a well-conceived and executed project or program may still be critically important to the funding agency.

(4) CRITERIA FOR GOVERNMENT FUNDING.—Program selection for Federal funding should continue to reflect the nation's 2 traditional research and development priorities: (A) basic, scientific, and technological research that represents investments in the nation's long-term future scientific and technological capacity, for which government has traditionally served as the principle resource; and (B) mission research investments, that is, investments in research that derive from necessary public functions, such as defense, health, education, environmental protection, and raising the standard of living, which may include pre-commercial, precompetitive engineering research and technology development. Additionally, government funding should not compete with or displace the short-term, market-driven, and typically more specific nature of private-sector funding. Government funding should be restricted to pre-competitive activities, leaving competitive activities solely for the private sector. As a rule, the government should not invest in commercial technology that is in the product development stage, very close to the broad commercial marketplace, except to meet a specific agency goal. When the government provides funding for any science, engineering, and technology investment program, it must take reasonable steps to ensure that the potential benefits derived from the program will accrue broadly.

SEC. 206. POLICY STATEMENT.

(a) POLICY.— This title is intended to—

(1) assure a base level of Federal funding for basic scientific, biomedical, and pre-competitive engineering research, with this base level defined as a doubling of Federal basic research funding over the 11 year period following the date of enactment of this Act;

(2) invest in the future economic growth of the United States by expanding the research activities referred to in paragraph (1);

(3) enhance the quality of life and health for all people of the United States through expanded support for health-related research;

(4) allow for accelerated growth of agencies such as the National Institutes of Health to meet critical national needs;

(5) guarantee the leadership of the United States in science, engineering, medicine, and technology; and

(6) ensure that the opportunity and the support for undertaking good science is widely available throughout the United States by supporting a geographically-diverse research and development enterprise.

(b) AGENCIES COVERED.—The agencies and trust instrumentality intended to be covered to the extent that they are engaged in science, engineering, and technology activities for basic scientific, medical, or pre-competitive engineering research by this title are—

(1) the National Institutes of Health, within the Department of Health and Human Services;

(2) the National Science Foundation;

(3) the National Institute for Standards and Technology, within the Department of Commerce;

(4) the National Aeronautics and Space Administration;

(5) the National Oceanic and Atmospheric Administration, within the Department of Commerce;

(6) the Centers for Disease Control, within the Department of Health and Human Services;

(7) the Department of Energy (to the extent that it is not engaged in defense-related activities);

(8) the Department of Agriculture;

(9) the Department of Transportation;

(10) the Department of the Interior;

(11) the Department of Veterans Affairs;

(12) the Smithsonian Institution;

(13) the Department of Education;

(14) the Environmental Protection Agency; and

(15) the Food and Drug Administration, within the Department of Health and Human Services.

(c) DAMAGE TO RESEARCH INFRASTRUCTURE.—A continued trend of funding appropriations equal to or lower than current budgetary levels will lead to permanent damage to the United States research infrastructure. This could threaten American dominance of high-technology industrial leadership.

(d) FUTURE FISCAL YEAR ALLOCATIONS.—

(1) GOALS.—The long-term strategy for research and development funding under this section would be achieved by a steady 2.5 percent annual increase above the rate of inflation throughout a 11-year period.

(2) INFLATION ASSUMPTION.—The authorizations contained in paragraph (3) assume that the rate of inflation for each year will be 3 percent.

(3) AUTHORIZATION.—There are authorized to be appropriated for civilian research and development in the agencies listed in subsection (b)—

(A) $39,790,000,000 for fiscal year 2000;

(B) $41,980,000,000 for fiscal year 2001;

(C) $44,290,000,000 for fiscal year 2002;

(D) $46,720,000,000 for fiscal year 2003;

(E) $49,290,000,000 for fiscal year 2004;

(F) $52,000,000,000 for fiscal year 2005;

(G) $54,860,000,000 for fiscal year 2006;

(H) $57,880,000,000 for fiscal year 2007;

(I) $61,070,000,000 for fiscal year 2008;

(J) $64,420,000,000 for fiscal year 2009; and

(K) $67,970,000,000 for fiscal year 2010.

(4) ACCELERATION TO MEET NATIONAL NEEDS.—

(A) IN GENERAL.—If the amount appropriated for any fiscal year to an agency for the purposes stated in paragraph (3) increases by more than 8 percent over the amount appropriated to it for those purposes for the preceding fiscal year, then the amounts authorized by paragraph (3) for subsequent fiscal years for that agency and other agencies shall be determined under subparagraphs (B) and (C).

(B) EXCLUSION OF AGENCY IN DETERMINING OTHER AGENCY AMOUNTS FOR NEXT FISCAL YEAR.—For the next fiscal year after a fiscal year described in subparagraph (A), the amount authorized to be appropriated to other agencies under paragraph (3) shall be determined by excluding the agency described in subparagraph (A). Any amount that would, but for this subparagraph, be authorized to be appropriated to that agency shall not be appropriated.

(C) RESUMPTION OF REGULAR TREATMENT.—Notwithstanding subparagraph (B), an agency may not be excluded from the determination of the amount authorized to be appropriated under paragraph (3) for a fiscal year following a fiscal year for which the sum of the amounts appropriated to that agency for fiscal year 2000 and all subsequent fiscal years for the purposes described in paragraph (3) does not exceed the sum of—

(i) the amount appropriated to that agency for such purposes for fiscal year 2000; and

(ii) the amounts that would have been appropriated for such purposes for subsequent fiscal years if the goal described in paragraph (1) had been met (and not exceeded) with respect to that agency's funding.

(D) NO LIMITATION ON OTHER FUNDING.—Nothing in this paragraph limits the amount that may be appropriated to any agency for the purposes described in paragraph (3).

(e) CONFORMANCE WITH BUDGETARY CAPS.—Notwithstanding any other provision of law, no funds may be made available under this title in a manner that does not conform with the discretionary spending caps provided in the most recently adopted concurrent resolution on the budget or threatens the economic stability of the annual budget.

(f) BALANCED RESEARCH PORTFOLIO.—Because of the interdependent nature of the scientific and engineering disciplines, the aggregate funding levels authorized by the section assume that the Federal research portfolio will be well-balanced among the various scientific and engineering disciplines, and geographically dispersed throughout the States.

SEC. 207. PRESIDENT'S ANNUAL BUDGET REQUEST.

The President of the United States shall, in coordination with the President's annual budget request, include a report that parallels Congress' commitment to support Federally-funded research and development by providing—

(1) a detailed summary of the total level of funding for research and development programs throughout all civilian agencies;

(2) a focused strategy that reflects the funding projections of this title for each future fiscal year until 2010, including specific targets for each agency that funds civilian research and development;

(3) an analysis which details funding levels across Federal agencies by methodology of funding, including grant agreements, procurement contracts, and cooperative agreements (within the meaning given those terms in chapter 63 of title 31, United States Code); and

(4) specific proposals for infrastructure development and research and development capacity building in States with less concentrated research and development resources in order to create a nationwide research and development community.

SEC. 208. COMPREHENSIVE ACCOUNTABILITY STUDY FOR FEDERALLY-FUNDED RESEARCH.

(a) STUDY.—The Director of the Office of Science and Technology Policy, in consultation with the Director of the Office of Management and Budget, shall enter into agreement with the National Academy of Sciences for the Academy to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. This study shall—

(1) recommend processes to determine an acceptable level of success for Federally-funded research and development programs by—

(A) describing the research process in the various scientific and engineering disciplines;

(B) describing in the different sciences what measures and what criteria each community uses to evaluate the success or failure of a program, and on what time scales these measures are considered reliable—both for exploratory long-range work and for short-range goals; and

(C) recommending how these measures may be adapted for use by the Federal government to evaluate Federally-funded research and development programs;

(2) assess the extent to which agencies incorporate independent merit-based review into the formulation of the strategic plans of funding agencies and if the quantity or quality of this type of input is unsatisfactory;

(3) recommend mechanisms for identifying Federally-funded research and development programs which are unsuccessful or unproductive;

(4) evaluate the extent to which independent, merit-based evaluation of Federally-funded research and development programs and projects achieves the goal of eliminating unsuccessful or unproductive programs and projects; and

(5) investigate and report on the validity of using quantitative performance goals for aspects of programs which relate to administrative management of the program and for which such goals would be appropriate, including aspects related to—

(A) administrative burden on contractors and recipients of financial assistance awards;

(B) administrative burdens on external participants in independent, merit-based evaluations;

(C) cost and schedule control for construction projects funded by the program;

(D) the ratio of overhead costs of the program relative to the amounts expended through the program for equipment and direct funding of research; and

(E) the timeliness of program responses to requests for funding, participation, or equipment use.

(6) examine the extent to which program selection for Federal funding across all agencies exemplifies our nation's historical research and development priorities—

(A) basic, scientific, and technological research in the long-term future scientific and technological capacity of the nation; and

(B) mission research derived from a high-priority public function.

(b) ALTERNATIVE FORMS FOR PERFORMANCE GOALS.—Not later than 6 months after transmitting the report under subsection (a) to Congress, the Director of the Office of Management and Budget, after public notice, public comment, and approval by the Director of the Office of Science and Technology Policy and in consultation with the National Science and Technology Council shall promulgate one or more alternative forms for performance goals under section 1115(b)(10)(B) of title 31, United States Code, based on the recommendations of the study under subsection (a) of this section. The head of each agency containing a program activity that is a research and development program may apply an alternative form promulgated under this section for a performance goal to such a program activity without further authorization by the Director of the Office of Management and Budget.

(c) STRATEGIC PLANS.—Not later than one year after promulgation of the alternative performance goals in subsection (b) of this section, the head of each agency carrying out research and development activities, upon updating or revising a strategic plan under subsection 306(b) of title 5, United States Code, shall describe the current and future use of methods for determining an acceptable level of success as recommended by the study under subsection (a).

(d) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Science and Technology Policy.

(2) PROGRAM ACTIVITY.—The term ''program activity'' has the meaning given that term by section 1115(f)(6) of title 31, United States Code.

(3) INDEPENDENT MERIT-BASED EVALUATION.—The term ''independent merit-based evaluation'' means review of the scientific or technical quality of research or development, conducted by experts who are chosen for their knowledge of scientific and technical fields relevant to the evaluation and who—

(A) in the case of the review of a program activity, do not derive long-term support from the program activity; or

(B) in the case of the review of a project proposal, are not seeking funds in competition with the proposal.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the study required by subsection (a) $600,000 for the 18-month period beginning October 1, 2000.

SEC. 209. EFFECTIVE PERFORMANCE ASSESSMENT PROGRAM FOR FEDERALLY-FUNDED RESEARCH.

(a) IN GENERAL.—Chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

''§ 1120. Accountability for research and development programs

''(a) IDENTIFICATION OF UNSUCCESSFUL PROGRAMS.—Based upon program performance reports for each fiscal year submitted to the President under section 1116, the Director of the Office of Management and Budget shall identify the civilian research and development program activities, or components thereof, which do not meet an acceptable level of success as defined in section 1115(b)(1)(B). Not later than 30 days after the submission of the reports under section 1116, the Director shall furnish a copy of a report listing the program activities or component identified under this subsection to the President and the Congress.

''(b) ACCOUNTABILITY IF NO IMPROVEMENT SHOWN.—For each program activity or component that is identified by the Director under subsection (a) as being below the acceptable level of success for 2 fiscal years in a row, the head of the agency shall no later than 30 days after the Director submits the second report so identifying the program, submit to the appropriate congressional committees of jurisdiction—

''(1) a concise statement of the steps necessary to—

''(A) bring such program into compliance with performance goals; or

''(B) terminate such program should compliance efforts fail; and

''(2) any legislative changes needed to put the steps contained in such statement into effect.''.

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 11 of title 31, United States Code, is amended by adding at the end thereof the following:

''1120. Accountability for research and development programs''.

(2) Section 1115(f) of title 31, United States Code, is amended by striking ''section and sections 1116 through 1119,'' and inserting ''section, sections 1116 through 1120,''.

AMENDMENT NO. 4176

(Purpose: To increase the Federal investment in civilian research and development)

Mr. SMITH of New Hampshire. Mr. President, Senators FRIST and ROCKEFELLER have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for Mr. FRIST, for himself and Mr. ROCKEFELLER, proposes an amendment numbered 4176.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SMITH of New Hampshire. I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 4176) was agreed to.

Mr. SMITH of New Hampshire. I ask unanimous consent the committee amendment, as amended, be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The committee amendment, as amended, was agreed to.

The bill (S. 2046) was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

MEASURE READ THE FIRST TIME—S. 3095

Mr. SMITH of New Hampshire. Mr. President, I understand that S. 3095, introduced earlier today by Senator KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 3095) to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent resident status.

Mr. SMITH of New Hampshire. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT AGREEMENT—NOMINATIONS

Mr. SMITH of New Hampshire. Mr. President, as in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations and that they be placed on the Calendar:

Luis J. Lauredo, of Florida, to be Permanent Representative of the United States to the Organization of American States with the rank of Ambassador, to which position he was appointed during the last recess of the Senate; and

Mark L. Schneider, of California, to be Director of the Peace Corps, vice Mark D. Gearan, resigned, to which position he was appointed during the last recess of the Senate.

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

ORDERS FOR FRIDAY, SEPTEMBER 22, 2000, AND MONDAY, SEPTEMBER 25, 2000

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent

that when the Senate completes its business today, it adjourn until the hour of 10 a.m. on Friday, September 22. I further ask unanimous consent that on Friday and Monday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business, with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator HAGEL, or his designee, 30 minutes; Senator DORGAN, or his designee, 30 minutes.

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

Mr. SMITH of New Hampshire. Mr. President, I further ask unanimous consent that the Senate convene at 12 noon on Monday and that the Senate be in a period for morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the following exceptions: Senator DURBIN, or his designee, in control of the first hour, and Senator THOMAS, or his designee, in control of the second hour. Following morning business, I ask unanimous consent that the Senate resume debate on the motion to proceed to S. 2045, the H–1B visa bill, and at 3:50 p.m., the Senate resume debate on S. 2796, the Water Resources Development Act, for 1 hour equally divided in the usual form.

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

PROGRAM

Mr. SMITH of New Hampshire. Mr. President, when the Senate convenes at 10 a.m. tomorrow, the Senate will be in a period for morning business throughout the day. The Senate may also resume debate on the motion to proceed to S. 2045, the H–1B visa bill, as well as any other items available for action. As previously announced, no votes will occur during tomorrow's session. The next vote will occur at 4:50 p.m. on Monday, September 25, on final passage of the Water Resources Development Act.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SMITH of New Hampshire. Mr. President, 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 6:15 p.m., adjourned until Friday, September 22, 2000, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 2000:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. KEVIN P. BYRNES, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. KERRY G. DENSON, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. WILLIAM W. GOODWIN, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*))UNDER TITLE 10, U.S.C SECTIONS 624 AND 531:

To be colonel

GEORGE M ABERNATHY, 0000
BRUCE H ACKER, 0000
DANIEL S ADAMS JR., 0000
DAVID A ADAMS, 0000
SCOTT A ADAMS, 0000
WILLIAM M AHRENDT, 0000
STANLEY E ALBAUGH, 0000
NORMAN R ALBERT, 0000
JOHN E ALEXANDER, 0000
GAIL C ALLEN, 0000
JOHN R ALLEN, 0000
THOMAS L ALSTON, 0000
GLENN N ALTSCHULD JR., 0000
KEVIN C ANDERSEN, 0000
BENJAMIN ANDERSON, 0000
MARK ANDERSON, 0000
RICHARD L ANDERSON, 0000
SILVIA S ANDERSON, 0000
HAROLD J ARATA III, 0000
FRANK P ARENA JR., 0000
JEFFREY C ARMSTRONG, 0000
RICHARD G ARVIN, 0000
ERIC A ASH, 0000
JOHN R ATKINS, 0000
MARK A ATKINSON, 0000
GREGORY D AUGST, 0000
CHARLES H AYALA, 0000
FLOYD A BADSKY, 0000
ALAN K BAKER, 0000
JOHN E BALL, 0000
JONATHAN E BANCROFT, 0000
KENNETH W BARKER, 0000
DANIEL P BARNETT, 0000
PAUL T BARNICOTT, 0000
LEAH J BARRERA, 0000
MARK A BARRETT, 0000
JOSEPH F BARRON, 0000
MICHAEL C BARTON, 0000
EMERSON A BASCOMB, 0000
WILLIAM R BECKER, 0000
LORENZA M BEDGOOD, 0000
KEVIN A BELL, 0000
WILLIAM J BENDER, 0000
KENNETH L BENNETT, 0000
WILLIAM C BENNETT JR., 0000
BRYAN J BENSON, 0000
SANDRA A BEST, 0000
EDWARD R BEZDZIECKI, 0000
DEBORAH A BIELLING, 0000
HENRI J BIGO, 0000
JEFFREY J BLESSING, 0000
THOMAS M BLUME, 0000
MICHAEL R BOERA, 0000
CHRISTOPHER C BOGDAN, 0000
JOSE M BOLUDA, 0000
HOWARD L BORST, 0000
PAUL E BOTTS, 0000
THOMAS J BOUTHILLER, 0000
STEVEN M BOWER, 0000
ALBERT J BOWLEY JR., 0000
JOSEPH F BOYLE, 0000
ANDREA A BRABOY, 0000
JAMES S BRACKETT, 0000
RAYMOND C BRADBURY, 0000
MICHAEL D BRADLEY, 0000
MATTHEW P BRANIGAN, 0000
EDWARD M BREEN, 0000
GEORGE D BREMER JR., 0000
REX S BRENNAN, 0000
TIMOTHY K BRIDGES, 0000
JAMES E BRIGGS, 0000
LARRY W BRITTENHAM, 0000
ERIC J BROOKS, 0000
FRANK K BROOKS JR., 0000
JAMES D BROPHY II, 0000
BRIAN M BROWN, 0000
JAMES D BROWN, 0000
KATHERINE L BROWN, 0000
THOMAS H BROWN, 0000
JAMES M BROWNE, 0000
JOSEPH J BROZENA JR., 0000
MARK S BRUGH, 0000
WILLIAM W BRUNER III, 0000
STEVEN P BRUNIN, 0000
GARY C BRYSON, 0000
MARK A BUCKNAM, 0000
MARIO C BUDA, 0000
DAVID A BUJOLD, 0000
WILLIAM F BURNETTE, 0000
STEVEN G BURRIS, 0000
RICHARD A BUSCHELMAN, 0000
STEVEN G BUTEAU, 0000
JAMES P CALLAHAN, 0000
JOHN T CALVIN, 0000
JOHN E CAMPBELL, 0000
MICHAEL D CARDENAS, 0000
MICHAEL J CAREY, 0000
GARY L CARLSON, 0000
MICHAEL L CARLSON, 0000
MICHAEL F CARROLL, 0000
MICHAEL J CARTER, 0000
WILLETTE P CARTER, 0000
LOURDES A CASTILLO, 0000
VINCENT CATERINA, 0000
TIMOTHY C CETERAS, 0000
YUNHYOK CHANG, 0000
ROBERT E CHAPMAN II, 0000
DANIEL J CHARCHIAN, 0000
JOSEPH F CHENEY, 0000
JAMES S CHESNUT, 0000
DONALD B CHEW, 0000
PHILIP B CHILSON, 0000
BARBARA E CHINE, 0000
SHELLEY DIANE CHRISTIAN, 0000
WILLIAM H CILEK, 0000
JESSE J CITIZEN JR., 0000
PORTER B CLAPP JR., 0000
JIMMY R CLARK, 0000
JOHN S CLARK JR., 0000
PAUL M CLARK, 0000
THOMAS R CLAY, 0000
MICHAEL A CLEVELAND, 0000
MICHAEL J CLOSE, 0000
CATHY C CLOTHIER, 0000
DONALD M COHICK, 0000
GREGORY W COKER, 0000
LARRY C COLEMAN, 0000
EUGENE COLLINS, 0000
BILLY R COLWELL, 0000
JOSEPH B CONNELL, 0000
JOHN F CONROY, 0000
GREGORY P COOK, 0000
GLORIA A L COPELAND, 0000
MARK A CORRELL, 0000
DAVID P COTE, 0000
DAVID A COTTON, 0000
JOHN F COURTNEY, 0000
WILLIAM V COX, 0000
DAVID A CROCKETT, 0000
JORI N CROMWELL, 0000
KELLEY W CROOKS, 0000
LAURI K CROSS, 0000
GARY L CROWDER, 0000
FRANCIS P CROWLEY, 0000
RICHARD J CROWLEY, 0000
THURLOW E CRUMMETT JR., 0000
BRIAN J CULLIS, 0000
LINDA M CUNNINGHAM, 0000
MAUREEN CUNNINGHAM, 0000
KAREN W CURRIE, 0000
MICHAEL P CURTIS, 0000
GREGGORY E CUSTER, 0000
CHRISTIAN C DAEHNICK, 0000
BILLY G DAVIS, 0000
DEBORAH L DAVIS, 0000
DON D DAVIS, 0000
KEVIN J DAVIS, 0000
MARK S DAVIS, 0000
MARTHA L DAVIS, 0000
TIMOTHY A DAVIS, 0000
STEPHEN ELLIS DAWSON, 0000
SCOTT K DEACON, 0000
WILLIAM G DEAN, 0000
SHERYL L DEBNAM, 0000
JAMES DEFRANK III, 0000
ROBERT E DEGRAPHENREID, 0000
DALE L DEKINDER, 0000
WILLIAM J DELGREGO, 0000
MICHAEL P DELMAN, 0000
JAY T DENNEY, 0000
DWYER L DENNIS, 0000
RAKESH N DEWAN, 0000
GERALD DIAZ, 0000
RALPH J DICICCO JR., 0000
STEVEN P DICKMAN, 0000
ROBERT A DICKMEYER, 0000
JOSEPH N DICKSON, 0000
GARY W DIERINGER, 0000
MICHAEL L DILLARD, 0000
JERRY LEE DILLON, 0000
RAYMOND E DINSMORE, 0000
TERESA A H DJURIC, 0000
DEBRA D DONNAHOO, 0000
BRUCE E DOSS, 0000
STEVE R DOSS, 0000
WILLIAM P DOYLE JR., 0000
CHERYL L DOZIER, 0000
STEVEN F DREYER, 0000
CURTIS S DRIGGERS, 0000
COLLEEN M DUFFY, 0000
PATRICK E DUFFY, 0000
JOHN N DUFRESNE, 0000
SHARON K G DUNBAR, 0000
PETER F DURAND, 0000
ORVILLE A EARL JR., 0000
SHEILA MILLER EARLE, 0000
MICHAEL L EASTMAN, 0000
DAVID A EASTON, 0000
THEODORE W EATON, 0000
MARTY J EDMONDS, 0000
MELINDA M EDWARDS, 0000
THOMAS P EHRHARD, 0000
JOHN H ELDER III, 0000

GARY L. ELLIOTT, 0000
RICHARD G. ELLIOTT JR., 0000
RUTH E. ELLIS, 0000
KEVIN R. ERICKSON, 0000
SIDNEY L. EVANS JR., 0000
CHARLES W. EYLER, 0000
DONALD R. FALLS, 0000
JOHN B. FEDA, 0000
LARRY LEE FELDER, 0000
LORRY M. FENNER, 0000
KENNETH G. FINCHUM JR., 0000
MICHAEL E. FISCHER, 0000
MARK B. FISH, 0000
THOMAS F. FLEMING, 0000
TIMOTHY P. FLETCHER, 0000
LAURA J. FLY, 0000
MILO V. FOGLE, 0000
WARREN FONTENOT, 0000
JOSEPH M. FORD, 0000
JAMES W. FORSYTH JR., 0000
JEFFREY G. FRANKLIN, 0000
TODD R. FRANTZ, 0000
JEFFREY L. FRASER, 0000
GARY W. FREDERICKSEN, 0000
FRED W. FREEMAN, 0000
DAVID A. FRENCH, 0000
MICHAEL T. FRIEDLEIN, 0000
LINDA K. FRONCZAK, 0000
ROBERT S. FROST, 0000
RICHARD A. FRYER JR., 0000
STEVEN CARL FUNK, 0000
ROBERT P. GADDY, 0000
TIMOTHY P. GAFFNEY, 0000
MICHAEL K. GAMBLE, 0000
REBECCA J. GARCIA, 0000
KATHRYN L. GAUTHIER, 0000
ANDRE A. GERNER, 0000
GAIL M. GILBERT, 0000
REGINA S. GILES, 0000
HENRY J. GILMAN, 0000
RUSSELL M. GIMMI, 0000
MICHAEL A. GIROUX, 0000
GREGORY D. GLOVER, 0000
GLENN A. GODDARD, 0000
DOUGLAS L. GOOD, 0000
CRAIG C. GOODBRAKE, 0000
SCOTT P. GOODWIN, 0000
FRED W. GORTLER, 0000
KURT S GRABEY, 0000
MELINDA W. GRANT, 0000
STEPHEN P. GRAY, 0000
GORDON S. GREEN, 0000
THOMAS G. GREEN, 0000
WILLIAM T. GREENOUGH, 0000
DONALD R. GREIMAN, 0000
RANDALL E. GRICIUS, 0000
BOBBIE L. GRIFFIN JR., 0000
HUBERT D. GRIFFIN JR., 0000
HARRIET A. GRIFFITH, 0000
TIMOTHY G. GROSZ, 0000
DAVID J. GRUBER, 0000
JOHN A. GUILLORY, 0000
JACK C. GUNDRUM, 0000
PETER A. GUTER, 0000
DAVID W. GUTHRIE, 0000
JAMES T. HAAS, 0000
CHRISTOPHER E. HAAVE, 0000
HENRY A. HAISCH JR., 0000
DONALD L. HALL JR., 0000
JEFFREY M. HALL, 0000
SUZANNE E. HALL, 0000
REGIS T. HANCOCK, 0000
DONA J. HANLEY, 0000
TIMOTHY J. HANSON, 0000
MICHAEL P. HARTMANN, 0000
RICHARD M. HARTWELL, 0000
CHARLES B. HARVEY, 0000
RANDALL L. HARVEY, 0000
JAMES E. HAYWOOD, 0000
RAYMOND J. HEGARTY II, 0000
CHERYL A. HEIMERMAN, 0000
MICHAEL R. HELMS, 0000
DANIEL W. HENKEL, 0000
LYNN A. HERNDON, 0000
JOHN S. HESTER III, 0000
JIMMIE C. HIBBS, 0000
DAN O. HIGGINS, 0000
JEFFREY P. HIGHTAIAN, 0000
ALISON R. HILL, 0000
WILEY L. HILL, 0000
DENNIS F. HILLEY, 0000
MARK L. HINCHMAN, 0000
ANTHONY L. HINEN, 0000
VICTOR L. HNATIUK, 0000
MICHAEL E. HODGKIN, 0000
DARRELL H. HOLCOMB, 0000
JUDITH A. HOLL, 0000
JAMES P. HOLLAND, 0000
KENNETH F. HOLLENBECK, 0000
JAMES M. HOLMES, 0000
MICHAEL A. HOLMES, 0000
JOEL W. HOOKS, 0000
PATRICIA G. HORAN, 0000
HELEN M. HORNKINGERY, 0000
PAUL G. HOUGH, 0000
DAVE C. HOWE, 0000
JOHN HOWE, 0000
DONALD R. HUCKLE JR., 0000
DONALD J. HUDSON, 0000
WAYNE E. P. HUDSON, 0000
KIRBY P. HUNOLT, 0000
PATRICIA K. HUNT, 0000
BRIAN K. HUNTER, 0000
KENNETH J. HUXLEY, 0000
JOHN E. HYTEN, 0000
GEORGE R. IRELAND, 0000
JOHN J. JACOBSON, 0000
HAROLD K. JAMES, 0000
JOHN D. JANNAZO, 0000
VICTOR JANUSHKOWSKY, 0000
GREGORY R. JASPERS, 0000
DREW D. JETER, 0000
JACK H. JETER JR., 0000
VICTOR G. JEVSEVAR JR., 0000
BRENDA S. JOHNSON, 0000
JEFFREY S. JOHNSON, 0000
PATRICK N. JOHNSON, 0000
WRAY R. JOHNSON, 0000
RICHARD C. JOHNSTON, 0000
BRIAN L. JONES, 0000
DARYL P. JONES, 0000
FREDERICK C. JONES, 0000
JAMES J. JONES, 0000
KEVIN E. JONES, 0000
MARK WARREN JONES, 0000
JARRETT D. JORDAN, 0000
CHARLES D. JOSEPH, 0000
WILLIAM J. KALASKIE, 0000
WALT H. KAMIEN, 0000
DAVID A. KARNS, 0000
BETH M. KASPAR, 0000
PEACHES KAVANAUGH, 0000
KEVIN M. KEITH, 0000
PHILIP J. KELLERHALS, 0000
BRIAN T. KELLEY, 0000
BRIAN T. KELLY, 0000
CLARK A. KELLY, 0000
DAVID R. KENERLEY, 0000
ROBERT C. KEYSER JR., 0000
JANICE A. KINARD, 0000
CHRISTOPHER R. KING, 0000
DAVID M. KING, 0000
JAN T. KINNER, 0000
RORY S. KINNEY, 0000
RAY A. KIRACOFE, 0000
BRIAN E. KISTNER, 0000
REX R. KIZIAH, 0000
JONATHAN W. KLAAREN, 0000
DOUGLAS H. KNAPP, 0000
EDWARD G. KNOWLES, 0000
TIMOTHY J. KNUTSON, 0000
ELDEN J. KOCOUREK, 0000
JAMES G. KOLLING, 0000
JON L. KRENKEL, 0000
GLENN D. KRIZAY, 0000
JOSEPH W. KROESCHEL, 0000
RAYMOND A. KRUELSKIE, 0000
BRYAN L. KUHLMANN, 0000
JOSEPH F. LAHUE, 0000
JOHN M. LANICCI, 0000
THOMAS L. LARKIN, 0000
TERESA L. LASH, 0000
PAUL A. LAW, 0000
DENNIS M. LAYENDECKER, 0000
ANGELA H. LAYMAN, 0000
SUSANNE P. LECLERE, 0000
CATHERINE E. LEE, 0000
LARRY A. LEE, 0000
NANCY A. K. LEE, 0000
WILLIAM C. LEE, 0000
MICHAEL J. LEGGETT, 0000
ROBERT H. LEMMON JR., 0000
REID S. LERUM, 0000
ROLAND N. LESIEUR, 0000
JAMES R. LESTER, 0000
JEFFERY L. LEVAULT, 0000
MICHAEL LEWIS, 0000
SCOTT E. LEWIS, 0000
STEVEN K. LILLEMON, 0000
BRUCE A. LINDBLOM, 0000
ROBERT K. LINDNER, 0000
STEVEN W. LINDSEY, 0000
JON N. LINK, 0000
TODD E. LINS, 0000
KURTIS D. LOHIDE, 0000
RICHARD W. LOMBARDI, 0000
JANICE G. LONG, 0000
JOHN M. LYLE, 0000
JAMES H. LYNCH, 0000
WILLIAM R. MACBETH, 0000
ALBERT T. MACKEY JR., 0000
WILLIAM E. MACLURE, 0000
WILLIAM P. MACON, 0000
MARCIA F. MALCOMB, 0000
MICHAEL J. MALONEY, 0000
WILLIAM E. MANNING JR., 0000
JAMES D. MARCHIO, 0000
KEITH P. MARESCA, 0000
BRIAN MARSHALL, 0000
FREDERICK H. MARTIN, 0000
WENDY M. MASIELLO, 0000
SCOTT J. MASON, 0000
CHRISTOPHER A. MATSON, 0000
EARL D. MATTHEWS, 0000
JON A. MATZ, 0000
MARY M. MAY, 0000
JOSEPH W. MAZZOLA, 0000
STEPHANIE F. MC CANN, 0000
RICHARD G. MC CLELLAN, 0000
THERESA A. MC CLURE, 0000
WILLIAM B. MC CLURE, 0000
MICHAEL K. MC CULLOUGH, 0000
PATRICIA S. MC DANIEL, 0000
PHILIP W. MC DANIEL, 0000
DANN C. MC DONALD, 0000
RONALD L. MC GONIGLE, 0000
KATHLEEN B. MC GOVERN, 0000
KENNETH E. MC KINNEY, 0000
CRAIG S. MC LANE, 0000
LINDA K. MC MAHON, 0000
JILEY E. MC NEASE, 0000
JOHN S. MEDEIROS, 0000
MICHAEL E. MEIS, 0000
PAMELA A. MELROY, 0000
TIMOTHY N. MERRELL, 0000
RANDELL S. MEYER, 0000
PETER N. MICALE IV, 0000
ULYSESS MIDDLETON JR., 0000
JOHN L. MILES, 0000
JAMES R. MILLER, 0000
JERRY F. MILLER, 0000
MERTON W. MILLER, 0000
RUSSELL D. MILLER, 0000
RUSSELL F. MILLER, 0000
WYATT C. MILLER, 0000
GARY W. MINOR, 0000
ROBERT J. MODROVSKY, 0000
ANNE M. MOISAN, 0000
CLADA A. MONTEITH, 0000
REGINA G. MONTGOMERY, 0000
ALAN J. MOORE, 0000
ABRAHAM MORRALL JR., 0000
TIMOTHY R. MORRIS, 0000
MICHAEL J. MOSCHELLA, 0000
RENE M. MUHL, 0000
WALTER A. MUNYER, 0000
KENNETH A. MURPHY, 0000
WILLIAM K. MURPHY, 0000
JULIA B. MURRAY, 0000
ASHLEY R. MYERS, 0000
MARK W. NEICE, 0000
WILLIAM E. NELSON, 0000
DAVID M. NEUENSWANDER, 0000
JULIE K. NEUMANN, 0000
STEPHEN E. NEWBOLD, 0000
EDWIN R. NEWCOME, 0000
ROBERT C. NOLAN II, 0000
THOMAS R. NOVAK, 0000
CRAIG S. OLSON, 0000
EUGENE K. ONALE, 0000
KATHLEEN J. OREGAN, 0000
WALTER M. OWEN, 0000
LINDA K. PALMER, 0000
ALLAN J. PALOMBO, 0000
FRANK A. PALUMBO JR., 0000
JOHN R. PARDO JR., 0000
RICHARD M. PATENAUDE, 0000
LEONARD A. PATRICK, 0000
GREGORY F. PATTERSON, 0000
ROBERT B. PATTERSON JR., 0000
STANLEY E. PERRIN, 0000
CURTISS R. PETREK, 0000
LEONARD A. PETRUCCELLI, 0000
PATRICK W. PHILLIPS, 0000
CHARLES R. PITTMAN JR., 0000
LARRY P. PLUMB II, 0000
JIMMY L. POLLARD, 0000
GEORGE M. POLOSKEY, 0000
RICHARD E. POPE, 0000
MARGARET S. PORTERFIELD, 0000
WILLIAM H. POSSEL, 0000
ROBERT A. POTTER, 0000
WALTER B. PRESLEY, 0000
EDWARD L. PRESSLEY, 0000
JOHN W. PRIOR II, 0000
STEVEN C. PUTBRESE, 0000
JIMMY M. QUIN, 0000
FRANKLIN T. RAGLAND, 0000
JUANITO E. RAMIREZ, 0000
JOHN R. RANCK JR., 0000
JOSEPH T. RARER JR., 0000
DWIGHT D. RAUHALA, 0000
JANICE K. RAUKER, 0000
HAROLD RAY, 0000
STEVEN J. REANDEAU, 0000
ANTONIO H. REBELO, 0000
RUTH H. REED, 0000
ROBERT L. RENEAU, 0000
ULYSSES S. RHODES JR., 0000
DANA A. RICHARDS, 0000
RICHARD J. RICHARDSON, 0000
JAMES R. RIDDLE, 0000
DENISE RIDGWAY, 0000
PHILIP M. RIEDE, 0000
NELLIE M. RILEY, 0000
EDWARD O. RIOS, 0000
CAROL D. RISHER, 0000
CRAIG D. RITH, 0000
DARRYL L. ROBERSON, 0000
CATHERINE M. ROBERTELLO, 0000
BRIAN E. ROBINSON, 0000
FRANCIS J. ROBINSON, 0000
LORI J. ROBINSON, 0000
ANTHONY J. ROCK, 0000
CESAR A. RODRIGUEZ JR., 0000
JOSE E. RODRIGUEZ, 0000
STEVEN W. ROGERS, 0000
MICHAEL C. RUFF, 0000
MICHAEL J. RUSDEN, 0000
WILLIAM P. RUSHING III, 0000
DAVID L. SAFFOLD, 0000
CHRIS SARANDOS, 0000
WALTER I. SASSER, 0000
WILLIAM R. SAUNDERS, 0000
MICHAEL J. SAVILLE, 0000
MARTIN L. SAYLES, 0000
STEVEN W. SAYRE, 0000
LARRY J. SCHAEFER, 0000
EDWARD B. SCHMIDT, 0000
THOMAS M. SCHNEE, 0000
DANIEL L. SCOTT, 0000
GLENN M. SCOTT, 0000
ANDREW R. SCRAFFORD, 0000
ROBERT C. SEABAUGH, 0000
STEVEN R. F. SEARCY, 0000
DONALD G. SEILER, 0000
KAREN L. SELVA, 0000
SANDRA SERAFIN, 0000
JOY S. S. SHASTEEN, 0000
PATRICK M. SHAW, 0000

KENNETH P. SHELTON, 0000
HOWARD SHORT, 0000
DALE S. SHOUPE, 0000
JAMES R. SHUMATE, 0000
FRANCIS W. SICK JR., 0000
NOLAN L. SINGER, 0000
JILL S. SKELTON, 0000
EDWARD SKIBINSKI, 0000
KRISTIAN D. SKINNER, 0000
LAURIE S. SLAVEC EASTERLY, 0000
JOHN C. SLEIGHT, 0000
DAVID A. SMARSH, 0000
CHARLES P. SMILEY, 0000
ANN M. SMITH, 0000
DAVID W. SMITH, 0000
GARY G. SMITH, 0000
JAMES R. SMITH, 0000
JEFFREY E. SMITH, 0000
JOHNNY B. SMITH, 0000
SARAH J. SMITH, 0000
JOSEPH S. SMYTH, 0000
CYNTHIA G. SNYDER, 0000
KEITH W. SNYDER, 0000
JOHN J. SOWDON, 0000
GREGG A. SPARKS, 0000
NANCY L. SPEAKE, 0000
JOSEPH P. SQUATRITO JR., 0000
RICHARD P. STAFFORD, 0000
JOHN F. STANKOWSKI III, 0000
DANIEL H. STANTON, 0000
THOMAS J. STARK, 0000
WILLIAM A. STARK, 0000
KATHRYN G. STATEN, 0000
LARRY F. STEPHENS, 0000
MURRELL F. STINNETTE, 0000
JOHN E. STOCKER III, 0000
WILLIAM C. STORY JR., 0000
JAMES C. STRAWN, 0000
RENEE B. STRICKLAND, 0000
ELISABETH J. STRINES, 0000
BRUCE R. STURK, 0000
ROBERT E. SUMINSBY JR., 0000
DEBORAH J. SUSKI, 0000
JAMES A. SWABY, 0000
NORMAN C. SWEET, 0000
JANICE A. SWIGARTSMITH, 0000
TERENCE R. SZANTO, 0000
JOHN R. TAGLIERI, 0000
GERALD W. TALCOTT, 0000
DAVID L. TAYLOR, 0000
KERRY D. TAYLOR, 0000
JAMES A. TEAFORD, 0000
JEFFREY THAU, 0000
GEORGE L. THOMPSON, 0000
JOHN F. THOMPSON, 0000
WAYNE L. THOMPSON, 0000
YORK D. THORPE, 0000
MARK W. TILLMAN, 0000
HAL M. TINSLEY, 0000
LINDEN J. TORCHIA, 0000
RAYMOND G. TORRES, 0000
LAURIE K. TOWNSEND, 0000
MARK P. TRANSUE, 0000
THOMAS J. TRASK, 0000
RICHARD K. TRASTER, 0000
WILLIAM R. TRAVNICK, 0000
ROBERT L. TREMAINE, 0000
KEITH J. TROUWBORST, 0000
JAMES J. TSCHUDY II, 0000
JAMES O. TUBBS, 0000
ALAN B. TUCKER JR., 0000
WINFIELD F. TUFTS, 0000
ELLSWORTH E. TULBERG JR., 0000
ROBERT L. TULLMAN, 0000
JAMES L. VANANTWERP, 0000
CONSTANCE A. VANDERMARLIERE, 0000
MICHAEL C. VENDZULES, 0000
TIMOTHY W. VINING, 0000
MICHAEL L. WALTERS, 0000
PATRICK M. WARD, 0000
RICHARD C. WARNER, 0000
STEVEN J. WASZAK, 0000
STEVEN K. WEART, 0000
ANDREW K. WEAVER, 0000
GLENN W. WEAVER, 0000
NANCY E. WEAVER, 0000
STEVEN G. WEBB, 0000
ROBERT I. WEBER JR., 0000
JACK WEINSTEIN, 0000
SUSAN G. WELLNER, 0000
MARK J. WELSHINGER, 0000
SCOTT D. WEST, 0000
MARTIN WHELAN, 0000
RICHARD W. WHITE JR., 0000
SALLY J. WHITENER, 0000
DALE R. WILDEY, 0000
KAREN S. WILHELM, 0000
BRETT T. WILLIAMS, 0000
GREGORY J. WILLIAMS, 0000
STEVEN E. WILLIAMS, 0000
TIMOTHY R. WILLIAMS, 0000
CARL WILLIAMSON, 0000
VIRGINIA G. WILLIAMSON, 0000
GUY J. WILLS III, 0000
STEPHEN W. WILSON, 0000
STEVEN M. WILSON, 0000
ROBERT D. WINSTON, 0000
FREDERICK C. WIRSING, 0000
DAVID B. WIRTH, 0000
MICHAEL H. WITT, 0000
JONATHAN M. WOHLMAN, 0000
FRANKLIN R. WOLF, 0000
AUDREY L. WOLFF, 0000
TOD D. WOLTERS, 0000
VICKIE L. WOODARD, 0000
MARGARET H. WOODWARD, 0000
JOSUELITO WORRELL, 0000
JOHN D. WRIGHT, 0000
ROBERT F. WRIGHT JR., 0000
WALTER E. WRIGHT III, 0000
MICHAEL C. YUSI, 0000
STEVEN W. ZANDER, 0000
EDWIN A. ZEHNER, 0000
JOSEPH E. ZEIS JR., 0000
*LEONARD H. ZELLER, 0000
DAVID W. ZIEGLER, 0000
RICHARD M. ZINK, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 5721:

To be lieutenant commander

MICHAEL W. BASTIAN, 0000
TIMOTHY J. COCHRAN, 0000
MICHAEL D. DEWULF, 0000
KENNETH P. DONALDSON, 0000
RICHARD F. DUBNANSKY JR., 0000
STEPHEN W. DUDAR, 0000
EDWARD J. FISCHER, 0000
JAMES L. FLEMING, 0000
THOMAS W. FOX, 0000
THOMAS A. GABEHART, 0000
GENE M. GUTTROMSON, 0000
PAUL H. HOGUE, 0000
AARON M. HOLDAWAY, 0000
JOE W. HYDE, 0000
JAMES E. KENNEY, 0000
DEREK M. LAVAN, 0000
JERRY W. LEGERE, 0000
ANTHONY J. LESPERANCE, 0000
LANCE R. MORITZ, 0000
CLIFTON B. MYGATT JR., 0000
WILLIAM. S. O'CONNOR, 0000
LEONARD J. PERRIER, 0000
WILLIAM M. POLLITZ, 0000
THOMAS PRUSINOWSKI, 0000
CHARLES S. SMITH, 0000
KEVIN J. SNOAP, 0000
NICHOLAS R. TILBROOK, 0000
SCOTT M. VANDENBERG, 0000
JASON D. WARTELL, 0000
RICHARD F. WEBB, 0000
FRED R. WILHELM III, 0000
STEVEN C. WURGLER, 0000