to both the Congress and the Executive branch.

The limitation of offenses under H.R. 5043 to acts done for compensation also is of concern. There may be circumstances in which a current employee who misuses official authority or a former employee who misuses influence should be subject to penalties even though no compensation is involved. In that respect, the provisions of H.R. 5043 would have failed to reach conduct that should be prohibited and thus would have significantly weakened current law. The Attorney General and the Director of the Office of Government Ethics find this provision to be particularly objectionable.

I support several positive aspects of H.R. 5043 that would substantially improve the effectiveness of Federal post-employment restriction laws. The bill would have granted the Attorney General the power to seek civil penalties for violations of the post-employment restrictions and to obtain injunctions from Federal courts to prevent impending violations. The bill also would have permitted the Attorney General to distinguish between misdemeanor and felony violations of the restrictions in charging individuals. The bill also would have adjusted the 1-year ban on certain contacts with a former employee's former agency to make clear that it applies to matters in which the United States has a direct interest, even if that particular agency does not have a direct interest. Finally, the bill would have eliminated the compartmentalization of the Executive Office of the President for purposes of post-employment restrictions. I urge that future legislation on post-employment restrictions incorporate these positive aspects of H.R. 5043.

Above all, in considering future post-employment restrictions legislation, the Congress should focus on drafting legislation that will be clear and understandable to current, former, and future Federal employees. The bill would create a confusing patchwork of different requirements for seven categories of covered officials: "senior", "other senior", "very senior", all Executive branch, Members of Congress, congressional employees, and former Presidents and Vice Presidents. The law should be clear so that employees joining the Government will understand what will be expected of them when they leave, former employees will know reliably the limits on their conduct, and Federal officials charged with enforcing the law and providing advice can discharge their duties effectively.

In withholding my approval of H.R. 5043, I am well aware that there will be criticisms. But I must act on this bill according to my judgment of what is best for the country. While this bill would not have affected me or my Administration, it is fundamentally flawed and would have made securing good government for America substantially more difficult. I urge the Congress and the new Administration to address effectively and fairly the standards of conduct for Federal employees when the Congress convenes.

RONALD REAGAN.

THE WHITE HOUSE, *November 23, 1988.*

H.R. 5560

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 5560, a bill making technical corrections relating to the "Health Omnibus Programs Extension of 1988," which I approved on November 4, 1988 (Public Law 100-607).

My approval of H.R. 5560 is unnecessary, because its provisions are identical to Title II, Subtitle G of H.R. 5210, the "Anti-Drug Abuse Act of 1988," which I was pleased to approve on November 18, 1988. Accordingly, and in order to avoid creating further technical problems, I am withholding my approval of H.R. 5560.

RONALD REAGAN.

THE WHITE HOUSE, *November 23, 1988.*

S. 508

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 508, the "Whistleblower Protection Act of 1988." I regret that the Congress did not present me with constitutional and effective legislation to expand the protections and procedural rights afforded to Federal employees who report fraud, waste, and abuse they discover in Federal programs.

Reporting of mismanagement and violations of the law, often called whistleblowing, contributes to efficient use of taxpayers' dollars and effective government. Such reporting is to be encouraged, and those who make the reports must be protected. At the same time, we must ensure that heads of departments and agencies can manage their personnel effectively. Enactment of S. 508 would have redesigned the whistleblower protection process so that employees who are not genuine whistleblowers could manipulate the process to their advantage simply to delay or avoid appropriate adverse personnel actions.

To ensure that Federal employees who report mismanagement are protected from reprisal, while ensuring that Federal personnel managers are not saddled with routinely defending appropriate decisions they make, I have directed the Attorney General, working with the Director of the Office of Management and Budget and the Director of the Office of Personnel Management, to prepare constitutional and effective whistleblower protection legislation for me to submit at the beginning of the next session of the Congress.

A major objection to S. 508 is its change of the factual showings required of employees in making their cases in whistleblower proceedings. Section 1221(e) of Title 5 of the United States Code, as contained in S. 508, would have interfered substantially with personnel management in Federal departments and agencies. Current law strikes a proper balance between the showings required of employees and agencies in making their cases before the Merit Systems Protection Board. Section 1221(e) would have removed the requirement that employees demonstrate in Merit Systems Protection Board proceedings that whistleblowing by the employee was a substantial factor in the agency's personnel action decision about which the employee complains. Moreover, that Section would have imposed the heavier burden upon the department or agency of proving by clear and convincing evidence—which is a much higher legal standard than proof by a preponderance of the evidence that applies in most civil matters in American courts—that the same decision would have occurred in the absence of any whistleblowing. The substantially reduced factual showing required of the employee and the substantially increased burden on agencies essentially rigs the Board's process against agency personnel managers in favor of employees. The interests of both employees and managers should be fully protected.

The provisions of S. 508 also raised serious constitutional concerns. Section 3 of the bill amends chapter 12 in Title 5 of the United States Code substituting new Sections 1201 through 1222. Section 1211 creates an Office of Special Counsel and purports to insulate the Office from presidential supervision and to limit the power of the President to remove his subordinates from office. Section 1217 purports to prohibit review within the Executive branch of views of the Office of Special Counsel proposed to be transmitted in response to congressional committee requests.

Section 1212(d)(3)(A) of Title 5, as contained in the bill, purports to authorize the Special Counsel to obtain judicial review of most decisions of the Merit Systems Protection Board in proceedings to which the Special Counsel is a party. Implementation of this provision would place two Executive branch agencies before a Federal court to resolve a dispute between them. The litigation of intra-Executive branch disputes conflicts with the constitutional grant of the Executive power to the President, which includes the authority to supervise and resolve disputes between his subordinates. In addition, permitting the Executive branch to litigate against itself conflicts with constitutional limitations on the exercise of the judicial power of the United States to actual cases or controversies between parties with concretely adverse interests.

These provisions could not have been implemented to the extent that they are inconsistent with the President's constitutional authority and duty to faithfully execute the laws, supervise his subordinates in the Executive branch, and recommend such measures to the Congress as he judges necessary and expedient, and Article

III requirements for the exercise of the judicial power.

RONALD REAGAN.

THE WHITE HOUSE, *October 26, 1988.*

S. 437

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 437, a bill "to authorize the refinancing of certain small business debentures, and for other purposes". The bill would have shortchanged American taxpayers by allowing certain borrowers to prepay their Federally guaranteed loans at reduced premiums.

Under Section 503 of the Small Business Investment Act of 1958, the Small Business Administration may guarantee a particular type of bond, known as a debenture, issued by State and local development companies. The companies have sold these debentures to the Department of the Treasury's Federal Financing Bank and used the proceeds received to make loans to small business borrowers.

The amendment made by Section 1 of S. 437 would have permitted development companies to prepay their debentures held by the Bank at substantially reduced premiums and to finance the prepayments by issuing new debentures fully guaranteed by the Government. Such an arrangement would in effect allow a borrower to change the borrowing terms to which it had previously agreed any time it is financially favorable to the borrower—and therefore unfavorable to the Bank and American taxpayers—to do so. Although prepayments under the amendments made by Section 1 of S. 437 temporarily would have reduced the Federal deficit, in future years the deficit would have been substantially increased as the result of the borrowers' avoidance of interest payments that would have been paid in the absense of prepayments.

Under Section 303 of the Small Business Investment Act, the Small Business Administration may purchase debentures issued by a small business investment company. The amendment made by Section 2 of S. 437 authorizes adjustment in certain circumstances of the interest rates on such debentures and provides that the face amount of the debenture with an adjusted interest rate will not be treated as new budget authority or new credit authority. This artificial budget accounting rule conflicts with the Federal budget accounting practices of the Office of Management and Budget and the Congressional Budget Office. The result of this accounting sleight of hand would have been to understate the adverse impact of Section 2 of S. 437 on the Federal budget deficit.

RONALD REAGAN.

THE WHITE HOUSE, *October 31, 1988.*

S. 2751

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 2751, a bill "to designate certain lands in Montana as wilderness, to release other forest lands for multiple use management, and for other purposes." My Administration's National Forest System Land and Resource Management Plans for Montana already strike the appropriate balance among competing economic, environmental, and cultural interests in the National Forests of Montana. The provisions of S. 2751 would have severely disrupted that balance.

Enactment of the bill would injure the economy of Montana. It could cost jobs and eliminate vast mineral development opportunities. It also would reduce the flexibility the Federal Government needs in managing the Nation's natural heritage.

The legislation would constrain the ability of the Federal Government to obtain strategic and critical minerals. These minerals are necessary to supply military, industrial, and essential civilian needs during national defense emergencies and are not now found or produced in the United States in sufficient quantities to meet those needs.

Finally, the legislation would have provided for the Federal Government to exchange revenue-producing Federal land for nonrevenue-producing land. The resulting loss in revenue to the Treasury would have increased the Federal deficit and imposed an unwanted and unneeded burden on the American taxpayer.

RONALD REAGAN.

THE WHITE HOUSE, *November 2, 1988.*

S. 1081

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 1081, a bill "to establish a coordinated National Nutrition Monitoring and Related Research program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development and support of such program and plan".

The Administration strongly supports the principal goals of this legislation and reaffirms its commitment to use existing authority to achieve these ends. However, enactment of the bill would set up Federal nutrition efforts on the wrong course.

The bill would create a substantial amount of unnecessary and complex Federal bureaucracy that would hamper the achievement of the bill's goals. Under the bill, the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly, would bear responsibility for nutrition information collection and analysis, planning for research and grants, and government-wide nutrition program budgeting. The bill also would create an Administrator of Nutrition Monitoring and Related Research, an Interagency Board for Nutrition Monitoring and Related Research, and a Nutrition Monitoring Advisory Council. The creation of so much new Federal bureaucracy would hinder, rather than aid, performance of Federal nutrition-related functions.

The bill would impose a substantial new burden on the American taxpayer in future years to pay for Federal Government grants. First, the bill would require the Secretaries, acting jointly, to develop a comprehensive plan for a coordinated nutrition program. Then it specifies that the program must include at least two new programs of Federal grants, under which the Federal Government would make awards of taxpayers' dollars. The bill then further specifies that the comprehensive plan shall "constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research". Thus, the bill would effectively program substantial new grant funding into future Federal budgets.

Experience shows that once the Federal Government begins handing out money under a new grant program, a political constituency develops that demands greater funding for that program. Greater scrutiny should be given to the need for the proposed new grant programs before they are locked in as a future expansion of the Federal budget, especially given the likely urgent future needs in other areas of the Federal budget.

RONALD REAGAN.

THE WHITE HOUSE, *November 8, 1988.*

H.R. 2596

POCKET VETO

Pursuant to the Constitution of the United States, Article I, Section 7, the following bill (H.R. 2596) of the House failed to become law by pocket veto:

An Act to improve Federal management of lands on Admiralty Island, Alaska.

¶129.151 REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on double standards: A review of criminal investigations at the Department of Education (Rept. No. 100-1105). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on "If This is Tuesday, This Must Be Belgium": Waste and abuse in foreign travel and aircraft usage and ownership by the Corps of Engineers (Rept. No. 100-1106). Ordered to be printed.

[Submitted Dec. 13, 1988]

Mr. LELAND: Select Committee on Hunger. Progress report on the activities of the Select Committee on Hunger during the 100th Congress (Rept. No. 100-1107). Referred to the