for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1505

At the request of Mr. LOTT, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1505, a bill to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1898

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1898, a bill to protect the genetic privacy of individuals, and for other purposes.

S. 1929

At the request of Mr. WELLSTONE, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1929, a bill to extend the authority for the Homeless Veterans' Reintegration Projects for fiscal years 1997 through 1999, and for other purposes.

S. 1944

At the request of Mr. HATFIELD, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1944, a bill to establish a commission to be known as the Harold Hughes Commission on Alcoholism.

S. 1951

At the request of Mr. FORD, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1951, a bill to ensure the competitiveness of the United States textile and apparel industry.

S. 1963

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1963, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for Medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 1967

At the request of Mr. BROWN, the names of the Senator from New Mexico [Mr. BINGAMAN], the Senator from Massachusetts [Mr. KERRY], the Senator from Illinois [Mr. SIMON], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1967, a bill to provide that members of the Armed Forces who performed services for the peacekeeping efforts in Somalia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.

S. 2030

At the request of Mr. LOTT, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Kentucky [Mr. FORD], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 2030, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles, and for other purposes.

AMENDMENT NO. 5224

At the request of Mr. THOMAS the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Kansas [Mrs. FRAHM] were added as cosponsors of amendment No. 5224 proposed to H.R. 3756, a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENT NO. 5232

At the request of Mr. KERREY the names of the Senator from Maine [Ms. SNOWE], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of amendment No. 5232 proposed to H.R. 3756, a bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENTS SUBMITTED

THE TREASURY DEPARTMENT APPROPRIATIONS ACT, 1997

DASCHLE (AND DORGAN) AMENDMENT NO. 5234

(Ordered to lie on the table.)

Mr. DASCHLE (for himself, Mr. DORGAN, and Mr. SIMON) submitted an amendment intended to be proposed by them to the bill (H.R. 3756) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1997, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

TITLE ___—HEALTH INSURANCE EQUITY FOR CONGRESSIONAL AND CONTRACT EMPLOYEES

SEC. ___01. SHORT TITLE OF TITLE.

This title may be cited as the ''Congressional Contractor Health Insurance Equity Act''.

SEC. ___02. DEFINITIONS.

For purposes of this title:

(1) CONTRACT.—The term ''contract'' means any contract for items or services or any lease of Government property (including any subcontract of such contract or any sublease of such lease)—

(A) the consideration with respect to which is greater than $75,000 per year,

(B) with respect to a contract for services, requires at least 1000 hours of services, and

(C) entered into between any entity or instrumentality of the legislative branch of the Federal Government and any individual or entity employing at least 15 full-time employees.

(2) EMPLOYEE.—The term ''employee'' has the meaning given such term under section 3(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(6)).

(3) ENTITY OF THE LEGISLATIVE BRANCH.—The term ''entity of the legislative branch'' includes the following:

(A) The House of Representatives.

(B) The Senate.

(C) The Capitol Guide Service.

(D) The Capitol Police.

(E) The Congressional Budget Office.

(F) The Office of the Architect of the Capitol.

(G) The Office of the Attending Physician.

(H) The Office of Compliance.

(4) GROUP HEALTH PLAN.—The term ''group health plan'' means any plan or arrangement which provides, or pays the cost of, health benefits that are actuarially equivalent to the benefits provided under the standard option service benefit plan offered under chapter 89 of title 5, United States Code.

(5) INSTRUMENTALITY OF THE LEGISLATIVE BRANCH.—The term ''instrumentality of the legislative branch'' means the following:

(A) The General Accounting Office.

(B) The Government Printing Office.

(C) The Library of Congress.

SEC. ___03. GENERAL REQUIREMENTS CONCERNING CONTRACTS COVERED UNDER THIS ACT.

(a) IN GENERAL.—Any contract made or entered into by any entity or instrumentality of the legislative branch of the Federal Government shall contain provisions that require that—

(1) all persons employed by the contractor in the performance of the contract or at the location of the leasehold be offered health insurance coverage under a group health plan; and

(2) with respect to the premiums for such plan with respect to each employee—

(A) the contractor pay a percentage equal to the average Government contribution required under section 8906 of title 5, United States Code, for health insurance coverage provided under chapter 89 of such title; and

(B) the employee pay the remainder of such premiums.

(b) OPTION TO PURCHASE.—

(1) IN GENERAL.—Notwithstanding section 8914 of title 5, United States Code, a contractor to which subsection (a) applies that does not offer health insurance coverage under a group health plan to its employees on the date on which the contract is to take effect, may obtain any health benefits plan offered under chapter 89 of title 5, United States Code, for all persons employed by the contractor in the performance of the contract or at the location of the leasehold. Any contractor that exercises the option to purchase such coverage shall make any Government contributions required for such coverage under section 8906 of title 5, United States Code, with the employee paying the contribution required for such coverage for Federal employees.

(2) CALCULATION OF AMOUNT OF PREMIUMS.—Subject to paragraph (3)(B), the Director of the Office of Personnel Management shall calculate the amount of premiums for health benefits plans made available to contractor employees under paragraph (1) separately from Federal employees and annuitants enrolled in such plans.

(3) REVIEW BY OFFICE OF PERSONNEL MANAGEMENT.—

(A) ANNUAL REVIEW.—The Director of the Office of Personnel Management shall review at the end of each calendar year whether the

nonapplication of paragraph (2) would result in higher adverse selection, risk segmentation in, or a substantial increase in premiums for such health benefits plans. Such review shall include a study by the Director of the health care utilization and risks of contractor employees. The Director shall submit a report to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate which shall contain the results of such review.

(B) NONAPPLICATION OF PARAGRAPH (2).—Beginning in the calendar year following a certification by the Director of the Office of Personnel Management under subparagraph (A) that the nonapplication of paragraph (2) will not result in higher adverse selection, risk segmentation in, or a substantial increase in premiums for such health benefits plans, paragraph (2) shall not apply.

(4) REQUIREMENT OF OPM.—The Director of the Office of Personnel Management shall take such actions as are appropriate to enable a contractor described in paragraph (1) to obtain the health insurance described in such paragraph.

(c) ADMINISTRATIVE FUNCTIONS.—

(1) IN GENERAL.—The office within the entity or instrumentality of the legislative branch of the Federal Government which administers the health benefits plans for Federal employees of such entity or instrumentality shall perform such tasks with respect to plan coverage purchased under subsection (b) by contractors with contracts with such entity or instrumentality.

(2) WAIVER AUTHORITY.—Waiver of the requirements of this title may be made by such office upon application.

SEC. ___04. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall apply with respect to contracts executed, modified, or renewed on or after January 1, 1997.

(b) TERMINATION.—

(1) IN GENERAL.—This title shall not apply on and after October 1, 2001.

(2) TRANSITION RULE.—In the case of any contract under which, pursuant to this title, health insurance coverage is provided for calendar year 2001, the contractor and the employees shall, notwithstanding section ___03(a)(2), pay 1⅓ of the otherwise required monthly premium for such coverage in monthly installments during the period beginning on January 1, 2001, and ending before October 1, 2001.

KASSEBAUM AMENDMENT NO. 5235

Mrs. KASSEBAUM proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the end of the committee amendment, insert the following new section:

SEC. . PROTECTION OF PATIENT COMMUNICATIONS.

(a) FINDINGS.—Congress finds that—

(1) the health care market is dynamic, and the rapid changes seen in recent years can be expected to continue;

(2) the transformation of the health care market has promoted the development of innovative new treatments and more efficient delivery systems, but has also raised new and complex health policy challenges, touching on issues such as access, affordability, cost containment, and quality;

(3) appropriately addressing these challenges and the trade-offs they involve will require thoughtful and deliberate consideration by lawmakers, providers, consumers, and third-party payers; and

(4) the Patient Communications Protection Act of 1996 (S. 2005, 104th Congress) was first introduced in the Senate on July 31, 1996, and has not been subject to hearings or other review by the Senate or any of its committees.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Labor and Human Resources of the Senate, taking into account any relevant findings of the National Commission on Health Care Quality and other public and private entities with expertise in quality health care service delivery, should act expeditiously in the first session of the 105th Congress to schedule hearings and executive session consideration of legislation designed to ensure that patients be given access to all relevant information concerning their health care so as to permit such patients, in consultation with their physicians, to make appropriate decisions regarding their health care, and that the Senate should promptly consider that legislation.

SIMON (AND JEFFORDS) AMENDMENT NO. 5236

(Ordered to lie on the table.)

Mr. SIMON (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed by them to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new title:

TITLE ___—PENSION AUDIT IMPROVEMENT ACT OF 1996

SEC. ___. SHORT TITLE.

This title may be cited as the ''Pension Audit Improvement Act of 1996''.

SEC. ___. PROVISIONS RELATING TO LIMITED SCOPE AUDIT.

(a) IN GENERAL.—Subparagraph (C) of section 103(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end the following new clause:

''(ii) If an accountant is offering his opinion under this section in the case of an employee pension benefit plan, the accountant shall, to the extent consistent with generally accepted auditing standards, rely on the work of any independent public accountant of any bank or similar institution or insurance carrier regulated and supervised and subject to periodic investigation by a State or Federal agency that holds assets or processes transactions of the employee pension benefit plan.''

(b) CONFORMING AMENDMENTS.—

(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking ''subparagraph (C)'' and inserting ''subparagraph (C)(i)''.

(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking ''(C) The'' and inserting ''(C)(i) In the case of an employee benefit plan other than an employee pension benefit plan, the''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to opinions required under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 for plan years beginning on or after January 1 of the calendar year following the date of the enactment of this Act.

SEC. ___. REPORTING AND ENFORCEMENT REQUIREMENTS FOR EMPLOYEE PENSION BENEFIT PLANS.

(a) IN GENERAL.—Part 1 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021 et seq.) is amended—

(1) by redesignating section 111 as section 112, and

(2) by inserting after section 110 the following new section:

''REPORTING OF CERTAIN EVENTS INVOLVING PENSION PLANS

''SEC. 111. (a) REQUIRED NOTIFICATIONS.—

''(1) NOTIFICATIONS BY ACCOUNTANT TO PLAN ADMINISTRATOR.—

''(A) DETERMINATION OF LIKELIHOOD OF CRIMINAL ACTIVITY.—If an accountant engaged by the administrator of an employee pension benefit plan under section 103(a)(3)(A) detects or otherwise becomes aware of information indicating that a criminal activity may have occurred with respect to the plan, the accountant shall, in accordance with generally accepted auditing standards, determine whether it is likely that the criminal activity has occurred.

''(B) NOTIFICATION.—If an accountant determines under subparagraph (A) that it is likely that the criminal activity has occurred, the accountant shall, as soon as practicable—

''(i) notify and fully inform the plan administrator of the criminal activity in writing, or

''(ii) if the accountant has determined that the criminal activity involved an individual who is the plan administrator or who is a senior official of the plan administrator, notify and fully inform the named fiduciary of the plan who is not the plan administrator and who is designated under section 402(b)(5) to receive such notice of the criminal activity in writing.

''(2) NOTIFICATION BY ACCOUNTANT WHERE FAILURE TO TAKE REMEDIAL ACTION.—If, after providing the notification required under paragraph (1)(B), the accountant concludes that—

''(A) the plan administrator or the designated named fiduciary has been fully informed of the criminal activity,

''(B) the criminal activity has a material effect on the financial statements of the plan, and

''(C) the plan administrator or the designated named fiduciary has not taken timely and appropriate remedial actions with respect to the criminal activity,

the accountant shall, as soon as practicable, report its conclusions in writing to the plan administrator or designated named fiduciary, as applicable.

''(3) NOTIFICATION OF SECRETARY.—

''(A) IN GENERAL.—A plan administrator or designated named fiduciary of a plan receiving a report under paragraph (2) shall, not later than 5 business days after receipt of such report—

''(i) notify the Secretary of such report, and

''(ii) furnish to the accountant making such report a copy of the notice furnished to the Secretary under clause (i).

''(B) FAILURE TO RECEIVE NOTICE.—If an accountant does not receive a copy of the notice under subparagraph (A)(ii) within the time period prescribed therein, the accountant shall—

''(i) resign from engagement with the plan, or

''(ii) furnish to the Secretary a copy of its report under paragraph (2) not later than 1 business day following the close of such time period.

''(4) RESPONSE BY SECRETARY.—

''(A) IN GENERAL.—Any investigation by the Secretary in response to the notification under subparagraph (A)(i) or (B)(ii) of paragraph (3) shall be completed within 180 days of the receipt of such notification, unless the Secretary determines that additional time is necessary to complete the investigation due to—

''(i) the complexity of the investigation,

''(ii) the lack of cooperation by plan representatives, or

''(iii) the need for coordination with other law enforcement agencies.

The Secretary's failure to comply with this subparagraph shall not be a defense to any civil complaint or criminal charge arising

from notification under subparagraph (A)(i) or (B)(ii) of paragraph (3).

''(B) DISCLOSURE OF REPORT PROHIBITED.—

''(i) IN GENERAL.—Notwithstanding section 106 and except as provided in clause (ii), an officer or employee of the United States shall not disclose to the public any report described in paragraph (2) which is furnished to the Secretary under paragraph (3).

''(ii) EXCEPTIONS.—Clause (i) shall not be construed to prohibit the disclosure of such report by an officer or employee of the United States—

''(I) in carrying out their duties under this title (other than section 106), or

''(II) to any law enforcement authority of any Federal agency, any State or local government or political subdivision thereof, or any foreign country for purposes of carrying out their official duties.

''(iii) PENALTY FOR DISCLOSURE.—Any person who knowingly or willfully discloses any report in violation of this subparagraph shall, upon conviction, be guilty of a felony and punished by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution. In addition to any other punishment, such person shall be dismissed from office or discharged from employment upon conviction for such offense.

''(5) CRIMINAL ACTIVITY DEFINED.—

''(A) For purposes of this subsection, the term 'criminal activity' means—

''(i) a theft, embezzlement, or a violation of section 664 of title 18, United States Code (relating to theft or embezzlement from an employee benefit plan);

''(ii) an extortion or a violation of section 1951 of such title 18 (relating to interference with commerce by threats or violence);

''(iii) a bribery, a kickback, or a violation of section 1954 of such title 18 (relating to offer, acceptance, or solicitation to influence operations of an employee benefit plan);

''(iv) a violation of section 1027 of such title 18 (relating to false statements and concealment of facts in relation to employer benefit plan records); or

''(v) a violation of section 411, 501, or 511 of this title (relating to criminal violations).

''(B) The term 'criminal activity' shall not include any act or omission described in this paragraph involving less than $1,000 unless there is reason to believe that the act or omission may bear on the integrity of plan management.

''(b) NOTIFICATION UPON TERMINATION OF ENGAGEMENT OF ACCOUNTANT.—

''(1) NOTIFICATION BY PLAN ADMINISTRATOR.—Within 5 business days after the termination of an engagement for auditing services under section 103(a)(3)(A) with respect to an employee pension benefit plan, the administrator of such plan shall—

''(A) notify the Secretary in writing of such termination, giving the reasons for such termination, and

''(B) furnish the accountant whose engagement was terminated with a copy of the notification sent to the Secretary.

''(2) NOTIFICATION BY ACCOUNTANT.—If the accountant referred to in paragraph (1)(B) has not received a copy of the administrator's notification to the Secretary as required under paragraph (1)(B), or if the accountant disagrees with the reasons given in the notification of termination of the engagement for auditing services, the accountant shall notify the Secretary in writing of the termination, giving the reasons for the termination, within 10 business days after the termination of the engagement.

''(c) DETERMINATION OF PERIODS REQUIRED FOR NOTIFICATION.—In determining whether a notification required under this section with respect to any act or omission has been made within the required number of business days—

''(1) the day on which such act or omission begins shall not be included; and

''(2) Saturdays, Sundays, and legal holidays shall not be included.

For purposes of this subsection, the term 'legal holiday' means any Federal legal holiday and any other day appointed as a holiday by the State in which the person responsible for making the notification principally conducts his business.

''(d) IMMUNITY FOR GOOD FAITH NOTIFICATION OR REPORT.—Except as provided in this Act, no accountant, plan administrator, or designated named fiduciary shall be liable to any person for any finding, conclusion, or statement made in any notification or report made pursuant to subsection (a) or (b), or pursuant to any regulations issued thereunder, if such finding, conclusion, or statement is made in good faith.''

(b) DESIGNATION OF NAMED FIDUCIARY.—Section 402(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(b)) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) if such plan engages an independent qualified public accountant under section 103(a)(3)(A), designate a named fiduciary other than the plan administrator to receive any notification from such accountant required under section 111(a)(1)(B)(ii).''

(c) CIVIL PENALTY.—

(1) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended by adding at the end the following new paragraph:

''(5) The Secretary may assess a civil penalty of up to $50,000 against any plan administrator or accountant who knowingly and willfully fails to provide the Secretary with any notification as required under section 111.''

(2) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking ''subsection (c)(2) or (i) or (l)'' and inserting ''paragraph (2), (4), or (5) of subsection (c) or subsection (i) or (l)''.

(d) CLERICAL AMENDMENTS.—

(1) Section 514(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(d)) is amended by striking ''111'' and inserting ''112''.

(2) The table of contents in section 1 of such Act is amended by striking the item relating to section 111 and inserting the following new items:

''Sec. 111. Reporting of certain events involving pension plans.
''Sec. 112. Repeal and effective date.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any criminal activity or termination of engagement described in such amendments only if the 5-day period described in such amendments in connection with such criminal activity or termination commences at least 90 days after the date of the enactment of this Act.

SEC. ___. ADDITIONAL REQUIREMENTS FOR QUALIFIED PUBLIC ACCOUNTANTS.

(a) IN GENERAL.—Section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(a)(3)(D)) is amended—

(1) by inserting ''(i)'' after ''(D)'';

(2) by inserting '', with respect to any engagement of an accountant under subparagraph (A)'' after ''means'';

(3) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(4) by striking the period at the end of subclause (III) (as so redesignated) and inserting a comma;

(5) by adding after subclause (III) (as so redesignated), and flush with clause (i), the following:

''but only if such person meets the requirements of clauses (ii) and (iii) with respect to such engagement.''; and

(6) by adding at the end the following new clauses:

''(ii) A person meets the requirements of this clause with respect to an engagement of such person as an accountant under subparagraph (A) if such person—

''(I) has in operation an appropriate internal quality control system;

''(II) has undergone a qualified external quality control review of the person's accounting and auditing practices, including such practices relevant to employee pension benefit plans (if any), during the 3-year period immediately preceding such engagement; and

''(III) has completed, within the 2-year period immediately preceding such engagement, at least 80 hours of continuing education or training which contributes to the accountant's professional proficiency and which meets such requirements as may be prescribed by the Secretary in regulations.

The Secretary shall issue the regulations under subclause (III) no later than December 31, 1997.

''(iii) A person meets the requirements of this clause with respect to an engagement of such person as an accountant under subparagraph (A) if such person meets such additional requirements and qualifications of regulations which the Secretary deems necessary to ensure the quality of plan audits.

''(iv) For purposes of clause (ii)(II), an external quality control review shall be treated as qualified with respect to a person referred to in clause (ii) if—

''(I) such review is performed in accordance with the requirements of external quality control review programs of recognized auditing standard-setting bodies, as determined under regulations of the Secretary, and

''(II) in the case of any such person who has, during the peer review period, conducted one or more previous audits of employee pension benefit plans, such review includes the review of an appropriate number (determined as provided in such regulations, but in no case less than one) of plan audits in relation to the scale of such person's auditing practice.

The Secretary shall issue the regulations under subclause (I) no later than December 31, 1997.''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to plan years beginning on or after the date which is 3 years after the date of the enactment of this Act.

(2) RESTRICTIONS ON CONDUCTING EXAMINATIONS.—Clause (iii) of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)(6)) shall take effect on the date of enactment of this Act.

SEC. ___. CLARIFICATION OF FIDUCIARY PENALTIES.

(a) MODIFICATION OF PROHIBITION OF ASSIGNMENT OR ALIENATION.—

(1) AMENDMENT TO ERISA.—Section 206(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)) is amended by adding at the end the following new paragraphs:

''(4) Paragraph (1) shall not apply to any offset of a participant's accrued benefit in an employee pension benefit plan against an amount that the participant is ordered or required to pay to the plan if—

''(A) the order or requirement to pay arises—

''(i) under a judgment of conviction for a crime involving such plan,

''(ii) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of this subtitle, or

''(iii) pursuant to a settlement agreement between the Secretary and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of this subtitle,

''(B) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

''(C) if the participant has a spouse at the time at which the offset is to be made—

''(i) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

''(ii) such spouse is ordered or required in such judgment, order, decree, or settlement to pay an amount to the plan in connection with a violation of part 4 of this subtitle, or

''(iii) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to section 205(a)(1) and under a qualified preretirement survivor annuity provided pursuant to section 205(a)(2), determined in accordance with paragraph (5).

''(5)(A) The value of the survivor annuity described in paragraph (4)(C)(iii) shall be determined as if—

''(i) the participant terminated employment on the date of the offset,

''(ii) there was no offset,

''(iii) the plan permitted retirement only on or after normal retirement age,

''(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

''(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

''(B) For purposes of this paragraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.''

(2) AMENDMENT TO INTERNAL REVENUE CODE.—Section 401(a)(13) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraphs:

''(C) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Subparagraph (A) shall not apply to any offset of a participant's accrued benefit in a plan against an amount that the participant is ordered or required to pay to the plan if—

''(i) the order or requirement to pay arises—

''(I) under a judgment of conviction for a crime involving such plan,

''(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or

''(III) pursuant to a settlement agreement between the Secretary of Labor and the participant, or a settlement agreement between the Pension Benefit Guaranty Corporation and the participant, in connection with a violation (or alleged violation) of part 4 of subtitle B of title I of such Act,

''(ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the plan against the participant's accrued benefit in the plan, and

''(iii) if the participant has a spouse at the time at which the offset is to be made—

''(I) such spouse has consented in writing to such offset and such consent is witnessed by a notary public or representative of the plan,

''(II) such spouse is ordered or required to pay in such judgment, order, decree, or settlement an amount to the plan in connection with a violation of part 4 of subtitle B of title I of such Act, or

''(III) in such judgment, order, decree, or settlement, such spouse retains the right to receive the value of the survivor annuity under a qualified joint and survivor annuity provided pursuant to paragraph (11)(A)(i) and under a qualified preretirement survivor annuity provided pursuant to paragraph 11(A)(ii), determined in accordance with subparagraph (D).

''(D) DETERMINATION OF VALUE OF SURVIVOR ANNUITY IN CONNECTION WITH OFFSET.—The value of the survivor annuity described in subparagraph (C)(iii)(III) shall be determined as if—

''(i) the participant terminated employment on the date of the offset,

''(ii) there was no offset,

''(iii) the plan permitted retirement only on or after normal retirement age,

''(iv) the plan provided only the minimum-required qualified joint and survivor annuity, and

''(v) the amount of the qualified preretirement survivor annuity under the plan is equal to the amount of the survivor annuity payable under the minimum-required qualified joint and survivor annuity.

For purposes of this subparagraph, the term 'minimum-required qualified joint and survivor annuity' means the qualified joint and survivor annuity which is the actuarial equivalent of a single annuity for the life of the participant and under which the survivor annuity is 50 percent of the amount of the annuity which is payable during the joint lives of the participant and the spouse.

''(E) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—With respect to the requirements of subsections (a) and (k) of section 401, section 403(b), and section 409(d), a plan shall not be treated as failing to meet such requirements solely by reason of an offset under subparagraph (C).''

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to judgments, orders, and decrees issued, and settlement agreements entered into, on or after the date of enactment of this Act.

(b) CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITY.—

(1) IMPOSITION AND AMOUNT OF PENALTY MADE DISCRETIONARY.—Section 502(l)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(l)(1)) is amended—

(A) by striking ''shall'' and inserting ''may'', and

(B) by striking ''equal to'' and inserting ''not greater than''.

(2) APPLICABLE RECOVERY AMOUNT.—Section 502(l)(2) of such Act (29 U.S.C. 1132(l)(2)) is amended to read as follows:

''(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from (or on behalf of) any fiduciary or other person with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under subsection (a)(2) or (a)(5). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.''

(3) OTHER RULES.—Section 502(l) of such Act (29 U.S.C. 1132(l)) is amended by adding at the end the following new paragraphs:

''(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

''(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount.''

(4) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to any breach of fiduciary responsibility or other violation of part 4 of subtitle B of title I of the Employment Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In applying the amendment made by paragraph (2) (relating to applicable recovery amount), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may be discontinued at any time during its existence) shall be treated as having occurred after such date of enactment.

GRAMS AMENDMENT NO. 5237

(Ordered to lie on the table.)

Mr. GRAMS submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At appropriate place insert the following section:

''SEC. . IMPROVEMENT OF THE IRS 1–800 HELP LINE SERVICE.

''(a) Funds made available by this or any other Act to the Internal Revenue Services shall be available for improved facilities and increased manpower to provide sufficient and effective 1–800 help line for taxpayers.

(b) The Commissioner shall make the improvement of the IRS 1–800 help line service a priority and allocate resources necessary to ensure the increase in phone lines and staff to improve the IRS 1-800 help line service.

BRYAN AMENDMENT NO. 5238

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. ___. FEDERAL RETIREMENT PROVISIONS RELATING TO MEMBERS OF CONGRESS AND CONGRESSIONAL EMPLOYEES.

(a) SHORT TITLE.—This section may be cited as the ''Congressional Annuity Reform Act of 1996''.

(b) RELATING TO THE YEARS OF SERVICE AS A MEMBER OF CONGRESS AND CONGRESSIONAL EMPLOYEES FOR PURPOSES OF COMPUTING AN ANNUITY.—

(1) CSRS.—Section 8339 of title 5, United States Code, is amended—

(A) in subsection (a) by inserting ''or Member'' after ''employee'';

(B) by striking subsections (b) and (c); and

(C) in subsection (h)—

(i) in the first sentence by striking out ''subsections (a), (b)'' and inserting in lieu thereof ''subsections (a),''; and

(ii) in the second sentence by striking out ''subsections (c) and (f)'' and inserting in lieu thereof ''subsections (a) and (f)''.

(2) FERS.—Section 8415 of title 5, United States Code, is amended—

(A) by striking subsections (b) and (c);

(B) in subsections (a) and (g) by inserting ''or Member'' after ''employee'' each place it appears; and

(C) in subsection (g)(2) by striking out ''Congressional employee''.

(c) CONTRIBUTION RATES.—

(1) CSRS.—(A) Section 8334(a)(1) of title 5, United States Code, is amended—

(i) by striking out ''of an employee, 7½ percent of the basic pay of a Congressional employee,'' and inserting in lieu thereof ''of an employee, a Member,''; and

(ii) by striking out ''basic pay of a Member,'' and inserting in lieu thereof ''basic pay of''.

(B) The table under section 8334(c) of title 5, United States Code, is amended—

(i) in the item relating to Member or employee for Congressional employee service by striking out

''	7½.....	After December 31, 1969.''

and inserting in lieu thereof

''	7½.....	December 31, 1969 to (but not including) the effective date of the Congressional Annuity Reform Act of 1996.
''	7.....	On and after the effective date of the Congressional Annuity Reform Act of 1996.'';

and

(ii) in the item relating to Member for Member service by striking out

''	8.....	After December 31, 1969.''

and inserting in lieu thereof

''	8.....	December 31, 1969 to (but not including) the effective date of the Congressional Annuity Reform Act of 1996.
''	7.....	On and after the effective date of the Congressional Annuity Reform Act of 1996.''.

(2) FERS.—Section 8422(a)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A) by striking out ''employee (other than a law enforcement officer, firefighter, air traffic controller, or Congressional employee)'' and inserting in lieu thereof ''employee or Member (other than a law enforcement officer, firefighter, or air traffic controller)''; and

.(B) in subparagraph (B)—

(i) by striking out ''a Member,''; and

(ii) by striking out ''air traffic controller, or Congressional employee,'' and inserting in lieu thereof ''or air traffic controller,''.

(d) ADMINISTRATIVE REGULATIONS.—The Office of Personnel Management, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, may prescribe regulations to carry out the provisions of this section and the amendments made by this section for applicable employees and Members of Congress.

(e) EFFECTIVE DATES.—

(1) SHORT TITLE.—Subsection (a) shall take effect on the date of the enactment of this Act.

(2) COLA ADJUSTMENTS.—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act and shall apply with respect to annuities commencing on or after such date.

(3) YEARS OF SERVICE; ANNUITY COMPUTATION.—(A) The amendments made by subsection (c) shall take effect on the date of the enactment of this Act and shall apply only with regard to the computation of an annuity relating to—

(i) the service of a Member of Congress as a Member or as a Congressional employee performed after such date; and

(ii) the service of a Congressional employee as a Congressional employee performed after such date.

(B) An annuity shall be computed as though the amendments made under subsection (c) had not been enacted with regard to—

(i) the service of a Member of Congress as a Member or a Congressional employee or military service performed before the date of the enactment of this Act; and

(ii) the service of a Congressional employee as a Congressional employee or military service performed before the date of the enactment of this Act.

(4) CONTRIBUTION RATES.—The amendments made by subsection (d) shall take effect on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act.

(5) REGULATIONS.—The provisions of subsection (e) shall take effect on the date of the enactment of this Act.

(6) ALTERNATIVE EFFECTIVE DATE RELATING TO MEMBERS OF CONGRESS.—If a court of competent jurisdiction makes a final determination that a provision of this subsection violates the 27th amendment of the United States Constitution, the effective date and application dates relating to Members of Congress shall be January 3, 1997.

FAIRCLOTH AMENDMENT NO. 5239

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) SENSE OF THE SENATE REGARDING TRANSFERS FROM MEDICARE TRUST FUNDS.—It is the sense of the Senate that none of the funds made available in this Act under the heading ''Title II—Department of Health and Human Services—Health Care Financing Administration—Program Management'' for transfer from the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund should be used for expenditures for official time for employees of the Department of Health and Human Services pursuant to section 7131 of title 5, United States Code, or for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title.

(b) SENSE OF THE SENATE REGARDING TRANSFERS FROM OASDI TRUST FUND.—It is the sense of the Senate that none of the funds made available in this Act under the heading ''Title IV—Related Agencies—Social Security Administration—Limitation on Administrative Expenses'' for transfer from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund should be used for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, or for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title.

WARNER AMENDMENT NO. 5240

Mr. WARNER proposed an amendment to the bill, H.R. 3756, supra; as follows:

One page 53, beginning on line 23, strike ''and in compliance with the reprogramming guidelines of the appropriate Committee of the House and Senate.''

LAUTENBERG AMENDMENTS NOS. 5241–5243

(Ordered to lie on the table.)

Mr. LAUTENBERG submitted three amendments intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

AMENDMENT NO. 5241

At the end of the committee amendment insert the following:

SEC. . GUN BAN FOR INDIVIDUALS COMMITTING DOMESTIC VIOLENCE.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel,''; and

(3) in subsection (s)(3)(B)(i), by inserting before the semicolon the following: ''and has not been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel''.

(c) RULES AND REGULATIONS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

AMENDMENT NO. 5242

At the end of amendment No. — insert the following:

SEC. . GUN BAN FOR INDIVIDUALS COMMITTING DOMESTIC VIOLENCE.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is emended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel,''; and

(3) in subsection (s)(3)(B)(i), by inserting before the semicolon the following: ''and has not been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel''.

(c) RULES AND REGULATIONS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

AMENDMENT NO. 5243

At the appropriate place, insert the following:

SEC. . GUN BAN FOR INDIVIDUALS COMMITTING DOMESTIC VIOLENCE.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

(b) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel.'';

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) has been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel.''; and

(3) in subsection (s)(3)(B)(i), by inserting before the semicolon the following: ''and has not been convicted in any court of any crime involving domestic violence, if the individual has been represented by counsel or knowingly and intelligently waived the right to counsel''.

(c) RULES AND REGULATIONS.—Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

KOHL AMENDMENT NO. 5244

(Ordered to lie on the table.)

Mr. KOHL submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . PROHIBITION.

Section 922(q) of title 18, United States Code, is amended to read as follows:

''(q)(1) The Congress finds and declares that—

''(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

''(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

''(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary the House of Representatives and the Committee on the Judiciary of the Senate;

''(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

''(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

''(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

''(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

''(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

''(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

''(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

''(B) Subparagraph (A) does not apply to the possession of a firearm—

''(i) on private property not part of school grounds;

''(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

''(iii) that is—

''(I) not loaded; and

''(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

''(iv) by an individual for use in a program approved by a school in the school zone;

''(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

''(vi) by a law enforcement officer acting in his or her official capacity; or

''(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

''(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

''(B) Subparagraph (A) does not apply to the discharge of a firearm—

''(i) on private property not part of school grounds;

''(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

''(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

''(iv) by a law enforcement officer acting in his or her official capacity.

''(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.''.

GRAHAM AMENDMENTS NOS. 5245–5246

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to the bill, H.R. 5245, supra; as follows:

AMENDMENT NO. 5245

At the appropriate place, insert the following:

SEC. . REQUIREMENTS FOR MEDICARE MANAGED CARE.

(a) ACCESS TO EMERGENCY SERVICES.—Subparagraph (B) of section 1876(c)(4) of the Social Security Act (42 U.S.C. 1395mm(c)(4)) is amended to read as follows:

''(B) meet the requirements of section 3 of the Access to Emergency Medical Care Act of 1995 with respect to members enrolled with an organization under this section.''.

(b) TIMELY AUTHORIZATION FOR PROMPTLY NEEDED CARE IDENTIFIED AS A RESULT OR REQUIRED SCREENING EVALUATION.—Section 1876(c) of such Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following:

''(9)(A) The organization must provide access 24 hours a day, 7 days a week to individuals who are authorized to make any prior authorizations required by the organization for coverage of items and services (other than emergency services) that a treating physician or other emergency department personnel identify, pursuant to a screening evaluation required under section 1867(a), as being needed promptly by an individual enrolled with the organization under this part.

''(B) The organization is deemed to have approved a request for such promptly needed items and services if the physician or other emergency department personnel involved—

''(i) has made a reasonable effort to contact an individual described in subparagraph (A) for authorization to provide an appropriate referral for such items and services or to provide the items and services to the individual and access to the person has not been provided (as required in subparagraph (A)), or

''(ii) has requested such authorization from the person and the person has not denied the authorization within 30 minutes after the time the request is made.

''(C) Approval of a request for a prior authorization determination (including a deemed approval under subparagraph (B)) shall be treated as approval of a request for any items and services that are required to treat the medical condition identified pursuant to the required screening evaluation.

''(D) In this paragraph, the term 'emergency services' means—

''(i) health care items and services furnished in the emergency department of a hospital (including a trauma center), and

''(ii) ancillary services routinely available to such department, to the extent they are required to evaluate and treat an emergency medical condition (as defined in subparagraph (E)) until the condition is stabilized.

''(E) In subparagraph (D), the term 'emergency medical condition' means a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(i) placing the person's health in serious jeopardy,

''(ii) serious impairment to bodily functions, or

''(iii) serious dysfunction of any bodily organ or part.''.

''(F) In subparagraph (D), the term 'stabilization' means, with respect to an emergency medical condition, that no material deterioration of the condition is likely, within reasonable medical probability, to result or occur before an individual can be transferred in compliance with the requirements of section 1867 of the Social Security Act.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective for contract years beginning on or after the date of this Act.

AMENDMENT NO. 5246

At the appropriate place, insert the following:

TITLE ___—WELFARE FORMULA FAIRNESS COMMISSION

SECTION ___01. SHORT TITLE.

This title may be cited as the ''Welfare Formula Fairness Commission Act of 1996''.

SEC. ___02. WELFARE FORMULA FAIRNESS COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Welfare Formula Fairness Commission (in this title referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 13 members, of whom—

(A) 3 shall be appointed by the President, of whom not more than 2 shall be of the same political party;

(B) 3 shall be appointed by the Majority Leader of the Senate;

(C) 2 shall be appointed by the Minority Leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the Minority Leader of the House of Representatives.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 30 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chair.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIR AND VICE CHAIR.—The Commission shall select a Chair and Vice Chair from among its members.

(h) DUTIES OF THE COMMISSION.—

(1) STUDY.—The Commission shall study—

(A) the temporary assistance for needy families block grant program established under part A of title IV of the Social Security Act, as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; and

(B) the funding formulas applied, the bonus payments provided, the penalties imposed, and the work requirements established under such program.

(2) CONSULTATION.—In addressing the issue described in paragraph (1)(B), the Commission shall consult with the Comptroller General of the United States and shall consider the following:

(A) The rate of poverty in each State.

(B) The total taxable resources in each State.

(C) Differences in the efficient operation of the temporary assistance for needy families block grant program among the States.

(D) Per capita income in each State.

(E) The cost of living in each State.

(3) REPORTS.—

(A) FIRST REPORT.—

(i) IN GENERAL.—The Commission shall submit a first report to the Congress by not later than June 1, 1997.

(ii) REQUIREMENT.—The report submitted to the Congress under clause (i) shall include the Commission's recommendation with respect to the issue described in paragraph (1)(B) in the form of an implementation bill containing such statutory provisions as the Commission may determine are necessary or appropriate to implement such recommendation. Only an implementation bill submitted to the Congress under this paragraph shall be considered under the procedures established under section ___03.

(B) SUBSEQUENT REPORTS.—The Commission shall issue subsequent reports to the Congress by not later than December 31, 1997, and December 31, 1998.

(i) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this title.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this title. Upon request of the Chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(j) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF.—

(A) IN GENERAL.—The Chair of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) COMPENSATION.—The Chair of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed

the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(k) TERMINATION OF THE COMMISSION.—The Commission shall terminate not later than December 31, 1998.

(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out the purposes of this title.

SEC. ___03. CONGRESSIONAL CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) IMPLEMENTING BILL.—An implementing bill described in section ___02(h)(3)(A)(ii) shall be considered by the Congress under the procedures for consideration described in subsection (b).

(b) CONGRESSIONAL CONSIDERATION.—

(1) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of an implementing bill described in subsection (a), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) INTRODUCTION AND REFERRAL.—On the day on which the implementing bill described in subsection (a) is transmitted to the House of Representatives and the Senate, such bill shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which the implementing bill is transmitted, the bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. If the implementing bill is not introduced within 5 days of its transmission, any Member of the House and of the Senate may introduce such bill. The implementing bill introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(3) PERIOD FOR COMMITTEE CONSIDERATION.—If the committee or committees of either House to which an implementing bill has been referred have not reported the bill at the close of July 1, 1997 (or if such House is not in session, the next day such House is in session), such committee or committees shall be automatically discharged from further consideration of the implementing bill and it shall be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE SENATE.—

(A) IN GENERAL.—Within 5 days after the implementing bill is placed on the calendar, the Majority Leader, at a time to be determined by the Majority Leader in consultation with the Minority Leader, shall proceed to the consideration of the bill. If on the sixth day after the bill is placed on the calendar, the Senate has not proceeded to consideration of the bill, then the presiding officer shall automatically place the bill before the Senate for consideration. A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) TIME LIMITATION ON CONSIDERATION OF BILL.—

(i) IN GENERAL.—Debate in the Senate on an implementing bill, and all amendments and debatable motions and appeals in connection therewith, shall be limited to not more than 30 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(ii) DEBATE OF AMENDMENTS, MOTIONS, POINTS OF ORDER, AND APPEALS.—In the Senate, no amendment which is not relevant to the bill shall be in order. Debate in the Senate on any amendment, debatable motion or appeal, or point of order in connection with an implementing bill shall be limited to—

(I) not more than 2 hours for each first degree relevant amendment,

(II) one hour for each second degree relevant amendment, and

(III) 30 minutes for each debatable motion or appeal, or point of order submitted to the Senate,

to be equally divided between, and controlled by, the mover and the manager of the implementing bill, except that in the event the manager of the implementing bill is in favor of any such amendment, motion, appeal, or point of order, the time in opposition thereto, shall be controlled by the Minority Leader or designee of the Minority Leader. The Majority Leader and Minority Leader, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any amendment, debatable motion or appeal, or point of order.

(C) OTHER MOTIONS.—A motion to recommit an implementing bill is not in order.

(D) FINAL PASSAGE.—Upon the expiration of the 30 hours available for consideration of the implementing bill, it shall not be in order to offer or vote on any amendment to, or motion with respect to, such bill. Immediately following the conclusion of debate in the Senate on an implementing bill that was introduced in the Senate, such bill shall be deemed to have been read a third time and the vote on final passage of such bill shall occur without any intervening action or debate.

(E) DEBATE ON DIFFERENCES BETWEEN THE HOUSES.—Debate in the Senate on motions and amendments appropriate to resolve the differences between the Houses, at any particular stage of the proceedings, shall be limited to not more than 5 hours.

(F) DEBATE ON CONFERENCE REPORT.—Debate in the Senate on the conference report shall be limited to not more than 10 hours.

(5) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(A) PROCEED TO CONSIDERATION.—On the sixth day after the implementing bill is placed on the calendar, it shall be privileged for any Member to move without debate that the House resolve itself into the Committee of the Whole House on the State of the Union, for the consideration of the bill, and the first reading of the bill shall be dispensed with.

(B) GENERAL DEBATE.—After general debate, which shall be confined to the implementing bill and which shall not exceed 4 hours, to be equally divided and controlled by the Chairman and Ranking Minority Member of the Committee or Committees to which the bill had been referred, the bill shall be considered for amendment by title under the 5-minute rule and each title shall be considered as having been read. The total time for considering all amendments shall be limited to 26 hours of which the total time for debating each amendment under the 5-minute rule shall not exceed one hour.

(C) RISE AND REPORT.—At the conclusion of the consideration of the implementing bill for amendment, the Committee of the Whole on the State of the Union shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto, and the House shall proceed to vote on final passage without intervening motion except one motion to recommit.

(6) COMPUTATION OF DAYS.—For purposes of this subsection, in computing a number of days in either House, there shall be excluded—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain, or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday not excluded under subparagraph (A) when either House is not in session.

INHOFE AMENDMENT NO. 5247

(Ordered to lie on the table.)

Mr. INHOFE submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

On page 60, strike lines 19 through 21.

HATFIELD AMENDMENT NO. 5248

(Ordered to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill, H.R. 3756, supra; as follows:

TITLE —LOCAL EMPOWERMENT AND FLEXIBILITY PILOT ACT OF 1996

SECTION 01. SHORT TITLE.

This Act may be cited as the ''Local Empowerment and Flexibility Pilot Act of 1996.''

SEC. 02. FINDINGS.

The Congress finds that—

(1) historically, Federal programs have addressed the Nation's problems by providing categorical financial assistance with detailed requirements relating to the use of funds;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some program requirements may inadvertently impede the effective delivery of services;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery of many kinds of services;

(4) our nation's communities are diverse and many have innovative planning and community involvement strategies to comprehensively meet their particular service needs for providing service, but Federal,

State, and local grant and other requirements often hamper effective implementation of such strategies.

(5) it is more important than ever to provide programs that—

(A) promote more effective and efficient delivery of services at all levels of government to meet the full range of needs of individuals, families, and society;

(B) respond flexibly to the diverse needs of the Nation's communities;

(C) reduce the barriers between programs that impede the State, local, and tribal governments' ability to effectively deliver services; and

(D) empower State, local, and tribal governments and private, nonprofit organizations to be innovative in creating programs that meet the unique needs of their communities while continuing to address national policy goals; and

SEC. 03. PURPOSES.

The purposes of this Act are to—

(1) improve the delivery of services to the public;

(2) promote State, local and tribal governments and private, non-profit organizations and consortiums to identify goals to improve their communities and the lives of their citizens;

(3) enable eligible applicants to adapt programs of Federal financial assistance to the particular needs of their communities by integrating programs and program funds across existing Federal financial assistance programs that have similar purposes;

(4) more effectively meet the goals and purposes of Federal, State and local financial assistance programs;

(5) empower eligible applicants to work together to build stronger cooperative, intergovernmental and private partnerships to address critical service problems;

(6) place less emphasis in Federal financial assistance programs on complying with procedures and more emphasis on achieving Federal, State, local and tribal policy goals;

(7) facilitate State, local, and tribal government efforts to develop regional or metropolitan solutions to shared problems;

(8) improve intergovernmental efficiency.

SEC. 04. DEFINITIONS.

For purposes of this Act:

(1) AFFECTED FEDERAL AGENCY.—The term ''affected Federal agency'' means the Federal agency with principal authority for the administration of an eligible Federal financial assistance program included in a plan.

(2) AFFECTED STATE AGENCY.—The term ''affected State agency'' means—

(A) any State agency with authority for the administration of any State program or eligible Federal financial assistance program; and

(B) with respect to education programs, the term shall include the State Education Agency as defined by the Elementary and Secondary Education Act and the Higher Education Act.

(3) APPROVED FLEXIBILITY PLAN.—The term ''approved flexibility plan'' means a flexiblility plan or the part of a flexibility plan, that is approved by the Community Empowerment Board under section 8.

(4) BOARD.—The term ''Board'' means the Community Empowerment Board established under section 5.

(5) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(6) ELIGIBLE APPLICANT.—The term ''eligible applicant'' means a State, local, or tribal government, qualified organization, or qualified consortium that is eligible to receive financial assistance under 1 or more eligible Federal financial assistance programs.

(7) ELIGIBLE FEDERAL FINANCIAL ASSISTANCE PROGRAM.—The term ''eligible Federal financial assistance program''—

(A) except as provided in subparagraph (B), means a domestic assistance program (as defined under section 6101(4) of title 31, United States Code) under which financial assistance is available, directly or indirectly, to a State, local, or tribal government or a qualified organization to carry out activities consistent with national policy goals; and

(B) does not include—

(i) a Federal program under which direct financial assistance is provided by the Federal Government directly to an individual beneficiary of that financial assistance, or to a State to provide direct financial assistance, or to a State to provide direct financial or food voucher assistance directly to an individual beneficiary;

(ii) a program carried out with direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(8)); or

(iii) a program of assistance referred to in section 6101(4)(A)(ix) of title 31, United States Code or Section 3(10) of the Congressional Budget Act of 1974.

(8) EMPOWERMENT ZONE-ELIGIBLE AREA.—The term ''empowerment zone-eligible area'' means any area nominated for designation under subchapter U of chapter I of the Internal Revenue Code of 1986 that was ruled as meeting the technical eligibility standards established for that Federal policy.

(9) FLEXIBILITY PLAN.—The term ''flexibility plan'' means a comprehensive plan or part of such plan for the integration and administration by an eligible applicant of financial assistance provided by the Federal Government under 2 or more eligible Federal financial assistance programs that includes funds from Federal, State, local, or tribal government or private sources to address the service needs of a community.

(10) LOCAL GOVERNMENT.—The term ''local government'' means—

(A) a political subdivision of a State that is a unit of general local government (as defined under section 6501 of title 31, United States Code);

(B) any combination of political subdivisions described in subparagraph (A) that submits an application to the Board; or

(C) a local educational agency as defined under section 14101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(18)).

(11) QUALIFIED CONSORTIUM.—The term ''qualified consortium'' means a group that is composed of 2 or more qualified organizations, State, local, or tribal agencies that receive federally appropriated funds.

(12) QUALIFIED ORGANIZATION.—The term ''qualified organization'' means a private, nonprofit organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)).

(13) SMALL GOVERNMENT.—The term ''small government'' means any small governmental jurisdiction defined in section 601(5) of title 5, United States Code, and a tribal government.

(14) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, and the Virgin Islands.

(15) STATE LEGISLATIVE OFFICIAL.—The term ''State legislative official'' means—

(A) the presiding officer of a chamber of a State legislature; and

(B) the minority leader of a chamber of a State legislature.

(14) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing entity of an Indian tribe, as that term is defined in the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b).

SEC. 05. ESTABLISHMENT OF COMMUNITY EMPOWERMENT BOARD.

(a) IN GENERAL.—There is established a Community Empowerment Board, which shall consist of—

(1) the Secretary of Housing and Urban Development;

(2) the Secretary of Health and Human Services;

(3) the Secretary of Agriculture;

(4) the Secretary of Transportation;

(5) the Secretary of Education;

(6) the Secretary of Commerce;

(7) the Secretary of Labor;

(8) the Secretary of the Treasury;

(9) the Attorney General;

(10) the Secretary of the Interior;

(11) the Secretary of Energy;

(12) the Secretary of Veterans Affairs;

(13) the Secretary of Defense;

(14) the Director of the Federal Emergency Management Agency;

(15) the Administrator of the Environment Protection Agency;

(16) the Director of the National Drug Control Policy;

(17) the Administrator of the Small Business Administration;

(18) the Director of the Office of Management and Budget;

(19) the Administator of General Services; and

(20) other officials of the Executive Branch as directed by the President.

(b) CHAIR.—The President shall designate the Chair of the Board from among its members.

(c) FUNCTIONS.—

(1) IN GENERAL.—The Board shall—

(A) no later than 180 days after implementation of this Act, select 6 states to participate in this Act;

(B) receive, review, and approve or disapprove flexibility plans in accordance with section 7;

(C) consider all requests for technical assistance from eligible applicants and, when appropriate, provide or direct that an affected Federal agency provide the head of an agency that administers an eligible Federal financial assistance program under which substantial Federal financial assistance would be provided under the plan to provide technical assistance to the eligible applicant, and to the extent permitted by law, special assistance to interested small governments to support the development and implementation of a flexibility plan, which may include expedited processing;

(D) in consultation with the Director, monitor the progress of development and implementation of flexibility plans;

(E) in consultation with the Director, coordinate and assist Federal agencies in identifying regulations of eligible Federal financial assistance programs for revision, repeal and coordination;

(F) evaluate performance standards and evaluation criteria for eligible Federal financial assistance programs, and make specific recommendations to agencies regarding how to revise such standards and criteria in order to establish specific performance and outcome measures upon which the success of such programs and the success of the plan may be compared and evaluated; and

(G) designate a Federal agency to be primarily responsible for the oversight, monitoring, and evaluation of the implementation of a plan.

(2) QUALIFICATIONS FOR STATES.—Of the 6 States selected for participation under paragraph 1 (A)—3 States shall each have a population of 3,500,000 or more as determined under the most recent decennial census; and

(B) 3 States shall each have a population of 3,500,000 or less as determined under the most recent decennial census.

(d) COORDINATION AND ASSISTANCE.—The Director, in consultation with the Board, shall coordinate and assist Federal agencies in creating—

(1) a uniform application to be used to apply for assistance from eligible Federal financial assistance programs;

(2) a release form to be used by grantees to facilitate, where appropriate and otherwise lawful, the sharing of information across eligible Federal financial assistance programs; and

(3) a system wherein an organization or consortium of organizations may use one proposal to apply for funding from multiple eligible Federal financial assistance programs.

(e) DETAILS AND ASSIGNMENTS TO BOARD.—At the request of the Board and with the approval of the appropriate Federal agency, staff of the agency may be detailed or assigned to the Board on a nonreimbursable basis.

(f) INTERAGENCY FINANCING.—Notwithstanding any other law, interagency financing is authorized to carry out the purposes of this Act.

(g) JUDICIAL REVIEW.—The actions of the Board shall not be subject to judicial review.

SEC. 06. APPLICATION FOR APPROVAL OF FLEXIBILITY PLAN.

(A) IN GENERAL.—An eligible applicant may submit to the Board in accordance with this section an application for approval of a flexibility plan.

(b) CONTENTS OF APPLICATION.—An application submitted under this section shall include—

(1) a proposed flexibility plan that complies with subsection (c);

(2) written certification by the chief executive of the applicant, and such additional assurances as may be required by the Board, that—

(A) the applicant has the ability, authority, and resources to implement the proposed plan, throughout the geographic area in which the proposed plan is intended to apply; and

(B) amounts are available from non-Federal sources to pay the non-Federal share of all eligible Federal financial assistance programs included in the proposed plan;

(C) the flexibility plan prohibits the integration or combination of program funds across existing Federal financial assistance programs which do not have similar purposes.

(3) all comments on the proposed plan submitted under subsection (d) by a Governor, affected State agency, State legislative official, or a chief executive of a local or tribal government that would be directly affected by implementation of the proposed plan, and the applicant's responses to those comments;

(4) written documentation that the eligible applicant informed the affected community of the contents of the plan and gave the public opportunity to comment upon the plan, including at least one public hearing involving agencies, qualified organizations, eligible intended beneficiaries of the plan, and others directly affected by the plan;

(5) a summary of the public comment received on the plan and the applicant's responses to the significant comments;

(6) other relevant information the Board may require to review or approve the proposed plan.

(c) CONTENTS OF PLAN.—A flexibility plan submitted by an eligible applicant under this section shall include—

(1) the geographic area and timeframe to which the plan applies and the rationale for selecting the area and timeframe;

(2) the particular groups of individuals, by service needs, economic circumstances, or other defining factors, who currently receive services and benefits under the eligible Federal financial assistance programs included in the plan and the particular groups of individuals, by service needs, economic circumstances, or other defining factors who would receive services and benefits under the plan;

(3) the specific goals and measurable performance criteria that demonstrate how the plan is expected to improve the delivery of services to the public including—

(A) a description of how performance shall be measured under the plan when compared to the current performance of the eligible Federal financial assistance programs included in the plan; and

(B) a system for the comprehensive evaluation of the impact of the plan on individuals who receive services and benefits in the community affected by the plan, that shall include—

(i) a list of goals to improve the community and the lives of its citizens in the geographic area covered by the plan;

(ii) a list of goals identified by the State in which the plan is to be implemented, if such goals have been established by the State; and

(iii) a description of how the plan will—

(I) attain the goals listed in clauses (i) and (ii);

(II) measure performance; and

(III) collect and maintain data;

(4) the eligible Federal financial assistance programs included in the plan and the specific services and benefits to be provided under the plan under such programs, including—

(A) criteria for determining eligibility for services and benefits under the plan;

(B) the services and benefits available under the plan;

(C) the amounts and form (such as cash, in-kind contributions, or financial instruments) of non-service benefits; and

(D) any other descriptive information the Board considers necessary to approve the plan;

(5) a description of the statutory goals and purposes of each Federal financial assistance program included in the plan and how the goals and purposes of such programs shall more effectively be met at the State, local and tribal level;

(6) a general description of how the plan appropriately addresses any effect that administration of each eligible Federal financial assistance program included in the plan would have on the administration of programs not included in the plan;

(7) a description of how the flexibility plan will adequately achieve the purposes of this Act;

(8) except for the requirements described under section 7(f)(3), any Federal statutory or regulatory requirement of an eligible Federal financial assistance program included in the plan, the waiver of which is necessary to implement the plan, and the detailed justification for the waiver request;

(9) any State, local, or tribal statutory, regulatory, or other requirement, the waiver of which is necessary to implement the plan, and an indication of commitment of the appropriate State, local, or tribal governments to grant such waivers;

(9) a description of the Federal fiscal control and related accountability procedures applicable under the plan;

(10) a description of the sources and amounts of all non-Federal funds that are required to carry out eligible Federal financial assistance programs included in the plan;

(11) verification that Federal funds made available under the plan will not supplant non-Federal funds for existing services and activities that promote the goals of the plan;

(12) verification that none of the Federal funds under the plan would be used to—

(A) meet maintenance of effort requirements of such an activity, or

(B) meet State, local, or tribal matching shares; and

(13) any other relevant information the Board may require to approve the plan;

(d) PROCEDURE FOR APPLYING.—

(1) SUBMISSION TO AFFECTED STATE AND LOCAL GOVERNMENTS.—An eligible applicant shall submit an application for approval of a proposed flexibility plan to each State government and each local government that the applicant deems to be directly affected by the plan, at least 60 days before submitting the application to the Board.

(2) REVIEW BY AFFECTED GOVERNMENT.—The Governor, affected State agency head, State legislative official, and the chief executive officer of a local government that receives an application submitted under paragraph (1) may each, by no later than 60 days after the date of that receipt—

(A) prepare comments on the proposed flexibility plan included in the application;

(B) describe and make commitments to waive any State or local laws or other requirements which are necessary for successful implementation of the proposed plan; and

(C) submit the comments and commitments to the eligible applicant.

(3) SUBMITTAL TO BOARD.—Applications for approval of a flexibility plan shall only be submitted to the Board between—

(A) October 1, 1997 and March 31, 1998; or

(B) October 1, 1998 and March 31, 1999.

(4) ACTION BY AFFECTED GOVERNMENT.—If the Governor, affected State agency head, State legislative official or the chief executive officer of a local government—

(A) fails to act on or otherwise endorse a plan application within 60 days after receiving an application under paragraph (1);

(B) does not make and submit to the eligible applicant the commitments described in paragraph (2) (A) and (B); or

(C) disagrees with all or part of the proposed flexibility plan;

the eligible applicant may submit the application to the Board if the application is amended as necessary for the successful implementation of the proposed plan without the commitment made under paragraph (2)(B), including by adding an updated description of the ability of the proposed flexibility plan to meet plan goals and satisfy performance criteria in the absence of statutory and regulatory waivers and financial and technical support from the State or local government.

(e) TRIBAL SOVEREIGNTY.—Nothing under this Act shall be construed to affect, or otherwise alter, the sovereign relationship between tribal governments and the Federal Government.

(f) ELIGIBILITY FOR OTHER ASSISTANCE.—Disapproval by the Board of a flexibility plan submitted by an eligible applicant under this Act shall not affect the eligibility of the applicant for assistance under any Federal program.

(g) STATE, LOCAL OR TRIBAL AUTHORITY.—Nothing in this Act shall be construed to grant the Board, Federal agency, or any eligible applicant authority to waive or otherwise preempt—

(1) any State, local, or tribal law or regulation including the legal authority under State law of any affected State agency, State entity, or public official over programs that are under the jurisdiction of the agency, entity or official; or

(2) the existing authority of a State, local, or tribal government or qualified organization or consortium with respect to an eligible Federal financial assistance program included in the plan unless such entity has consented to the terms of the plan.

SEC. 07. REVIEW AND APPROVAL OF FLEXIBILITY PLANS AND WAIVER REQUESTS.

(a) REVIEW OF APPLICATIONS.—Upon receipt of an application for approval of a proposed flexibility plan, the Board shall notify the eligible applicant as to whether or not the plan is complete. If the Board determines a plan is complete, the Board shall—

(1) establish procedures for consultation with the applicant during the review process;

(2) publish notice of the application for approval in the Federal Register and make available the contents to any interested party upon written request;

(3) if appropriate, coordinate public hearings on the plan by either the Board or the appropriate Federal agency;

(4) approve or disapprove plans submitted under—

(i) section 6(d)(3)(A) no later than July 31, 1998; or

(ii) section 6(d)(3)(B) no later than July 31, 1999;

(5) in the case of any disapproval of a plan, include written justification of the reasons for disapproval in the notice of disapproval sent to the applicant;

(6) publicly announce and forward to Congress on July 31, 1998 and July 31, 1999, the list of approved flexibility plans, including an identification of approved plans that request statutory or regulatory waivers and the identification of such requested waivers.

(b) APPROVAL—

(1) IN GENERAL.—The Board may approve a flexibility plan for which an application is submitted by an eligible applicant under this Act, if the Board determines that—

(A) the contents of the application for approval of the plan comply with the requirements of this Act; and

(B) the contents of the flexibility plan indicate that the plan will effectively achieve the purposes of this Act described in section 3 by adhering to the conditions described in sections 6 and 7;

(2) RESTRICTION.—(A) The Board may approve no more than 30 plans; and

(B) only three approved plans may be submitted by state applicants.

(3) REQUIREMENT TO DISAPPROVE PLAN.—The Board must disapprove a flexibility plan if the Board determines that—

(A) implementation of the plan would result in any increase in the total amount of obligations or outlays of discretionary appropriations or direct spending under Federal financial assistance programs, over the amounts of such obligations and outlays that would occur under those programs without implementation of the plan; or

(B) the flexibility plan fails to comply with paragraph (1).

(4) SPECIFICATION OF PERIOD OF EFFECTIVENESS.—In approving any flexibility plan, the Board shall specify the period during which the plan is effective, which is no case shall be greater than 5 years from the date of approval.

(d) MEMORANDA OF UNDERSTANDING REQUIRED.—

(1) IN GENERAL.—An approved flexibility plan may not take effect until the Board receives a signed memorandum of understanding agreed to by the eligible applicant that would receive Federal financial assistance administered under the flexibility plan and by each affected Federal agency.

(2) CONTENTS.—A memorandum of understanding under this subsection shall specify all understanding that have been reached by the affected Federal agencies and the eligible applicant. The memorandum shall include understanding with respect to—

(A) the conditions described in sections 6 and 7;

(B) the effective dates of all State; local or tribal government waivers;

(C) technical or special assistance being provided to the eligible applicant; and

(D) the effective date and timeframe of the plan and each Federal waiver approved in the plan;

(E)(i) the total amount of Federal funds that will be provided as services and benefits under or used to administer eligible Federal financial assistance programs included in the plan; or

(ii) a mechanism for determining that amount, including specification of the total amount of Federal funds that will be provided or used under each eligible Federal financial assistance program included in the plan.

(e) LIMITATION ON CONFIDENTIALITY REQUIREMENTS.—The Board may not, as a condition of approval of flexibility plan or with respect to the implementation of an approved flexibility plan, establish any confidentiality requirement that would—

(1) impede the exchange of information needed for the design or provision of services and benefits under the plans; or

(2) conflict with law.

(f) LIMITATION ON THE USE OF FUNDS.—The Board may not approve any plan that includes funds under an eligible Federal financial assistance program to—

(1) support tuition vouchers for children attending private elementary or secondary schools; or

(2) otherwise pay their cost of attending such schools.

(g) WAIVERS OF FEDERAL REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other law and subject to paragraphs (2) and (3), affected Federal agencies may waive, for a period of time not to exceed 5 years from the date the Board receives a signed memorandum of understanding, any statutory or regulatory requirement of an eligible Federal assistance program included in an approved flexibility plan of an eligible applicant if that waiver is—

(A) necessary for implementation of the flexibility plan;

(B) not disapproved by the Board; and

(C) necessary to effectively achieve the purposes of this Act described in section 3 by adhering to the conditions described in sections 6 and 7.

(2) EFFECTIVE PERIOD OF WAIVER.—A waiver granted under this section shall terminate on the earlier of—

(A) the expiration of a period specified by the affected Federal agency not to exceed five years from the date the Board receives the signed memorandum of understanding; or

(B) any date on which the flexibility plan for which the waiver is granted ceases to be effective.

(3) RESTRICTION ON WAIVER AUTHORITY.—Any affected Federal agency may not grant a waiver for a statutory or regulatory requirement of an eligible Federal financial assistance program requested under this section that—

(A) may be waived under another provision of law except in accordance with the requirements and limitations imposed by that other provision of law;

(B) enforces statutory or constitutional rights of individuals including the right to equal access and opportunity in housing and education, including any requirement under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq);

(C) enforces any civil rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;

(D) protects public health and safety, the environment, labor standards, or worker safety;

(E) provides for a maintenance of effort, matching share or prohibition on supplanting; or

(F) grants any person a cause of action.

SEC. 08. IMPLEMENTATION, AMENDING AND TERMINATION OF APPROVED FLEXIBILITY PLANS.

(a) IMPLEMENTATION.—

(1) The Board, in consultation with the Director, shall issue guidance to implement this Act within 180 days after the date of enactment of this Act.

(2) Notwithstanding any other law, any service or benefit that is provided under an eligible Federal financial assistance program included in an approved flexibility plan shall be paid and administered in the manner specified in the approved flexibility plan.

(3) The authority provided under this Act to waive provisions of grant agreements may be exercised only as long as the funds provided for the grant program in question are available for obligation by the Federal Government.

(b) AMENDING OF FLEXIBILITY PLAN.—

(1) In the event that an eligible applicant—

(A) desires an amendment to an approved flexibility plan in order to better meet the purposes of this Act; or

(B) requires an amendment to ensure continued implementation of an approved flexibility plan, the applicant shall—

(i) submit the proposed amendment to the Board for review and approval; and

(ii) upon approval, enter into a revised memorandum of understanding with the affected Federal agency.

(2) Approval of the Board and, when appropriate, affected Federal agency, shall be based upon the same conditions required for approval of a flexibility plan.

(c) TERMINATION OF PLAN.—

(1) TERMINATION OF PLAN BY BOARD.—

(A) IN GENERAL.—The Board shall terminate an approved flexibility plan, if, after consultation with the affected Federal agencies, the Board determines that—

(i) the applicant of the approved flexibility plan is unable to meet the commitments under this Act; or

(ii) audit or oversight activities determine there has been fraud or abuse involving Federal funds under the plan.

(B) TRANSITION PERIOD.—In terminating an approved flexibility plan under this paragraph, the Board shall allow a reasonable period of time for appropriate Federal agencies and eligible applicants to resume administration of Federal programs that are eligible Federal financial assistance programs included in the plan.

(2) REVOCATION OF WAIVER.—

(A) The Board may recommend that an affected Federal agency, and an affected Federal agency may, revoke a waiver under section 7(f) if the applicant of the approved flexibility plan fails to—

(i) comply with the requirements of the plan;

(ii) make acceptable progress towards achieving the goals and performance criteria set forth in the plan; or

(iii) use funds in accordance with the plan.

(B) Affected Federal agencies shall revoke all waivers issued under section 7(f) for a flexibility plan if the Board terminates the plan.

(C) EXPLANATION REQUIRED.—In the case of termination of a plan or revocation of a waiver, as appropriate, the Board or affected Federal agencies shall provide for the former eligible applicant a written justification of the reasons for termination or revocation.

SEC. 09 EVALUATIONS AND REPORTS.

(a) APPROVED APPLICANTS.

(1) IN GENERAL.—An applicant of an approved flexibility plan, in accordance with guidance issued by the Board, shall—

(A) submit any reports on and cooperate in any audits of the implementation of its approved flexibility plan; and

(B) monitor the effect implementation of the plan has had on—

(i) individuals who receive services and benefits under the plan;

(ii) communities in which those individuals live;

(iii) costs of administering and providing assistance under eligible Federal financial assistance programs included in the plan; and

(iv) performance of the eligible Federal financial assistance programs included in the plan compared to the performance of such programs prior to implementation of the plan.

(2) INITIAL 1-YEAR REPORT.—No later than 90 days after the end of the 1-year period beginning on the date the plan takes effect, and annually thereafter, the approved applicant, respectively, shall submit to the Board a report on the principal activities, achievements, and shortcomings under the plan during the period covered by the report, comparing those achievements and shortcomings to the goals and performance criteria included in the plan under section 6(c)(3).

(3) FINAL REPORT.—No later than 120 days after the end of the effective period of an approved flexibility plan, the approved applicant shall submit to the Board a final report on implementation of the plan, including a full evaluation of the successes and shortcomings of the plan and the effects of that implementation on individuals who receive benefits under the eligible Federal financial assistance programs under the plan.

(b) BOARD.—No later than two years after the date of the enactment of this Act, and annually thereafter, the Board shall submit a report to the President and the Congress on the Federal statutory and regulatory requirements of eligible Federal financial assistance programs that are most frequently waived under section 7(f) with respect to approved flexibility plans. The President shall review the report and identify those statutory and regulatory requirements that the President determines should be amended or repealed.

(c) DIRECTOR.—Two years after this Act goes into effect, and no less than 60 days after repeal of this Act, the Director shall report on its progress in achieving the functions outlined in section 5(d).

(c) GENERAL ACCOUNTING OFFICE.—

(1) Beginning on the date of enactment of this Act, the General Accounting Office shall—

(A) evaluate the effectiveness of eligible Federal financial assistance programs included in flexibility plans approved pursuant to this Act compared with such programs not included in a flexibility plan;

(B) establish and maintain, through the effective date of this statute, a program for the ongoing collection of data and analysis of each eligible Federal financial assistance program included in an approved flexibility plan.

(2) No later than January 1, 2005, the General Accounting Office shall submit a report to Congress and the President that describes and evaluates the results of the evaluations conducted pursuant to paragraphs (1) and any recommendations on how to improve flexibility in the administration of eligible Federal Financial assistance programs.

(d) ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.—No later than January 1, 2005, the Advisory Commission on Intergovernmental Relations shall submit a report to the Congress and President that—

(1) describes the extent to which this Act has improved the ability of State, local and tribal governments, particularly smaller units of government, to make more effective use of two or more Federal financial assistance programs included in a flexibility plan;

(2) evaluates if or how the Flexibility provided by this Act has improved the system of Federal financial assistance to State, local and tribal governments, and enabled governments and community organizations to work together more effectively; and

(3) includes recommendations with respect to flexibility for State, local and tribal governments.

SEC. 010. REPEAL.

This Act is repealed on January 1, 2005.

SEC. 011. DELIVERY DATE OF FEDERAL CONTRACT, GRANT, AND ASSISTANCE APPLICATIONS.

(a) GENERAL RULES.—

(1) DATE OF DELIVERY.—The Director of the Office of Management and Budget shall direct all Federal agencies to develop a consistent policy relating to Federal contract, grant, and other assistance applications which stipulated that if any bid, grant application, or other document required to be filled within a prescribed period or on or before a prescribed date is, after such period or such date delivered by United States mail to the agency, officer, or office with such bid, grant application, or other document is required to be made, the date of the United States postmark stamped on the cover in which such bid, grant application, or other document is mailed shall be deemed to be the date of delivery, as the case may be.

(2) MAILING REQUIREMENTS.—This subsection applies only if—

(A) the postmark date falls within the prescribed period or on or before the prescribed date for the filing (including any extension granted for such filing) of the bid, grant application, or other document; and

(B) the bid, grant application, or other document was, within the time prescribed in subparagraph (A), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, officer, or office with which the bid, grant application, or other document is required to be made.

(b) POSTMARKS.—This section shall apply in the case of postmarks not made by the United States Postal Service only if and to the extent provided by the regulations prescribed by Federal agencies.

(c) REGISTERED AND CERTIFIED MAILING.—

(1) REGISTERED MAIL.—For purposes of this section, if any such bid, grant application, or other document is sent by United States registered mail—

(A) such registration shall be prima facie evidence that the bid, grant application, or other document was delivered to the agency, officer, or office to which addressed; and

(B) the date of registration shall be deemed the postmark date.

(2) CERTIFIED MAIL.—Federal agencies are authorized to provide by regulations the extent to which the provisions of paragraph (1) of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and shall remain in effect notwithstanding section 10 of this Act.

STEVENS AMENDMENT NO. 5249

Mr. SHELBY (for Mr. STEVENS) proposed an amendment to the bill, H.R. 3756, supra; as follows:

SEC. . Notwithstanding the provision under the heading ''ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS'' under title IV of the Treasury, Postal Service, and General Government Appropriations Act, 1996 (Public Law 104–52; 109 Stat. 480), the Advisory Commission on Intergovernmental Relations may continue in existence during fiscal year 1997 and each fiscal year thereafter.

INOUYE AMENDMENT NO. 5250

Mr. SHELBY (for Mr. INHOFE) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 60, line 19 strike all through line 21.

MCCAIN AMENDMENT NO. 5251

Mr. SHELBY (for Mr. MCCAIN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . (a) No later than 45 days after the date of the enactment of this Act, the Inspector General of each Federal department or agency that uses administratively uncontrollable overtime in the pay of any employee shall—

(1) conduct an audit on the use of administratively uncontrollable overtime by employees of such department or agency, which shall include—

(A) an examination of the policies, extent, costs, and other relevant aspects of the use of administratively uncontrollable overtime at the department or agency; and

(B) a determination of whether the eligibility criteria of the department or agency and payment of administratively uncontrollable overtime comply with Federal statutory and regulatory requirements; and

(2) submit a report of the findings and conclusions of such audit to—

(A) the Office of Personnel Management;

(B) the Government Affairs Committee of the Senate; and

(C) the Government Reform and Oversight Committee of the House of Representatives.

(b) No later than 30 days after the submission of the report under subsection (a), the Office of Personnel Management shall issue revised guidelines to all Federal departments and agencies that—

(1) limit the use of administratively uncontrollable overtime to employees meeting the statutory intent of section 5545(c)(2) of title 5, United States Code; and

(2) expressly prohibit the use of administratively uncontrollable overtime for—

(A) customary or routine work duties; and

(B) work duties that are primarily administrative in nature, or occur in noncompelling circumstances.

HOLLINGS AMENDMENT NO. 5252

Mr. SHELBY (for Mr. HOLLINGS) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place, insert the following:

SEC. . Notwithstanding section 8116 of title 5, United States Code, and in addition to any payment made under 5 U.S.C. 8101 et seq., beginning in fiscal year 1997 and thereafter, the head of any department or agency is authorized to pay from appropriations made available to the department or agency a death gratuity to the personal representative (as that term is defined by applicable law) of a civilian employee of that department or agency whose death resulted from an injury sustained in the line of duty on or after August 2, 1990: *Provided*, That payments made pursuant to this section, in combination with the payments made pursuant to sections 8133(f) and 8134(a) of such title 5 and section 312 of Public Law 103–332 (108 Stat. 2537), may not exceed a total of $10,000 per employee.

SHELBY (AND KERREY) AMENDMENT NO. 5253

Mr. SHELBY (for himself and Mr. KERREY) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. . EXPLOSIVES DETECTION CANINE PROGRAM.

(a) AUTHORIZATION.—

(1) The Secretary of the Treasury is authorized to establish scientific certification standards for explosives detection canines, and shall provide, on a reimbursable basis, for the certification of explosives detection canines employed by federal agencies, or other agencies providing explosives detection services at airports in the United States.

(2) The Secretary of the Treasury shall establish an explosives detection canine training program for the training of canines for explosives detection at airports in the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SHELBY AMENDMENT NO. 5254

Mr. SHELBY proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the appropriate place in the bill, insert the following;

SEC. . DESIGNATION OF MARK O. HATFIELD UNITED STATES COURTHOUSE.

The United States Courthouse under construction at 1030 Southwest 3d Avenue in Portland, Oregon, shall be known and designated as the ''Mark O. Hatfield United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the ''Mark O. Hatfield United States Courthouse''.

SEC. 3. EFFECTIVE DATE.

This section shall take effect on January 2, 1997.

BROWN AMENDMENT NO. 5255

Mr. SHELBY (for Mr. BROWN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

At the end of the bill, add the following new title:

TITLE ___—FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Federal Financial Management Improvement Act of 1996''.

SEC. ___02. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Much effort has been devoted to strengthening Federal internal accounting controls in the past. Although progress has been made in recent years, Federal accounting standards have not been uniformly implemented in financial management systems for agencies.

(2) Federal financial management continues to be seriously deficient, and Federal financial management and fiscal practices have failed to—

(A) identify costs fully;

(B) reflect the total liabilities of congressional actions; and

(C) accurately report the financial condition of the Federal Government.

(3) Current Federal accounting practices do not accurately report financial results of the Federal Government or the full costs of programs and activities. The continued use of these practices undermines the Government's ability to provide credible and reliable financial data and encourages already widespread Government waste, and will not assist in achieving a balanced budget.

(4) Waste and inefficiency in the Federal Government undermine the confidence of the American people in the Government and reduce the Federal Government's ability to address vital public needs adequately.

(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the ''FASAB'') has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decisionmaking by financial managers and the Congress.

(7) The development of financial management systems with the capacity to support these standards and concepts will, over the long term, improve Federal financial management.

(b) PURPOSES.—The purposes of this title are to—

(1) provide for consistency of accounting by an agency from one fiscal year to the next, and uniform accounting standards throughout the Federal Government;

(2) require Federal financial management systems to support full disclosure of Federal financial data, including the full costs of Federal programs and activities, to the citizens, the Congress, the President, and agency management, so that programs and activities can be considered based on their full costs and merits;

(3) increase the accountability and credibility of Federal financial management;

(4) improve performance, productivity and efficiency of Federal Government financial management;

(5) establish financial management systems to support controlling the cost of Federal Government;

(6) build upon and complement the Chief Financial Officers Act of 1990 (Public Law 101–576; 104 Stat. 2838), the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the Government Management Reform Act of 1994 (Public Law 103–356; 108 Stat. 3410); and

(7) increase the capability of agencies to monitor execution of the budget by more readily permitting reports that compare spending of resources to results of activities.

SEC. ___03. IMPLEMENTATION OF FEDERAL FINANCIAL MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Each agency shall implement and maintain financial management systems that comply with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.

(b) PRIORITY.—Each agency shall give priority in funding and provide sufficient resources to implement this title.

(c) AUDIT COMPLIANCE FINDING.—

(1) IN GENERAL.—Each audit required by section 3521(e) of title 31, United States Code, shall report whether the agency financial management systems comply with the requirements of subsection (a).

(2) CONTENT OF REPORTS.—When the person performing the audit required by section 3521(e) of title 31, United States Code, reports that the agency financial management systems do not comply with the requirements of subsection (a), the person performing the audit shall include in the report on the audit—

(A) the name and position of any officer or employee responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) all facts pertaining to the failure to comply with the requirements of subsection (a), including—

(i) the nature and extent of the noncompliance;

(ii) the primary reason or cause of the noncompliance;

(iii) any official responsible for the noncompliance; and

(iv) any relevant comments from any responsible officer or employee; and

(C) a statement with respect to the recommended remedial actions and the timeframes to implement such actions.

(d) COMPLIANCE DETERMINATION.—

(1) IN GENERAL.—No later than the date described under paragraph (2), the Director, acting through the Controller of the Office of Federal Financial Management, shall determine whether the financial management systems of an agency comply with the requirements of subsection (a). Such determination shall be based on—

(A) a review of the report on the applicable agency-wide audited financial statement;

(B) the agency comments on such report; and

(C) any other information the Director considers relevant and appropriate.

(2) DATE OF DETERMINATION.—The determination under paragraph (1) shall be made no later than 90 days after the earlier of—

(A) the date of the receipt of an agency-wide audited financial statement; or

(B) the last day of the fiscal year following the year covered by such statement.

(e) COMPLIANCE IMPLEMENTATION.—

(1) IN GENERAL.—If the Director determines that the financial management systems of an agency do not comply with the requirements of subsection (a), the head of the agency, in consultation with the Director, shall establish a remediation plan that shall include the resources, remedies, and intermediate target dates necessary to bring the agency's financial management systems into compliance.

(2) TIME PERIOD FOR COMPLIANCE.—A remediation plan shall bring the agency's financial management systems into compliance no later than 2 years after the date on which the Director makes a determination under paragraph (1), unless the agency, with concurrence of the Director—

(A) determines that the agency's financial management systems are so deficient as to preclude compliance with the requirements of subsection (a) within 2 years;

(B) specifies the most feasible date for bringing the agency's financial management systems into compliance with the requirements of subsection (a); and

(C) designates an official of the agency who shall be responsible for bringing the agency's

financial management systems into compliance with the requirements of subsection (a) by the date specified under subparagraph (B).

(3) TRANSFER OF FUNDS FOR CERTAIN IMPROVEMENTS.—For an agency that has established a remediation plan under paragraph (2), the head of the agency, to the extent provided in an appropriation and with the concurrence of the Director, may transfer not to exceed 2 percent of available agency appropriations to be merged with and to be available for the same period of time as the appropriation or fund to which transferred, for priority financial management system improvements. Such authority shall be used only for priority financial management system improvements as identified by the head of the agency, with the concurrence of the Director, and in no case for an item for which Congress has denied funds. The head of the agency shall notify Congress 30 days before such a transfer is made pursuant to such authority.

(4) REPORT IF NONCOMPLIANCE WITHIN TIME PERIOD.—If an agency fails to bring its financial management systems into compliance within the time period specified under paragraph (2), the Director shall submit a report of such failure to the Committees on Governmental Affairs and Appropriations of the Senate and the Committees on Government Reform and Oversight and Appropriations of the House of Representatives. The report shall include—

(A) the name and position of any officer or employee responsible for the financial management systems that have been found not to comply with the requirements of subsection (a);

(B) the facts pertaining to the failure to comply with the requirements of subsection (a), including the nature and extent of the noncompliance, the primary reason or cause for the failure to comply, and any extenuating circumstances;

(C) a statement of the remedial actions needed; and

(D) a statement of any administrative action to be taken with respect to any responsible officer or employee.

(f) PERSONAL RESPONSIBILITY.—Any financial officer or program manager who knowingly and willfully commits, permits, or authorizes material deviation from the requirements of subsection (a) may be subject to administrative disciplinary action, suspension from duty, or removal from office.

SEC. ___04. APPLICATION TO CONGRESS AND THE JUDICIAL BRANCH.

(a) IN GENERAL.—The Federal financial management requirements of this title may be adopted by—

(1) the Senate by resolution as an exercise of the rulemaking power of the Senate;

(2) the House of Representatives by resolution as an exercise of the rulemaking power of the House of Representatives; or

(3) the Judicial Conference of the United States by regulation for the judicial branch.

(b) STUDY AND REPORT.—No later than October 1, 1997—

(1) the Secretary of the Senate and the Clerk of the House of Representatives shall jointly conduct a study and submit a report to Congress on how the offices and committees of the Senate and the House of Representatives, and all offices and agencies of the legislative branch may achieve compliance with financial management and accounting standards in a manner comparable to the requirements of this title; and

(2) the Chief Justice of the United States shall conduct a study and submit a report to Congress on how the judiciary may achieve compliance with financial management and accounting standards in a manner comparable to the requirements of this title.

SEC. ___05. REPORTING REQUIREMENTS.

(a) REPORTS BY DIRECTOR.—No later than March 31 of each year, the Director shall submit a report to the Congress regarding implementation of this title. The Director may include the report in the financial management status report and the 5-year financial management plan submitted under section 3512(a)(1) of title 31, United States Code.

(b) REPORTS BY THE COMPTROLLER GENERAL.—No later than October 1, 1997, and October 1, of each year thereafter, the Comptroller General of the United States shall report to the appropriate committees of the Congress concerning—

(1) compliance with the requirements of section ___03(a) of this title, including whether the financial statements of the Federal Government have been prepared in accordance with applicable accounting standards; and

(2) the adequacy of uniform accounting standards for the Federal Government.

SEC. ___06. CONFORMING AMENDMENTS.

(a) AUDITS BY AGENCIES.—Section 3521(f)(1) of title 31, United States Code, is amended in the first sentence by inserting ''and the Controller of the Office of Federal Financial Management'' before the period.

(b) FINANCIAL MANAGEMENT STATUS REPORT.—Section 3512(a)(2) of title 31, United States Code, is amended by—

(1) in subparagraph (D) by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following:

''(E) a listing of agencies whose financial management systems do not comply substantially with the requirements of the Federal Financial Management Improvement Act of 1996, the period of time that such agencies have not been in compliance, and a summary statement of the efforts underway to remedy the noncompliance; and''.

SEC. ___07. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term ''agency'' means a department or agency of the United States Government as defined in section 901(b) of title 31, United States Code.

(2) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(3) FEDERAL ACCOUNTING STANDARDS.—The term ''Federal accounting standards'' means applicable accounting principles, standards, and requirements consistent with section 902(a)(3)(A) of title 31, United States Code, and includes concept statements with respect to the objectives of Federal financial reporting.

(4) FINANCIAL MANAGEMENT SYSTEMS.—The term ''financial management systems'' includes the financial systems and the financial portions of mixed systems necessary to support financial management, including automated and manual processes, procedures, controls, data, hardware, software, and support personnel dedicated to the operation and maintenance of system functions.

(5) FINANCIAL SYSTEM.—The term ''financial system'' includes an information system, comprised of one or more applications, that is used for—

(A) collecting, processing, maintaining, transmitting, or reporting data about financial events;

(B) supporting financial planning or budgeting activities;

(C) accumulating and reporting costs information; or

(D) supporting the preparation of financial statements.

(6) MIXED SYSTEM.—The term ''mixed system'' means an information system that supports both financial and nonfinancial functions of the Federal Government or components thereof.

SEC. ___08. EFFECTIVE DATE.

This title shall take effect on October 1, 1996.

REID (AND OTHERS) AMENDMENT NO. 5256

Mr. REID (for himself, Mr. LEVIN, and Mr. BIDEN) proposed an amendment to the bill, H.R. 3756, supra; as follows:

On page 91, line 3, strike ''The'' and insert ''Except as provided in subsection (f), the''.

On page 92, between lines 21 and 22, add the following:

(f)(1) Any former employee of the White House Travel Office whose employment in that office was terminated on May 19, 1993, and who was subject to criminal indictment for conduct in connection with such employment, shall be reimbursed for attorney fees and costs under this section but only if the claim for such attorney fees and costs, which shall be referred to the chief judge of the United States Court of Federal Claims, is determined by the chief judge to be a legal or equitable claim, as provided in paragraph (2).

(2) The chief judge shall—

(A) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(B) report back to the Senate, at the earliest practicable date, providing—

(i) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in this section as a legal or equitable claim against the United States or a gratuity; and

(ii) the amount, if any, legally or equitably due from the United States to any individual referred to in this section.

HATCH AMENDMENT NO. 5257

Mr. HATCH proposed an amendment to amendment No. 5256 proposed by Mr. REID to the bill, H.R. 3756, supra; as follows:

Strike all after the first word and insert the following:

(2) VERIFICATION REQUIRED.—The Secretary shall pay an individual in full under paragraph (1) upon submission by the individual of documentation verifying the attorney fees and costs.

(3) NO INFERENCE OF LIABILITY.—Liability of the United States shall not be inferred from enactment of or payment under this subsection.

(b) LIMITATION ON FILING OF CLAIMS.—The Secretary of the Treasury shall not pay any claim filed under this section that is filed later than 120 days after the date of the enactment of this Act.

(c) LIMITATION.—Payments under subsection (a) shall not include attorney fees or costs incurred with respect to any Congressional hearing or investigation into the termination of employment of the former employees of the White House Travel Office.

(d) REDUCTION.—The amount paid pursuant to this section to an individual for attorney fees and costs described in subsection (a) shall be reduced by any amount received before the date of the enactment of this Act, without obligation for repayment by the individual, for payment of such attorney fees and costs (including any amount received from the funds appropriated for the individual in the matter relating to the ''Office of the General Counsel'' under the heading ''Office of the Secretary'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1994).

(c) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—Payment under this section, when accepted by an individual described in subsection (a), shall be in full satisfaction of all claims of, or on behalf of, the individual against the United States that arose out of the termination of the White House Travel Office employment of that individual on May 19, 1993.

SEC. 529. None of the funds made available in this Act may be used by the Executive Office of the President to request from the Federal Bureau of Investigation any official background investigation report on any individual, except when it is made known to the Federal official having authority to obligate or expend such funds that—

(1) such individual has given his or her express written consent for such request not more than 6 months prior to the date of such request and during the same presidential administration; or

(2) such request is required due to extraordinary circumstances involving national security.

SEC. 528. (a) REIMBURSEMENT OF CERTAIN ATTORNEY FEES AND COSTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall pay from amounts appropriated in title I of this Act under the heading, ''Departmental Offices, Salaries and Expenses'', up to $499,999 to reimburse former employees of the White House Travel Office whose employment in that Office was terminated on May 19, 1993, for any attorney fees and costs they incurred with respect to that termination.

NOTICE OF HEARING

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, September 19, 1996, at 9:30 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss Social Security reform.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, September 11, 1996, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

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

COMMITTEE ON THE JUDICIARY

Mr. SHELBY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 11, 1996, at 2 p.m. to hold a hearing on ''Mergers and Competition in the Telecommunications Industry.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SHELBY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 11, 1966, at 9 a.m. to hold a closed business meeting.

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

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS

Mr. SHELBY. Mr. President, I ask unanimous consent that the Subcommittee on International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 11, at 2 p.m.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. SHELBY. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Wednesday, September 11, at 9:30 a.m., Hearing Room (SD–406) on the Intermodal Surface Transportation Efficiency Act and the role of Federal, State, and local governments in surface transportation.

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

ADDITIONAL STATEMENTS

REGARDING PUERTO RICO ECONOMIC INCENTIVES

● Mr. D'AMATO. Mr. President, I have said in the past, and continue to believe, that the action taken by Congress in eliminating section 936 without a permanent replacement program that provides a major stimulus to economic development in Puerto Rico and the creation of well-paying and stable jobs was unfortunate.

We have the seeds of a replacement program in new Internal Revenue Code section 30A that provides a targeted wage credit to companies currently doing business in Puerto Rico based upon the compensation paid to their qualified employees. Although this is certainly movement in the right direction, it does not allow new business starts, and the credit will sunset in 10 years. As such, it does not provide the permanency that is needed to maintain the economic development of Puerto Rico, and will adversely impact States like New York.

Corporations headquartered in New York State that have invested in Puerto Rico employ over 39,000 persons in New York. Moreover, Puerto Rican subsidiaries of mainland companies purchase approximately $195 million per year worth of supplies and services from New York. Consequently, when the wage credit sunsets in 2006 and corporations are drawn to other regions where there are tax incentives, New York State will lose not only jobs, but a significant amount of income from goods and services.

Mr. President, Congress needs to work with the elected representatives of Puerto Rico to expand section 30A into a dynamic and effective job creation incentive that helps to bring new and high-paying jobs to Puerto Rico. By doing so, we will raise Puerto Rico's economic standards and provide efficient Federal incentives to accomplish those goals. I firmly believe that Congress, working with Governor Rossello and other elected leaders from Puerto Rico, can successfully fashion a program that achieves economic progress for Puerto Rico and efficiency in Federal expenditures.●

SHOULD WE TROT OUT THE NEW DEAL AGAIN?

● Mr. SIMON. Mr. President, one of the ablest aldermen in the city of Chicago, Burton F. Natarus, recently had a commentary in the Chicago Tribune in which he calls for a public works program along the lines of the WPA. It makes eminent good sense.

We can learn from history, but we're apparently unwilling to do it.

The welfare bill that passed is going to cause huge problems in our society if we don't come up with something better and do it quickly.

A WPA type of welfare reform would cost a little more initially, but saves huge amounts of money in the long run and be of great assistance to impoverished areas, whether rural or urban.

Right now we are trying to have welfare reform but do it without creating jobs for the unskilled and without having day care for their children.

Anything labeled ''welfare reform'' that doesn't provide the jobs and doesn't provide day care is not really welfare reform.

Mr. President, I ask that Alderman Natarus' article be printed in the RECORD.

The article follows:

[From the Chicago Tribute, Aug. 22, 1996]

SHOULD WE TROT OUT THE NEW DEAL AGAIN?

(By Burton F. Natarus)

On July 24, the Senate approved a comprehensive welfare bill, the most sweeping change since the creation of the New Deal 60 years ago. Federal guarantees of cash assistance for the nation's poorest children have evaporated and states will be given new powers to run welfare on their own. The measure also imposes a five-year lifetime limit on cash assistance payments to any family and requires the head of every family on welfare to work within two years or lose benefits.

While we laud the new thrust toward the self-sufficiency of our population, and the end of the obsolete aspects of the 60-year-old welfare system, we have serious concerns about jobs. Where are they to come from? Where is the new workforce to go? To Bainbridge Island, Wash., to work for Microsoft? To the high-tech Naperville corridor for that chemical engineering position? The welfare reform bill, which President Clinton is expected to sign, presumes there will be jobs available for the workforce. These jobs may or may not exist and we have to face the brutal fact that generations of welfare families have no saleable working skills. Recall the controversial ''workfare'' Comprehensive Employment and Training Act program from the Nixon administration in the flush, moneyed '70s, when Congress tried to create jobs accompanied by teaching and skills