HOUSE OF REPRESENTATIVES—*Friday, December 18, 1987*

The House met at 10 a.m.

The Reverend J. Blaine Blubaugh, Christ United Methodist Church, Arlington, VA, offered the following prayer:

Almighty God, as we come from rest to labor grant us unencumbered minds to think and act. Give us the spirit of wisdom and understanding to execute the function of our responsible positions.

Sensitize us to Your presence and to the needs of others here and abroad. Help us to live in such a manner that we will not fear disclosure here or in the life to come. Help us not to lose sight of our calling and to keep our honor, hope, and moral principles alive.

We pray for wisdom to authenticate basic problems in order to avoid superficial or temporary solutions. Strengthen and encourage us to resist undue pressures that come from vested interests.

May all who serve here be examples to citizenry wherever they travel so that all with whom they come in contact may realize that service to our Creator and humanity is an honorable work of life.

We pray for the families of these who serve our Nation and ask for a measure of strength and grace for them to cope. We ask Your blessing upon the President, the Speaker, the Members of this House and all who serve with this Congress.

As we near the conclusion of the business of this 1st session of the 100th Congress may the spirit of peace and good will be present in our minds and hearts. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BROWN of Colorado. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BROWN of Colorado. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 125, not voting 56, as follows:

[Roll No. 493]

YEAS—252

Ackerman	Florio	McCurdy
Akaka	Foglietta	McEwen
Anderson	Foley	McHugh
Andrews	Ford (TN)	McMillen (MD)
Annunzio	Frank	Mfume
Anthony	Frost	Miller (WA)
Applegate	Garcia	Mineta
Archer	Gaydos	Moakley
Aspin	Gejdenson	Mollohan
Atkins	Gibbons	Montgomery
Barnard	Gilman	Moody
Bartlett	Glickman	Morella
Bateman	Gonzalez	Morrison (CT)
Bates	Gordon	Morrison (WA)
Beilenson	Gradison	Mrazek
Bennett	Grant	Myers
Berman	Gray (IL)	Nagle
Bevill	Gray (PA)	Natcher
Bilbray	Green	Neal
Bonior	Guarini	Nelson
Bonker	Hall (TX)	Nichols
Borski	Hamilton	Nowak
Bosco	Harris	Oberstar
Boucher	Hatcher	Obey
Boxer	Hawkins	Olin
Brennan	Hayes (IL)	Ortiz
Broomfield	Hayes (LA)	Owens (UT)
Brown (CA)	Hefner	Packard
Bruce	Hertel	Panetta
Bryant	Hochbrueckner	Patterson
Bustamante	Horton	Pease
Byron	Houghton	Pelosi
Campbell	Howard	Petri
Cardin	Hubbard	Pickett
Carper	Huckaby	Pickle
Carr	Hughes	Price (IL)
Chappell	Jeffords	Price (NC)
Clarke	Jenkins	Rahall
Clinger	Johnson (CT)	Rangel
Coelho	Johnson (SD)	Ravenel
Coleman (TX)	Jones (NC)	Ray
Collins	Jones (TN)	Regula
Combest	Jontz	Richardson
Conyers	Kanjorski	Rinaldo
Cooper	Kaptur	Ritter
Coyne	Kasich	Robinson
Daniel	Kastenmeier	Rodino
Darden	Kennedy	Roe
de la Garza	Kennelly	Rose
DeFazio	Kildee	Rowland (GA)
Dellums	Kolter	Roybal
Derrick	Kostmayer	Russo
Dicks	LaFalce	Sabo
Dingell	Lancaster	Savage
Dixon	Lantos	Sawyer
Donnelly	Lehman (CA)	Scheuer
Dorgan (ND)	Lehman (FL)	Schneider
Downey	Lent	Schulze
Durbin	Levin (MI)	Schumer
Dwyer	Levine (CA)	Sharp
Dymally	Lewis (GA)	Shaw
Early	Lipinski	Shumway
Eckart	Livingston	Shuster
Edwards (CA)	Lloyd	Sisisky
English	Lowry (WA)	Skaggs
Erdreich	Luken, Thomas	Skelton
Espy	MacKay	Slattery
Evans	Manton	Slaughter (NY)
Fascell	Markey	Smith (FL)
Fazio	Matsui	Smith (IA)
Feighan	Mavroules	Smith (NE)
Fish	Mazzoli	Smith (NJ)
Flake	McCloskey	Solarz
Spence	Tauzin	Watkins
Spratt	Taylor	Waxman
St Germain	Thomas (GA)	Wheat
Staggers	Torricelli	Whitten
Stallings	Traficant	Wise
Stenholm	Traxler	Wolpe
Stokes	Udall	Wortley
Studds	Vento	Wyden
Swift	Visclosky	Wylie
Synar	Volkmer	Yates
Tallon	Walgren	Yatron

NAYS—125

Armey	Hefley	Rhodes
Badham	Henry	Ridge
Baker	Herger	Roberts
Ballenger	Hiler	Rogers
Bereuter	Holloway	Roth
Bilirakis	Hopkins	Roukema
Bliley	Hunter	Rowland (CT)
Boehlert	Hyde	Saiki
Brown (CO)	Inhofe	Saxton
Buechner	Ireland	Schaefer
Bunning	Jacobs	Schroeder
Burton	Kolbe	Schuette
Chandler	Kyl	Sensenbrenner
Coats	Lagomarsino	Shays
Coble	Leach (IA)	Sikorski
Coleman (MO)	Lewis (CA)	Skeen
Coughlin	Lewis (FL)	Slaughter (VA)
Courter	Lightfoot	Smith (TX)
Craig	Lowery (CA)	Smith, Denny (OR)
Crane	Lujan	Smith, Robert (NH)
Dannemeyer	Lukens, Donald	Smith, Robert (OR)
Daub	Lungren	Snowe
Davis (IL)	Mack	Solomon
DeLay	Madigan	Stangeland
DeWine	Marlenee	Stump
Dickinson	Martin (IL)	Sundquist
Dornan (CA)	Martin (NY)	Sweeney
Dreier	McCandless	Swindall
Emerson	McCollum	Tauke
Fawell	McGrath	Thomas (CA)
Flippo	McMillan (NC)	Upton
Frenzel	Meyers	Vander Jagt
Gallegly	Miller (OH)	Vucanovich
Gallo	Molinari	Walker
Gekas	Moorhead	Weber
Gingrich	Murphy	Weldon
Goodling	Nielson	Whittaker
Grandy	Oxley	Wolf
Gregg	Pashayan	Young (AK)
Gunderson	Penny	
Hammerschmidt	Porter	
Hansen	Pursell	
Hastert	Quillen	

NOT VOTING—56

Alexander	Dyson	Miller (CA)
AuCoin	Edwards (OK)	Murtha
Barton	Fields	Oakar
Bentley	Ford (MI)	Owens (NY)
Biaggi	Gephardt	Parris
Boggs	Hall (OH)	Pepper
Boland	Hoyer	Perkins
Boulter	Hutto	Roemer
Brooks	Kemp	Rostenkowski
Callahan	Kleczka	Stark
Chapman	Konnyu	Stratton
Cheney	Latta	Torres
Clay	Leath (TX)	Towns
Conte	Leland	Valentine
Crockett	Lott	Weiss
Davis (MI)	Martinez	Williams
DioGuardi	McDade	Wilson
Dowdy	Mica	Young (FL)
Duncan	Michel	

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

REV. J. BLAINE BLUBAUGH, GUEST CHAPLAIN

Mr. WRIGHT. Mr. Speaker, we are pleased to welcome as our guest chaplain, the Reverend J. Blaine Blubaugh, minister of the Christ United Methodist Church of Arlington, VA.

The Reverend Blubaugh has served as minister in Arlington since 1984 and prior to that, he served churches in Boykins and Harrisonburg, VA. He was graduated from Eastern Mennonite Seminary and has done graduate work at several institutions.

In addition to his parish ministry, the Reverend Blubaugh has been active in a variety of community activities and has given his leadership to numerous societies. He is the recipient of the Distinguished Service Award of the Society for Religious Organizational Management and the Jaycee Spoke and Spark Plug Awards. He has led seminars for church and society and has traveled extensively overseas.

The Reverend Blubaugh is married to Rosee Marie Thrasher and they have one child, Jon Marque.

It is a pleasure to welcome the Reverend Blubaugh to the Chamber and to thank him for his prayer.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification and the fine arts, and for other purposes;

H.R. 3427. An act to allow the obsolete submarine U.S.S. *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3734. An act to recognize the significance of the administration of the Federal-aid highway system and to express appreciation to Ray A. Barnhart for this dedicated efforts in improving the Federal-aid highway system; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full-year continuing resolution for fiscal year 1988.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2598. An act entitled the "Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987"; and

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1519. An act to authorize the President of the United States to award a congressional gold medal to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of that medal;

S. 1684. An act to settle Seminole Indian land claims within the State of Florida, and for other purposes; and

S. Con. Res. 93. Concurrent resolution to express the sense of the Congress that Dr. Frank G. Burke is recognized for this faithful service to the National Archives of the United States of America.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2974) "An act to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986."

PERSONAL EXPLANATION

Mrs. ROUKEMA. Mr. Speaker, yesterday I was unable to be in the Chamber for the last two rollcalls of the day. I would like to have included in the RECORD that had I been here on rollcall No. 491 I would have voted "no"; on rollcall No. 492, final passage of H.R. 1467, I would have voted "yes."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2859

Mr. NIELSON of Utah. Mr. Speaker, I ask unanimous consent to have my name removed as cosponsor of the bill, H.R. 2859.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Utah?

There was no objection.

□ 1030

EXITING THE INSANE ASYLUM

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, let me say to the Members: Welcome to the Washington Omnibus CR-Reconciliation Days of Insanity.

Mr. Speaker, this is the craziest, most irresponsible, nonsensical way of doing business any legislative body or organization, any government anywhere, has ever followed.

Never in my wildest dreams as a member of that responsible-only-by-comparison Illinois General Assembly, did I ever expect to see something like this. Every cent of discretionary spending for the entire year—$600 billion, with little debate and no chance to amend—on one vote, up or down, yes or no.

And soon, this omnibus continuing resolution will be upon us, hundreds of pages of printed, typewritten, and handwritten notes tied in a bundle with a string, known altogether to absolutely no one.

Over 60 percent of its spending will never have seen the House or Senate floor before. Over 85 percent of the Members will have had virtually no input to most of its provisions.

But, as before, the majority, glad they don't have to vote directly on the tough issues, will probably vote "aye," declare victory and go home for the holidays, happy to escape this asylum for a few weeks.

Happy holidays, fellow inmates. Happy holidays, Warden.

AMERICA'S AIRPORT SECURITY SYSTEM FOUND WANTING

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, last week's plane crash in California tragically confirmed what we already know: that airport security across our Nation is dangerously inadequate.

Last summer, a GAO comprehensive survey of our airport security system documented widespread failure to detect conventional firearms and explosives. At some airports, the failure rate reached an alarming 70 percent. Yet, we do nothing.

Clearly, we have a problem, but it's not one without a solution. Reliable, superior detection equipment is available now, it's just not in use here in the United States. Canada has developed an explosive vapor detector so sensitive that it can measure explosives in parts per trillion in the atmosphere.

Yet, our present detection system is 60 years out of date. The technology is present, but our commitment to using it is not.

I have joined Representative DEFAZIO in introducing legislation that will change this. Our bill would mandate that the FAA undertake a comprehensive study of its security problem and report on it to the appropriate authorizing committees of Congress, so that a realistic policy to correct the undeniable deficiencies in airport security can be worked out.

No gimmicks, no quick fix; just a sound first step toward safer skies. I urge my colleagues to act on it now. Don't let it take another tragedy to jolt us into action.

CRITICISM LEVELED AT INDEPENDENT COUNSEL IN DEAVER TRIAL

(Mr. HYDE asked and was given permission to address the House for 1

91-059 O-89-40 (Pt. 25)

minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, as a supporter of the independent counsel legislation, something that I fervently believe in, I want to express my considerable distaste for remarks made by Whitney North Seymour, the independent counsel who recently successfully prosecuted Michael Deaver.

I hold no brief for Mr. Deaver, but I am incensed that the special counsel would be sharply critical of Secretary of State Shultz for daring to testify as a character witness on behalf of Mr. Deaver without even having read the indictment. I wonder what Mr. Seymour would want the Secretary to do—to read the indictment, which is merely a statement of charges made by the independent counsel, and then say, "Oh, I can't testify on behalf of the reputation in the community for veracity and integrity of Mr. Deaver because he has been charged by somebody with something"?

I think that is an effort to intimidate character witnesses. I think what is charged in the indictment is absolutely irrelevant to Secretary Shultz' testimony, and I would like to see the independent counsel be a little more professional in commenting, especially after he has won and while the case may well be on appeal.

Secretary Shultz had every right to testify as to his personal knowledge concerning the reputation of Mr. Deaver for truth and veracity in the community, no matter what the indictment said.

So, Mr. Speaker, I would just like to see justice a little better served than I think it was in Whitney North Seymour's postconviction comments.

IN SUPPORT OF A RENEWED MORATORIUM ON CHEMICAL WEAPONS PRODUCTION

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I do not often find myself quoting the words of former President Richard Nixon. But I think Mr. Nixon was right on the mark when, calling a halt to the U.S. production of chemical weapons, he described the chemical arsenal as "weapons whose use has been repugnant to the conscience of mankind." That was 18 years ago. As Wednesday's resumption of chemical weapons production shows, time has not made us any wiser.

Despite the fact that both the United States and the Soviet Union have said that a chemical weapons treaty is perhaps tantalizingly close, the United States has, after an 18-year moratorium, begun to produce the components for binary chemical weapons. The logic of this development eludes me.

In 1984, Vice President BUSH offered a draft treaty in Geneva to implement a global ban on the production and stockpiling of chemical weapons. Progress was slow, but real, and the United States held the upper diplomatic hand. We were the only ones to acknowledge that we had chemical weapons, we were the only ones to have a entered a moratorium on their production, we had issued the challenge of onsite inspections.

Moscow began to come around to our way of thinking. The Soviets finally acknowledged that they have a chemical arsenal, they accepted the principle of challenge inspections, and, for the past year, they have not been producing weapons. All of this was good news. Then we decided to start up the production lines. So where is this going to end?

This is the time to break the cycle, not to start it up again. And I think all of my colleagues would agree that it is far better for us to be acting to bring about the final end to chemical weapons rather than reacting to another Soviet moratorium.

A TORCH FOR PEACE—MANAGUA STYLE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, let me begin this way: Attention, Mr. and Mrs. America and all the ships at sea and all the planes in flight, Manila is not calling; Managua is calling.

Here is the latest alert from that troubled capital in that small land bridge between North and South America. A coalition of 14 opposition groups marched in Managua yesterday and accused the Minister of the Interior, who is also the head of the secret police, Tomas Borge, of threatening their very lives. He has accused them all, all the opposition parties, of sedition.

Some of my good colleagues on the majority side asked that I not paraphrase the suspended priest, Miguel D'Escoto, the one the freedom fighters call the Flying Nun, with good cause. Here are the exact words of Miguel D'Escoto, who suspended from his priesthood by the Vatican, spoke in Moscow 2 days and 6 months ago, when he received the Lenin Peace Prize:

> The Soviet Union has become the personification of ethical and moral norms in international relations, a great torch which emits hope for the preservation of peace on our planet.

Mr. Speaker, I guess this ex-priest has not seen the hands blown off all the young children in the border hospitals of Pakistan, the victims of the Soviet-sponsored horror in Afghanistan. Some great torch for peace. some former Flying Nun ex-priest.

ACCUSATIONS AGAINST THE SPEAKER SET STAGE FOR BITTER FIGHT

(Mr. TRAFICANT a sked and was given permission to address the House for 1 minute*)

Mr. TRAFICANT. Mr. Speaker, over the past several weeks our distinguished and honorable Speaker has been subjected to one of the dirtiest smear campaigns ever in this House.

I do not know about other Members, but I am sick and tired of the self-rightous people who continue to make unjustified, unwarranted, and vicious attacks on one of America's great Speakers.

Mr. Speaker, people who live in glass houses should not throw stones. I think it takes a lot of gall for a person to stand up and talk about morality and ethics when their own lives back home have been anything but that.

Yes, I guess these are words of a challenge from a Democrat, and I think it is time the Democrats stand with their leader, and I think it is time that Republicans turn their backs on Members who take cheap, lowdown, vicious, unjustified shots at a Speaker who has been here for over 30 years and who every 2 years is sent back by a district that loves him, a district he has not turned his back on, and a nation that is learning to love him because he is not afraid to tell you what he thinks.

So as a Democrat here, I say the fight is on. I have even heard rumors that they are going to start with Members like me, but I am ready and I think you had better lay off the Speaker unless you are prepared for one tough fight. Think about it, Democrats.

THE PLIGHT OF ETHIOPIA

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, this is the time of the year when we wish each other good fellowship and good fortune. It is also the time of the year when we want to make sure that we help each other around the world, and I am very happy that Time magazine has had its feature article this week on Ethiopia.

There are some 7 to 8 million in Ethiopia who are in danger of starvation. The Ethiopian Government has asked the West for 950,000 metric tons of food, and the West is responding. But we in this Chamber have an obligation to those people. We must ask

ourselves again, why is it that these people year after year must live in starvation?

One of the main reasons is because of the Ethiopian Government. Name any freedom, and it does not exist in Ethiopia. If we in this Chamber are truly for civil rights and human rights and the rights of humanity, we must speak out against this government. We must give these people help, yes, but we must also raise our voices so that the heel of this repressive government is taken off the necks of these poor people in Ethiopia.

Mr. Speaker, Ethiopia's case cries to heaven for answers, and we in this Chamber must answer.

CONGRATULATIONS EXTENDED TO INDEPENDENT COUNSEL IN THE DEAVER CASE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, this week former White House adviser Michael Deaver was convicted on three counts of lying about his lobbying activity, and I would like to congratulate Mr. Whitney North Seymour, Jr., for speaking the truth this week. He is the independent counsel who prosecuted Mr. Deaver.

What I liked particularly about Mr. Seymour's remarks was his forthrightness in telling the American people the extent of influence peddling in this city by former U.S. Government officials who use their personal friendship to obtain access for their lobbying clients.

The gentleman from Michigan [Mr. WOLPE] and myself have a bill, H.R. 1231, that would strengthen the law and prohibit the type of activity that we see where people who work in the White House in high positions of Government can leave it and then go to work on behalf of foreign interests earning upward of $300,000 a contract.

I think Mr. Seymour was correct when he stated that the problem is too much loose money and too little concern about ethics in Government, that vast sums of money are on call in this city to people who can then turn their personal friendships into lucrative post-government employment.

Mr. Speaker, I ask the Members to please cosponsor H.R. 1231 with the gentleman from Michigan and myself to stop the revolving door of Government officials who leave their high positions and then try to milk the service they have given to the people of this country.

□ 1045

UNFAIR CENSUS APPORTIONMENT FOR OVERSEAS SERVICE PERSONNEL

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, I would like to discuss just for a moment an issued that directly affects you, the people you represent, and the very essence of this Chamber; in fact, the essence of representative government. As presently designated, the 1990 census which is constitutionally mandated will count and will include illegal aliens, those who are here without the consent of the governed. The 1990 census as presently designated will exclude American servicemen and their dependents who are serving overseas.

Now, think about that for a moment. Those who are here without the consent of the governed will be counted and included to determine the apportionment in individual States and who will actually govern. Whether your State is adversely affected or not by that count, I suggest to you that it dilutes or at least compromises the votes of every American citizen.

The bitter irony is that while we are going to count and include illegal aliens, we are going to exclude servicemen who are defending the Government.

Now, Congresswoman KENNELLY and I are going to offer legislation, and we invite you to join us as cosponsors, to change that around, to exclude illegal aliens, to include servicemen and their dependents who are serving overseas solely for the purposes of reapportionment. It will not change the Federal funding formulas, but it will be much more consistent with the intent of the founders of our Constitution, and certainly most consistent with the preamble that says "We the people of the United States."

We must include the citizens of the United States for the census and exclude illegal aliens.

DON HASKINS EARNS WIN NO. 500

Mr. COLEMAN of Texas. Mr. Speaker, Mikhail Gorbachev isn't the only bear making the news this week. In fact, as far as west Texans are concerned, notching victory No. 500 last night by University of Texas at El Paso basketball coach Don "Bear" Haskins was at least as important and maybe more newsworthy because of the way he won them.

In a time where major sport college athletics are increasingly marked by payoffs, scandals and other unsavory dealings, Don Haskins and the school he represents stand out.

There have been no recruiting violations and no under-the-table gratuities by alumni to star players. No, Don Haskins won his 500 cleanly, forthrightly, and honestly. He won them the old-fashioned way—he earned them.

In his fifth year at UTEP, then called Texas Western, Don Haskins won the national championship by beating in the NCAA tournament Oklahoma City, Cincinnati, Kansas, Utah, and Kentucky. The Bear was also a pioneer in race relations, too. As an El Paso columnist pointed out in today's paper, it was also the first time where five blacks started against five whites in an NCAA championship game—and won.

Don Haskins stands as an inspiration to us all. His accomplishment and the way he did should serve as a sterling example to the rest of college athletics and the rest of the Nation. You can win the right way. You don't need the payoffs, the shady recruiting practices or unethical approaches that seem to have permanently scarred college athletics. You win the right way and you lose the right way because that's the way it has to be done.

Mr. Speaker, I am sure that my colleagues on both sides of the aisle will join me in this most fitting salute to the Bear, a man who did it his way—the right way, the only way—and who serves as an inspiration to us all.

I have attached an article from today's paper about Don Haskins, and I would like to take this opportunity to put it in the CONGRESSIONAL RECORD for the benefit of my colleagues.

Thank you very much.

[From the El Paso Times, Dec. 18, 1987]

HASKINS' 500 SPAN FROM CUPCAKES TO NCAA TITLE

It was almost four years ago, on one of those clear, calm beautiful El Paso December days.

Don Haskins leaned back in his office chair—trophies, basketballs marked with scores, pictures lining the shelves and walls—and grumbled, "Aw, winning 400 games isn't that big a deal. If you stay around long enough, you'll win your share. Now winning 500, that's a big deal."

Well, Haskins accomplished "a big deal" last night in the Special Events Center.

It came five days shy of four years since that 400th victory in Tempe, Ariz., a 60-55 victory over Arizona State.

It came 10 years and 15 days since the 300th victory, a 58-54 decision over Northwestern in Columbia, Mo.

Haskins has stayed around long enough. This is his 27th year at UTEP. That's a lot of big games, a lot of victories. Some big victories, some little victories.

Any civilized story must start with a beginning.

For Haskins, the beginning was Dec. 3 in Ames, Iowa. In his very first collegiate game, Haskins coached Texas Western to a 66-59 victory over Iowa State.

The other beginnings were much easier. Haskins saw to that.

The Miners did not lose an opener under Haskins until Washington ripped the Miners 82-53 in 1985. Not necessarily coincidentally, that was the next time the Miners played a road opener after that Iowa State victory. That Washington game was in Denver, the first round of the preseason NIT.

"Now don't make a big deal about all these openers that we've won," Haskins used to say. "People'll just talk about what easy teams we've played."

Easy?

In the years immediately preceding that Washington loss, UTEP opened against Fort Lewis, Texas Southern, Western State, Texas A&I, Angelo State, East Central Oklahoma, East Texas State, Abilene Christian, Lubbock Christian, Houston Baptist, Sul Ross State, Quincy College, Doan College, etc., etc., etc.

Of course, all those weren't saved for beginnings. Some, like Regis College, Cal State-Pomona and Illinois Tech—to name just a few—were sprinkled in the non-conference schedule. Illinois Tech was a special media favorite, because the school's sports information director also was the starting point guard.

The scores were atrocities like 70-35, 91-61, 74-42. The fans tolerate them. The players hate them.

"Those games were worthless," one former player said. "I hated 'em. You didn't get anything out of 'em. You couldn't even get excited. A scrimmage was about as exciting."

But this is not uncommon. Dean Smith has won more than 500 and last year his North Carolina team got to cruise past Hawaii Loa, Stetson and Furman. John Thompson has won over 350 games in 15 years, and last year Georgetown had fun with Quincy, Washburn, St. Leo and American.

So much for the beginning. So much for the little games. There have been plenty of big ones, too.

The biggest wasn't the 400th in Tempe. Nor was it the 500th in El Paso. The biggest was when Haskins, the young man just five seasons into collegiate coaching, took a bunch of unknowns from the desert to College Park, Md., and beat Adolph Rupp's Kentucky Wildcats for a national championship.

Not only was it small school against big, unknown against legend, it was also black against white. For the first time, five whites in an NCAA championship game. And won.

Just last year, Los Angeles Laker Coach Pat Riley, an all-American on that '66 Kentucky squad, smiled and said, "You know, I'm just happy to have been a part of that game—win, lose or draw. Bob McAdoo (a former Laker) told me it meant so much to black people everywhere in the country. It was a special game."

Don Haskins was not a man trying to change the social system in the racially troubled '60's. He's just a basketball coach. He lives to win games, to coach the games.

Some people say Haskins' job is his life.

It is not. That is exactly why he has lasted 27 years without crashing in flames, burning out. He lives on that 93-foot court from Oct. 15 until March or April. Then he closes his office door, heads for the golf course, goes hunting, goes fishing.

Maybe that's why he lasted long enough to reach that special event in the Special Events Thursday night. One of these days, he'll probably lean back in his office chair and say, "Aw, winning 600 games is no big deal . . ."

Yes it is.

LEADERSHIP ON SCHEDULING TREATS US LIKE CHILDREN

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, some of you may wish to know the schedule for now and the rest of the weekend. I do, too.

I am a very minor part of the leadership on our side, and I must tell you the answers that everyone is getting just are not very good. So I am going to say publicly that I believe that we are being treated as children to push us toward a vote. I believe that is absolutely wrong.

Right now, the White House is contacting leadership on the Senate side, on the House side, and our own House Democratic leadership indicates that some time later today they may come to the floor and maybe tell us what we are going to do for the rest of the weekend.

I believe all of us should be asking them to come and step by step lay out potential alternatives, recognizing they cannot fully explain every hour and every minute, and that we who have elected them on both sides of the aisle deserve that, at least.

SUGAR PROGRAM HELPS CORN GROWERS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I am from a corn-producing State and I support continuation of the sugar program because it helps preserve a domestic corn market for 541 million bushels of corn. That is about a third as much corn as we'll export this year.

Sweeteners made from corn account for more than half of all the sweeteners used in this country and it is the sugar program that keeps the entire U.S. sweetener industry going today against unfair subsidized foreign competition.

Foreign government subsidies have driven the price for residual sugar in the so-called world market to less than one-half its average cost of production. I do not think it is fair to expect any producer, here or abroad, to compete against such subsidized product.

The sugar program works. It is not broken. Let's not fix it.

THE CONGRESSIONAL CHRISTMAS TREE

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, Christmas is approaching. The Christmas tree has been put in many homes. I have not seen mine yet, because I am up here waiting for the great legislative Christmas tree, the one that has all kinds of boxes underneath it. The boxes are in the Senate, they are in the House, they are in the conference committees, they are in the leadership rooms. No one knows exactly what is in those boxes, but we are told to wait. It says, "Do not open until you are told to open them."

People back home say, "Well, when are you going to get things done up in Washington?"—you, meaning all of us.

Well, we do not know when things are going to get done. The reason we do not know is because the way that we operate here is under pressure. What does pressure mean? Does it mean that we are going to accomplish something good? No. It means we are going to come out with something that is expeditious. Expeditious means no time to debate, no time to analyze, no time to separate. We will be given one giant Christmas present, which will say, "Open, and surprise."

Mr. Speaker, the American public does not need any more surprises. It needs legitimate government done with good proper consideration. We are denying the American public that. We are denying ourselves that. We should be ashamed. Next year, things should change. The question is, Will we?

OUR TRADE DEFICIT AND IMPORTED CHRISTMAS CANDY

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I rise today to bring to the attention of the House a seasonal example of a problem we have tried to deal with all year.

Our trade deficit. The box of candy canes I'm holding was purchased in my district in Alabama and is typical of a product being distributed nationwide. Yet these festive Christmas candies I hold are, in fact, imported from a Communist country. Thanks to a controlled labor market, subsidized sugar, and subsidized transportation to bring this product to our shores, this product is being offered at a wholesale price which is below the price of production, and which drives our own products from the American market.

Mr. Speaker, our present laws have been held not to apply to so-called nonmarket economies. At present, we have no legal or judicially enforceable standard to declare what constitutes an unfair trade advantage for a Communist country. We must close this loophole.

Mr. Speaker, these candy canes remind us of Christmas, and as we approach Christmas we should all be reminded that our trade problems are no better today than they were at the beginning of the year.

INTRODUCTION OF HUNTER PROTECTION ACT OF 1988

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, today I am introducing the Hunter Protection Act of 1988. This legislation is designed to protect the civil rights of the tens of thousands of American sportsmen who hunt on Federal lands throughout the country.

The Hunter Protection Act will establish penalties for individuals who seek to disrupt lawful hunting on Federal lands. It will also protect sportsmen from the sabotage activities of antihunting groups such as Friends of Animals and others who have published tips on how to disrupt hunts and have ruined sanctioned, lawful hunting in many parts of the country.

Mr. Speaker, 27 States—including your home State of Texas—have passed similar laws to protect the rights of hunters on State lands. I want to extend those same rights to the nearly 20 million hunters across the United States who hunt on Forest Service, BLM, and other Federal lands.

The sportsmen of America have rights and I intend to fight to protect those rights. I urge my colleagues to join me in this effort by cosponoring this bill.

The following States have passed antihunter harassment legislation in recent years: Arizona, Connecticut, Delaware, Georgia, Idaho, Illinois, Kansas, Louisiana, Maine, Maryland, Michigan, Montana, Nevada, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia.

FARM CREDIT BILL

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, I am pleased with the compromise reached on the Farm Credit System rescue package and I will support it when it comes to the House floor.

Kansas farmers will benefit from this bill in several ways.

For financially troubled farmers, the bill requires the system to restructure delinquent loans when that would be cheaper than foreclosure.

This bill protects the stock of farmer borrowers.

And it creates a secondary mortgage market that will broaden credit opportunities for farmers and ensure the availability of long-term, fixed-interest rate mortgages for farmers.

In order to better serve farmers and save money, the System will be reorganized to reduce bureaucracy and improve competitiveness.

The Agricultural Credit Act is a rescue package for the ailing Farm Credit System which will help keep farmers on their farms.

HUMAN RIGHTS IN ROMANIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, as we go home for Christmas, I would like all the Members to think of one important thing they may read about. In Romania in the last 3 weeks, the human rights situation has gotten so bad. Human rights activists have been arrested and have disappeared. The oppressive nature of the Ceausescu administration is growing worse, and keep in mind we give this country most-favored-nation status, and yet there seems to be no interest in the media and in the Reagan administration on this issue.

When similar human rights abuses happened in Poland, we got all worked up, and we should have gotten worked up, but maybe we got worked up because there was a large Polish interest group in the country, which I believe is fine.

There are few Romanian people in the United States, and quite frankly, the Romanian Government has hired a public relations firm, a Washington lobbyist, to lobby for them, and unfortunately, Mr. Speaker, sometimes our own State Department lobbies for them.

Things are so bad in Romania that the people there may be the only people in the Eastern bloc that would welcome a Soviet invasion because they think things might get better.

Mr. Speaker, I urge this administration, this Congress, the media and the American people to rally to the side of the 23 million Romanian people. Let us end MFN and put pressure on the repressive Ceausescu government, so the Romanian people can have the same rights as the people in other countries where human rights are respected.

SPONSORING LEGISLATION TO INCLUDE MILITARY PERSONNEL ABROAD AND EXCLUDE ILLEGAL ALIENS FROM CENSUS APPORTIONMENT

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today I join Congressman RIDGE in sponsoring legislation to include military personnel abroad, and exclude illegal aliens from, census apportionment figures. This legislation deals with apportionment only and would not interfere with Federal funds distribution or benefits.

All of us know the enormous time and effort that goes into the redistricting process. While natural population shifts in this country make the redistribution of congressional seats necessary, this process should not be skewed by shifts caused by a population living in this country in violation of our law—particularly when our military personnel are purposely excluded from these figures.

The Census Bureau will be conducting its "census tryout" in the early part of next year and once that process begins it will be very difficult to make changes in who and how the census counts for reapportionment purposes. It is crucial for this legislation to be considered in a speedy and expenditious manner. I urge my colleagues to support this legislation.

□ 1100

READ THE CHARGES AGAINST SPEAKER WRIGHT

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, last night a gentleman from Massachusetts mocked the very serious charges which have been made about the ethics and the conduct of the Speaker of the House. Today a gentleman from Ohio defended in blanket terms the behavior of the Speaker of the House.

Today an Ohio Democrat focused attention on Whitney Seymour's comments on ethics and corruption as they relate to the executive branch, but concern about ethics and corruption should also focus on the legislative branch.

Before any Member ridicules or rejects the very serious charges against the Speaker, they should read what Seymour said about a witness who gave uninformed, irresponsbile testimony. And I quote:

He stepped forward in his cross-examination, gave a ringing endorsement of the honesty and integrity of a defendant on trial in a criminal case charged with a serious felony and he never even bothered to read

what the charges were. The jury decided that was irresponsible. I don't see how any right-thinking citizen could conclude otherwise.

WELCOME NEWS FOR AMERICAN FARMERS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the farm credit bill that we are going to pass today is welcome news for all American farmers and especially for North Dakota farmers.

About 10 months ago I and three other Members of the House, Messrs. PENNY, MARLENEE, and JOHNSON of South Dakota, began working on a package of reforms for the Farmers Home Administration. We wrote some legislation, put together a coalition of farm State Members of Congress, and that package of Farmers Home reform is now in this farm credit bill.

The reason it was important is the Farmers Home Administration was the only major farm lender consistently refusing to treat farmers the way they ought to be treated. The banks would restructure loans when the banks throught it was less costly to do that than it was to throw the farmer off the land. The Farm Credit System would restructure loans when it discovered that it was less costly to do than to throw the farmer off the land. But the Farmers Home Administration consistently and repeatedly over time refused to do so.

Why? Because the Farmers Home Administration was not fulfiling its task as being the lender of last resort and a lender that gave some thought to its responsibility to these farmers.

Yes, some farmers are still going to go broke, but this farm credit bill is going to save some farmers as well because it reforms the Farmers Home Administration and requires FHA officials to do what is necessary and what is right, what is right for the Federal Government and what is right for the family farmers. That is why this legislation is good legislation. I urge its passage.

When people say things cannot get done around here, passage of this farm credit bill will demonstrate that occasionally we make a difference. We can force changes in the Farmers Home Administration that are needed to save the Government some money and to save some family farmers from unwarranted foreclosures.

CONGRESSIONAL VOTE TO CLOSE PALESTINE LIBERATION ORGANIZATION'S U.N. OBSERVER MISSION

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, I think everybody in the United States knows that the Palestine Liberation Organization is a terrorist organization that kills not only Israelis and Americans but its own people.

Mr. Speaker, this body and the other body passed in the State Department authorization bill an amemdment which would kick the PLO observer mission out of the United States of America, out of New York, out of Washington, DC. It passed overwhelmingly.

This week it was announced that the United Nations condemned the passage of that legislation. That is to be expected. The United Nations does not support us very much anyhow.

But the thing that was the most deplorable about that action was that our delegation, our State Department delegation over there did not vote. They said they did not vote because the bill was still in progress.

The fact of the matter is the State Department is trying to get the President to pocket veto this legislation even though the Congress overwhelmingly expressed its sentiment toward the PLO.

Mr. Speaker, I think this body ought to send the State Department a message to do what we ask them to do when we vote overwhelmingly on a measure like this.

A TRIBUTE TO HOWARD L. SHAW

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I appreciate this opportunity to pay tribute to the late Howard L. Shaw.

Frequently, Members of Congress pay tribute to outstanding Americans who have died.

The 11,000 residents of my hometown of Mayfield, KY, are aware of how deserving of such a tribute is Howard L. Shaw.

This outstanding Kentuckian, who died at age 65 on October 19, was president of Liberty Savings Bank in Mayfield, KY, from 1962 until his death.

Howard Shaw was active in many civic, community, and church activities in Mayfield.

One of Howard Shaw's most enjoyable days was December 16, 1982. He and his Liberty Savings Bank were hosts at a dinner for Paul Volcker, then Chairman of the Federal Reserve Board, who honored all of us in my hometown by traveling from Washington, DC, to speak at Mayfield High School.

Howard Shaw, one of the founding officers of Liberty Savings Bank, led the bank over 25 years to be Mayfield's largest bank in assets.

Howard Shaw was a dear friend of mine.

He was an active deacon at Mayfield's First Baptist Church and taught an adult men's Sunday school class named for him for nearly 30 years. Mr. Shaw was a York Rite Mason in Mayfield Masonic Lodge No. 369, a member of Mayfield Chapter No. 69 and Mayfield Council No. 39 as well as Mayfield Knights Templar Commandery No. 49. He was a member of the dean's advisory council for the College of Business and Public Affairs at Murray State University, a member of the Mayfield-Graves County Industrial Development Board, and was active in the United Fund, acting as chairman of the Century Club of that organization in Mayfield.

Survivors include his wife, Bebe Wright Hunt Shaw, three sons, Donald H. Shaw of Murray, KY, Henry H. Hunt of Zanesville, OH, and Christopher K. Hunt of Philadelphia, PA, six daughters, Anna Gean Davidson of Marion, IL, Phyllis Lynn Hicks of Louisville, KY, Patricia K. Shaw of Lexington, KY, Ann Powers and Helen Shaw, both of Mayfield, KY, and Marilyn Rivers of Gainesville, FL.

My wife Carol and I extend to Howard Shaw's Wife Bebe, his three sons, six daughters, and the other members of his family our sympathy.

PRESIDENTIAL CONDITIONS FOR ADJOURNMENT

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, those of us in the Republican leadership in both the House and the Senate just returned from meeting with the President to give him a report on how we are moving along here toward adjournment on the continuing resolution and reconciliation. I think it ought to be made abundantly clear to the Members that there are going to be several criteria under which the President is going to judge those two important pieces of legislation that will be brought to his attention as soon as we can conclude our action on them.

First, that the summit agreement and its parameters be agreed to, that it be consistent with what the President and the leadership in the Congress on both sides of the Capitol and both sides of the aisle agreed to. That is going to be fundamental and very important.

Second, the President is going to insist on the language with respect to the Contras that was adopted in the

other body, and he will not give on any other kind of concession on that specific language. Frankly, to do otherwise would be unilateral disarmament of the Contras.

Third, if those of my colleagues who think they are going to still have a fairness doctrine added to that measure because the President vetoed it, never got an opportunity to have that constitutional requirement of a vote in either the House or the Senate on that and come back with another majority vote, that simply is not consistent with the way we see Government operating the way it ought to be.

So on those two grounds alone my colleagues are going to have a veto of either of those provisions.

And in reconciliation there are considerable hangups on the REA provision. We agreed in the summit to $2.5 billion. It is my understanding it is at the level of $5.2 billion. That has to be resolved.

Also the Medicaid, Medicare, several of the credit provisions, Buy American, GSA buildings, and user fee double counting are some items that have got to be resolved.

Frankly, the President from my reaction to what he said this morning is willing to forgo his Christmas vacation, and we are simply going to have to stay here and get it done right before he agrees to sign either one of those propositions.

POTENTIAL YUCCA MOUNTAIN, NV, NUCLEAR WASTE REPOSITORY

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, yesterday the State of Nevada, Yucca Mountain, was selected by the conference committee as being the only site for a potential nuclear waste repository.

Yesterday, I said to this membership, and those watching on their TV sets and in their offices, those sitting here in the audience to look at the map as to where these thousands of trucks are going to roll through your States with highly radioactive material. My colleagues also should note the site is in the Nevada test site. Geologists for the State of Nevada, independent witnesses have stated that there are over seven major faults in that site due to atomic testing.

Las Vegas, my district, my main valley, is not downwind from this area. The winds, the prevailing winds when this fault takes place, when this nuclear material is vented into the atmosphere, is going to blow not to southern Nevada, because 90 percent of the time the wind is blowing toward Utah, Kansas, Missouri, on into the Midwest. They are the ones who are going to get it, and southern California when those Santa Ana winds reverse, if there is venting they are going to get it.

My colleagues better think about that because this site is faulted. Scientifically it is not the site. But geographically all the States that were being submitted for this site were all terrified they were going to receive it. They did not look to the best interests of their country. They did not look at the best area for their people, and what is going to happen one day when this vents, when we have a Chernobyl type of problem and my colleagues' constituents are going to look at them and wonder why they did not stop it when they could.

REPRIMAND OF THE HONORABLE AUSTIN J. MURPHY

(Mr. DIXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIXON. Mr. Speaker, in just a few minutes I intend to call up a privileged resolution, House Resolution 335, dealing with a recommendation to the House of a sanction of reprimand against Congressman AUSTIN MURPHY.

Members of the House have asked me several questions this morning. One deals with the report. The report was available from 3 o'clock yesterday on. I understand and have just been informed there was a fire at the Government Printing Office last night and that may have delayed it. Nevertheless, I walked back behind the rail on the Democrat side and reports are available there. I am informed that the gentleman from Indiana [Mr. MYERS] walked behind the rail and reports are available there.

The second question that was asked was why bring it up today. This has been brought up today at the request of Congressman AUSTIN MURPHY and with the consent of the majority leadership.

CALL OF THE HOUSE

Mr. DIXON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 494]

ANSWERED "PRESENT"—389

Ackerman	Bates	Borski	Bustamante	Hamilton	Meyers
Akaka	Beilenson	Bosco	Byron	Hammerschmidt	Mfume
Anderson	Bennett	Boucher	Callahan	Hansen	Mica
Andrews	Bentley	Boulter	Campbell	Harris	Michel
Annunzio	Bereuter	Boxer	Cardin	Hastert	Miller (CA)
Anthony	Berman	Brennan	Carper	Hatcher	Miller (OH)
Armey	Bevill	Broomfield	Carr	Hawkins	Miller (WA)
AuCoin	Bilbray	Brown (CA)	Chandler	Hayes (LA)	Mineta
Badham	Bilirakis	Brown (CO)	Chapman	Hefley	Moakley
Baker	Bliley	Bruce	Chappell	Hefner	Molinari
Ballenger	Boehlert	Bryant	Cheney	Henry	Mollohan
Barnard	Boggs	Buechner	Clarke	Herger	Montgomery
Bartlett	Bonior	Bunning	Clinger	Hertel	Moody
Barton	Bonker	Burton	Coats	Hiler	Moorhead
			Coble	Hochbrueckner	Morrison (CT)
			Coelho	Holloway	Morrison (WA)
			Coleman (MO)	Hopkins	Mrazek
			Coleman (TX)	Horton	Murphy
			Collins	Houghton	Murtha
			Combest	Howard	Myers
			Conte	Hoyer	Nagle
			Cooper	Hubbard	Natcher
			Coughlin	Huckaby	Nelson
			Courter	Hughes	Nichols
			Coyne	Hunter	Nielson
			Craig	Hutto	Oakar
			Crane	Hyde	Oberstar
			Dannemeyer	Inhofe	Obey
			Darden	Ireland	Olin
			Daub	Jacobs	Ortiz
			Davis (IL)	Jeffords	Owens (UT)
			Davis (MI)	Jenkins	Oxley
			de la Garza	Johnson (CT)	Packard
			DeFazio	Johnson (SD)	Panetta
			DeLay	Jones (NC)	Parris
			Dellums	Jones (TN)	Pashayan
			Derrick	Jontz	Patterson
			DeWine	Kanjorski	Pease
			Dicks	Kaptur	Pelosi
			Dingell	Kasich	Penny
			DioGuardi	Kastenmeier	Perkins
			Dixon	Kennedy	Petri
			Donnelly	Kennelly	Pickett
			Dorgan (ND)	Kildee	Pickle
			Dornan (CA)	Kleczka	Porter
			Downey	Kolbe	Price (IL)
			Dreier	Kolter	Price (NC)
			Duncan	Konnyu	Pursell
			Durbin	Kostmayer	Quillen
			Dwyer	Kyl	Rahall
			Dymally	LaFalce	Rangel
			Dyson	Lagomarsino	Ravenel
			Early	Lancaster	Ray
			Eckart	Lantos	Regula
			Edwards (CA)	Latta	Rhodes
			Edwards (OK)	Leach (IA)	Richardson
			Emerson	Leath (TX)	Ridge
			English	Lehman (CA)	Rinaldo
			Erdreich	Lehman (FL)	Ritter
			Espy	Leland	Roberts
			Evans	Lent	Robinson
			Fascell	Levin (MI)	Rodino
			Fawell	Levine (CA)	Roe
			Fazio	Lewis (CA)	Rogers
			Feighan	Lewis (FL)	Rose
			Fields	Lewis (GA)	Rostenkowski
			Fish	Lightfoot	Roth
			Flake	Lipinski	Roukema
			Florio	Livingston	Rowland (CT)
			Foglietta	Lloyd	Rowland (GA)
			Foley	Lowery (CA)	Roybal
			Ford (MI)	Lowry (WA)	Russo
			Ford (TN)	Lujan	Sabo
			Frenzel	Luken, Thomas	Saiki
			Gallegly	Lukens, Donald	Savage
			Gallo	Lungren	Sawyer
			Gaydos	Mack	Saxton
			Gejdenson	MacKay	Schaefer
			Gekas	Madigan	Schneider
			Gibbons	Manton	Schroeder
			Gilman	Marlenee	Schuette
			Gingrich	Martin (IL)	Schulze
			Glickman	Martin (NY)	Schumer
			Gonzalez	Matsui	Sensenbrenner
			Goodling	Mavroules	Shaw
			Gordon	Mazzoli	Shays
			Gradison	McCandless	Shumway
			Grandy	McCloskey	Sikorski
			Grant	McCollum	Sisisky
			Gray (IL)	McCurdy	Skaggs
			Gray (PA)	McDade	Skeen
			Green	McEwen	Skelton
			Gregg	McGrath	Slattery
			Guarini	McHugh	Slaughter (NY)
			Gunderson	McMillan (NC)	Slaughter (VA)
			Hall (TX)	McMillen (MD)	Smith (FL)

Smith (IA)	Stump	Vucanovich
Smith (NE)	Sundquist	Walgren
Smith (NJ)	Sweeney	Walker
Smith (TX)	Swift	Watkins
Smith, Denny (OR)	Swindall	Waxman
Smith, Robert (NH)	Synar	Weber
Smith, Robert (OR)	Tallon	Weldon
Snowe	Tauke	Wheat
Solomon	Tauzin	Whittaker
Spence	Taylor	Whitten
Spratt	Thomas (CA)	Williams
St Germain	Thomas (GA)	Wise
Staggers	Torres	Wolf
Stallings	Torricelli	Wolpe
Stangeland	Traficant	Wortley
Stenholm	Traxler	Wyden
Stokes	Upton	Wylie
Studds	Valentine	Yates
	Vander Jagt	Yatron
	Visclosky	Young (AK)
	Volkmer	

□ 1115

The SPEAKER pro tempore. On this rollcall, 389 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

□ 1130

IN THE MATTER OF REPRESENTATIVE AUSTIN J. MURPHY

Mr. DIXON. Mr. Speaker, I call up a privileged resolution (H. Res. 335) in the matter of Representative AUSTIN J. MURPHY, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 335

Resolved, That the House of Representatives adopt the report by the Committee on Standards of Official Conduct dated December 16, 1987, in the matter of Representative Austin J. Murphy of Pennsylvania.

The SPEAKER pro tempore. The gentleman from California [Mr. DIXON] is recognized for 1 hour.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members have the customary 5 legislative days to revise and extend their remarks.

Mr. Speaker, I ask unanimous consent that all Members may have the customary 5 legislative days to revise and extend their remarks on the subject of this resolution, but that Members exercising this permission confine their corrections of remarks actually spoken to grammatical changes. It is essential that the printed record of these proceedings reflect the actual proceedings.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to state that unanimous consent has been obtained for Members to extend their remarks on this matter. it is essential that the CONGRESSIONAL RECORD contain as true and accurate a record of the proceedings as possible. All insertions and extensions not delivered in debate will appear at the end of the proceedings printed in smaller type. The Chair trusts that Members will, in revising remarks they actually delivered in debate on this subject, confine their revisions to those which are necessary to correct grammatical errors and consistent with the permission obtained by the gentleman from California [Mr. DIXON] to refrain from making any changes in the substance of debate.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I yield 20 minutes to the gentleman from Indiana [Mr. MYERS], 20 minutes to the gentleman from Pennsylvania, Mr. AUSTIN J. MURPHY, and I will retain 20 minutes for myself. I wish to state that the yielding of such time is for purposes of debate only.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first let me say to the Members that I understand that the adjournment of our House for the Christmas recess is upon us, and I would like to thank the members of the committee for their diligence in pursuing this matter. As I said in the 1-minute speech earlier today, Members have asked, why on this occasion would we bring up this resolution, and as I indicated at that time, it was as a courtesy extended to Mr. MURPHY, and it was his request that this matter be brought to the floor at this time.

Mr. Speaker, there were four counts that the committee sustained. Two counts dealt with what is commonly known as ghost voting. A third count dealt with the improper diversion of Government resources, and the fourth count dealt with what is known as a ghost employee; that is, Michael Corbett—from September 1981 to July 1982—failed to carry out the duties for which he was compensated.

I want to first take the time to deal with counts 1 and 2. The committee found that on July 14 and August 9, 1978, Representative MURPHY was recorded as voting when he wasn't present in the Hall of the House.

He was recorded "present" on rollcall No. 543 at 10:23 a.m. on July 14, 1978. There was clear and convincing evidence and, as a matter of fact, it was stipulated to that he was in Washington, PA, serving as master of ceremonies at Judge Samuel Rogers' swearing in at 10:30 a.m.

On August 9, 1978, on rollcall No. 663 at 10:26 a.m., he was recorded as being present. He was in Carmichaels, PA, at a ground-breaking ceremony at 11 a.m.

As a matter of fact, Representative MURPHY has stipulated that he was present at these particular places. The defense for these actions are that his card was placed in his desk drawer while he was out of town and he had no personal knowledge how these votes occurred. He also asserts that, as a defense, it was not a violation of House rules at that time to proxy vote.

In 1978, rule VIII said, in part: Every Member shall be present * * * and shall vote on each question put * * *.

The committee came to the conclusion that Representative MURPHY permitted, either in the sense that he knew or that he didn't guard against being voted on the floor of the House by safeguarding his voting card. Furthermore, he didn't, a short time thereafter, notify the House to disavow the ghost votes.

With regard to count 3, the committee found by clear and convincing evidence that for 9 years, official resources were diverted to the use of Representative MURPHY's former law firm which was physically adjacent to the congressional office. The committee found that a receptionist was paid by the Federal Government and did work both for the Federal Government and the law office and only received compensation from the Federal Government.

We further found that there was only one copy machine and FTS lines were used. Or were in a position to be used, by members of the law firm.

In fact, Representative MURPHY stipulated that a diversion of resources occurred, but that he had no personal knowledge of this. The committee feels that because of the length of time, the responsibility for the improprieties has to be AUSTIN J. MURPHY's.

Turning to count 4, this violation dealt with a ghost employee. Michael Corbett admitted that he was a ghost employee; that his absence from work occurred over a period of some 10 months and, according to his own testimony, his attendance dropped off to nothing at all. Representative MURPHY told us that he had no personal knowledge of this. The committee took into consideration that he was the subcommittee chairman, directly in charge of Mr. Corbett's activities, that he lived with Michael Corbett at the time, and that Michael Corbett is presently employed with him. Based upon these circumstances, we concluded that Representative MURPHY either knew or should have known about the fact that Michael Corbett did not perform his work as Mr. Corbett admitted he did not.

It is the totality of this picture: That on at least two occasions ghost voting occurred; that there was an improper diversion of official resources; and that a ghost employee under Representative MURPHY's direct supervision, did not carry out his job duties as subcommittee staff director, that this committee has recommended to you, on a vote of 11 ayes to 0 nays, that Representative MURPHY be reprimanded.

Mr. Speaker, I reserve the balance of my time.

□ 1140

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, each of us here has a number of responsibilities to carry out—the responsibilities placed upon us by the job that our electorate has given us. Your Committee on Standards of Official Conduct today is here, and we wish we were not, on this particular occasion to consider this issue. I am sure each of us here today who will eventually vote on this issue feels exactly the same way.

Back in 1968, the Congress, our House of Representatives, saw fit to create a committee charged with the responsibility of reviewing charges that might be brought against a Member and, if necessary, to refer those charges and any appropriate sanctions to the full House.

This is a committee that has grown from that. Our charge today is unfortunately to bring House Resolution 335 dealing with our colleague, Representative AUSTIN MURPHY, a Member of Congress from Pennsylvania.

I have served on this committee for 7 years, and in the 7 years I have served I do not know of any case involving one Member that the staff, the investigating staff, and members of this committee have spent more time being more thorough, examining more documents, than pertaining to this particular issue we are here on today. It has involved more of the committee's time, both the staff and membership, than any other issue, and here I want to thank our chairman, the gentleman from California, Mr. JULIAN DIXON, for the excellent job that he has done on this particular issue.

In fairness to the respondent, the gentleman from Pennsylvania [Mr. MURPHY], and in fairness to the majority and minority sides, there were six on each side, this is not a political issue. This committee has to be politically blind, and even friendship, as much as we like to think of all our friends, we have to be blind to all these things and weigh the evidence as presented. It is not an easy task, but our committee has done just that. We spent more hours, and our staff has, and I want to commend all of them for the job they have, and I also commend the respondent, the gentleman from Pennsylvania, Mr. AUSTIN MURPHY, for his willingness to cooperate and his counsel and the hours they spent in producing the documents that were required and cooperating, trying to help find what has happened here, so all have done a good job.

This started on June 23 this year. We started our investigation. We had a preliminary hearing and examined what had been presented to us, and we decided that there were six counts. At that time we eliminated one of them as not being sufficient in the evidence that was presented to us for us to pursue. We followed five.

The chairman has done a very fine job of presenting each of these.

We did eliminate, in the hearings, we did eliminate count No. 3, which you will find in the documents you all now have, and there are copies here.

There were 15 formal depositions taken by your committee and the staff. There were a great many interviews, both here and in Pennsylvania, and further. Even down in South Carolina, our staff traveled to get facts.

There were a great many sworn statements. We had a large amount of documentary evidence that was presented both by counsel for the committee, as well as counsel for the respondent. There were official House records, GSA records pertaining to office space and equipment. There were reports from the law firm, credit card transactions were examined, checks were examined, land transactions were examined, and then we followed by 6 days of hearings, long into the night on several of those occasions, that we were listening to witnesses, reading documents, examining what you are presented with here today.

On counts 1 and 2 involving the voting responsibilities of a Member of Congress, is there any more important responsibility that you assume when you become a Member of Congress than that vote—that your electorate sent you here to cast a vote in their behalf?

Does it end with the fact that you say, "Yes, I have that card, and I have the right to vote it," but is there not the responsibility of making sure that vote is cast right, even after it has left here? Is there not some responsibility we have to our electorate to protect that right?

I think there is no greater privilege and responsibility that your voters have placed upon you than voting and protecting your vote. I think it is one of the most important responsibilities that you have when you assume that office as a Member of Congress.

One of the first things you learn when you become a Member of Congress, you have an indoctrination. You are told that you have to be here present on the floor to vote and you are taught and told, every day you hear how vital it is to protect that vote that more than half a million people sent you here to cast for them.

On counts 1 and 2, that was not held to be the case here, there was not the responsibility to make sure that vote was cast and cast right.

On count No. 3, we felt there was not clear and convincing evidence that the gentleman from Pennsylvania [Mr. MURPHY] should be charged with count 3, so we did not come to the floor with count 3.

On count 4, the official resources diverted to private use, your committee found there was ample evidence that there were taxpayers' dollars used for resources, of equipment that was used for a private purpose.

Count No. 5 we eliminated very early, as I mentioned before.

On count No. 6, the so-called ghost voting, it was clear and convincing that an employee in the subcommittee that the gentleman from Pennsylvania [Mr. MURPHY] had the responsibility to chair and to administer certain supervisory responsibilities over that employee, that that employee had duties that were responsible duties commensurate with the salary that he received, and clearly he was not here when he should have been and was paid for. There is no question that there was an instance here that an employee that the gentleman from Pennsylvania [Mr. MURPHY] had the responsibility of supervising did not carry out the duties that the job called for him to do.

On a vote of 11 to nothing, your committee has come to the floor and recommended, as distasteful as it is, we recommend a reprimand of our colleague.

Mr. Speaker, we have responsibility to protect the honor of our Chamber here. We have a great responsibility to the people of this country that we do their kind of a job. We have today to set aside friendships and partisan responsibilities and vote for the integrity of the House of Representatives that we all love so much.

We in your committee have done a job that we wish we did not have to do. Today each of you has also to accept the responsibility that we wish we were not here to do, but it is a responsibility that we have accepted when we were sworn in here and those of us on the committee have accepted that responsibility. Regretfully, we are here today.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY] for 20 minutes.

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first like to call my colleagues' attention to a misprint in the committee report, whether it was provided by the brief that was submitted or by the printer or in what manner, but on page 12 it indicates that the voting violations occurred in 1987. That should be transposed to 1978.

I wish that all of the Members would have, as I was, been here this morning to hear the minister open our session with a prayer for wisdom of

the Members and that we be delivered from outside pressures.

Several months ago, unfounded reports and stories appeared in a local newspaper of questionable reliability and with foreign financial backing, based allegedly on some statement that a former staffer of mine had made for his own or her own peculiar or perverted reasons for holding such information for over 9 years.

The committee had the wisdom to dispense or dispatch and not consider most of those unfounded allegations that appeared in that press item and have boiled it down here today to three separate items; one, that on two occasions, on two votes only, on July 14 and August 9, 1978, my vote was recorded somehow in this Chamber when I admittedly was back in Western Pennsylvania.

I established, I think, beyond a question of doubt that I returned on those 2 days. I showed them the clerk voucher of the commercial airliner that I believe brought me in here at 11:30 that morning or 12:30, we had difficulty in establishing the time.

I voted the remainder of that day, and a vote analysis would have perhaps shown that, but that was not taken.

The second instance was that I accommodated my former law partner in the use of the copy machine in the congressional office.

And the third was that I kept a staffer on subcommittee after his absenteeism had been disclosed to me.

First, let us deal with the count on the voting in 1978. I admitted that I was not here for the opening vote on two separate dates.

You know, we vote with a rather highly technical and mechanical computerized voting system in this House. Our votes are put in there and they are transcribed somewhere to here, and from here to the Rayburn Building, or if we choose we vote by one of these cards and at a busy time when the well is filled we sign our name and we throw it here and the clerks, hopefully, identify us and they hope to identify us correctly. I was a freshman Member. I hope they recognized me.

There were three Murphy's in the House at that time.

Now, where does this card go when we sign our name? It goes from this clerk who puts a number on, I believe, the rollcall number. It goes to the clerk on the upper dias, whom I believe puts the Member number that comes off an alphabetical list.

Now, did a clerk transpose that number wrong? Did Mr. Murphy of New York, who was not recorded as voting on either of those occasions, was his card transposed? I don't know.

Was my card left in one of the voting machines? Did this mechanical device that has failed six times since I have been in Congress, did this mechanical device somehow record me as voting? I don't know, and the committee does not know, because no vote analysis was taken.

I tried going through the journals to find out how it happened, and the committee uses the statement, well, if I would have disclosed it the day after it happened, that that would have been the honorable thing to do.

Well, I want to submit that in the Tennyson Guyer and Morgan Murphy cases, votes were cast in 1979 and in 1980 this committee and this House determined two factors: one, there was no clear evidence that they permitted anyone to vote for them; and second, there was no rule in the House of Representatives to specifically prohibit proxy voting.

Yes, the committee will read to you the rule that states every Member shall be present within the Hall of the House, unless excused or necessarily prevented.

Now, it does not say anything that he shall—that is where the committee in 1978 decided we needed to clarify this rule.

How many Members every day violate rule 8 as being given the strict interpretation by this committee? Every one of you in the course of a year somehow fails to sit in the sittings unless excused or necessarily prevented. That is the rule that I am here in the well for.

I invite the committee to look at us all who are not here and sitting for every word that is said.

□ 1155

I appeared before the committee and I denied, and I deny to you my colleagues, that I have ever permitted anyone to vote for me, just as the case was in 1979 and 1980. I do not know how or why any one of our votes can be recorded in this system unless we do it. The committee does not know how or why it was done in this instance. If the committee wants to be so technical, reach back 10 years, get the report that your committee did at that time, get the suspects at that time, a vote analysis was done.

No vote analysis was done for me. I suspect it is because I was here and voting.

Why did I not report it immediately? What their reason is, is I should have known. The next day I voted to approve the Journal. I should have known. I should have read the Journal. I should have known that I was recorded on that vote whej I was traveling down here.

Wehl, I dk not know any Member who reads the Journal every day before we vote, but I learned one thing, and if anyone has joticed and I know a colleague pointed it out to me this morning, I vote no on the Journals from now on because I cannot be held to constructive knowledge as to every word in that Journal.

Let me say there was no other evidence produced that I permitted anyone to vote for me. There was no other evidence produced identifying anyone that I may have permitted to vote for me* There was not vote analysis.

The only thing we have in this situation is exactly the same thing they had in 1979 in the Morgan Murphy and Tennyson Guyer cases, and that is a vote was somehow recorded when the Member admittedly was not on the floor.

In 1979 and 1980 and finally in January 1981 we decided as a body to have a rule of the House to prohibit any Member from permitting anyone else to vote for him. We clarified our rules. We accepted the report that there was not a sufficient rule in existence at that time, and we accepted the veracity of the members who said, "I did not permit it," and then we adopted a rule of the House. That rule of the House was the rule that they first went after me for until they found out it was not in existence, so they went back to this one that compels us all to sit here during every session of the House.

I can only say that the committee has decided somehow to have in this instance different justice than we had in 1979 and 1980. For some reason they have used this one instance to summon me out as having violated a rule which did not exist in 1978.

The facts are no more than that. They had a suspicion, and I admitted that I was not here and that is all they had.

I urge my colleagues in that first instance, pay heed, pay heed that if we can go ex post facto in this instance, then we are saving we have surrendered a constitutional right that is given to every person in court, because if we can say that Member can be prosecuted for the violation of a rule that did not exist when the alleged violation occurred, what is this body being subjected to?

In the second instance, my former partner, law partner, we had a two-man firm, and in the opening days of my congressional service nobody was really around to help much, my law partner let me use his offices without rent. He let me use his telephones, he let me use his equipment, not me, but my staff. We were trying to get organized, we were trying to set up five district offices. In the ensuing months my staff apparently decided to reciprocate, they needed a copy made or something else. The only testimony brought before the committee, and understand they operate from a briefing book that I do not have a copy of. They operate with evidence that is not submitted at the hearing.

But the only evidence, and I sat through every day of it, that was submitted was a junior associate of my former partner who came in and said, "well, on New Year's Eve I went down and Mr. France told me to make five copies on the copy machine, and it was the only one here. On a couple of occasions I went downstairs and I used the FTS line."

But in that entire record of testimony there is not one scrap of evidence that I knew or that I permitted or that I condoned, and even the junior associate they subpoenaed in said, "No, Mr. MURPHY was not around. I don't know whether he knew about it." Because I did not know about it. Let me tell my colleagues about something about the standard of proof that we have done. When we adopted the rules in 1978 and readopted them in 1981, we decided we had better be better than most people and everybody is used to watching TV in court trials where they must prove a person guilty beyond a reasonable doubt.

We removed that protection from ourselves and I think rightfully so, to a step lower in evidence, clear and convincing evidence. Not beyond a reasonable doubt.

The committee now tells this body, "Now we want you to reduce it further to suspicion." That is what we have. We have reduced the standard of proof to suspicion.

In the final count, Mike Corbett was a 15-year staffer on the Hill long before I got here, he worked for two other Congressmen. I got a bargain, I hired him at $30,000 a year. He was a good staff director.

In 1981 all of my colleagues know we had a great deal of subcommittee work in reconciliation, we were reducing and shuffling programs. Mike shepherded that through with a very fine staff. The only testimony that I knew of concerning this, and incidentally his absenteeism, he admitted to me and he admitted to the committee that in late 1981 his mother became terminally ill with cancer and she lived 60 or 70 miles from here, and he used to sneak off in the afternoon, and I did not know about it, to go take care of his mother and then come back to Washingtkn. He was in Washington all the time, my friends.

Then he would keep it from me.

The testimony was from their witness, a former staffer whom I had to let go, said, "Well, sometime maybe in late March or early April I told Mr. MURPHY, or I told his A.A."—she was not certain which one of us she told—"that Mr. Corbett was goofing off."

Attorney Clarence Norman came in and it is in the testimony, he was the attorney for the subcommittee at that time, and he said, "In June of 1982 we had a discussion in the subcommittee offices and we said, 'Who's going to tell Mr. MURPHY that Mike's goofing off'" and they were all participants including the staffer they had come in.

Well, then a week or two later right after the July 4 break 1982, that staffer they designated came in and told me that Mike had been absent.

I called him in. I gave him his choice and he said his choice was with his mother. He then said, "Will you let me serve to the end of the pay period?"

I perhaps was the first one to establish a policy of parental leave and I guess I might have to do the same again with compassion, and if my colleagues want to hold that against me that he remained on the payroll for somewhere from 4 to 6 weeks, or even if my colleagues want to believe the total of 8 weeks, then I have to take responsibility. But there is no record of evidence in there of what I heard at the hearing that there was any prior knowledge on my part.

When I learned of it I had the unfortunate duty of dismissing a very good employee and it was the first time in my life I had that bad experience.

I guess what I want to say, also, is that to my people in Pennsylvania that I have never betrayed the trust they have placed in me. I have not benefitted financially in any manner whatsoever and I was pleased that the committee report stated that, and that I have never compromised my trust or faith in this House or in our democracy, and there was no wanton wrongdoing involved in any of the allegations.

If I am guilty of anything, I guess it is in showing compassion and sympathy to a staff person who was caring for an ill parent, and that I did not properly instruct my district staff to guard the copy machine more closely.

I might say that my district staff persons testified that they allowed that to happen and that I did not know it, but what we have done when this goes through is that we will have reduced the system of proof from clear and convincing to suspicion.

Let me say that in the 16th and 17th centuries in England the star chambers did just that, they reduced the method of proof, they operated outside the law, they operated outside judicial procedure. There was no jury, only the investigator and prosecutor were allowed to hear the case.

I want to say to my colleagues that we have put Members of this House in the untenable position of being investigator, of being prosecutor, of being grand juror, and then reversing their roles and coming back to be a judge and a jury of the facts. No one can change hats that rapidly. No one can change from being an investigator to being a fair juror. I do hope that someday we will in this House establish a system of justice for ourselves that will not allow favoritism or lack thereof, that will not allow power or lack thereof, that will not allow extraneous pressures to influence us, pressures from the press, from the media, from constituents, from our peers, and that we establish an independent system of individual prosecutor, independent prosecutor or independent thorough judge that we invite in to hear this so that we can have a fair and just hearing and not a star chamber where accusers need not face their accused.

Incidentally, in the Washington Times several months ago the exstaffer said, "Oh, I'll swear under oath about this voting business."

They never brought that person in to be faced by myself or subject himself to cross-examination to determine what his competence and what his motives were.

There are so many things that I could say but I do hope that my colleagues will now allow the enforcement of an ex post facto ruling and that my colleagues will now allow ourselves to be so diminished in matters of proof before this committee that we will no longer have an independent and reliable Congress, legislative body, operating this great democratic republic of ours.

Thank you very much, and I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MCCURDY). The Chair would advise the gentleman from Pennsylvania that he has consumed 19 minutes, and he has 1 minute remaining.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I have no further requests for time, and I reserve the right to close debate.

Mr. MYERS of Indiana. Mr. Speaker, any time I yield will be for purposes of debate only. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], a very valued member of our committee.

Mr. HANSEN. Mr. Speaker, I cannot think of a more difficult task that any of us have than to sit on this particular committee. It is a thankless task. It is a lot better to be on some other committees.

Let me, however, just say I have been on this committee now for 7 long years and in that time we have looked at a lot of Members of this body and let me say that I do not think there has been a time that we have not fulfilled our responsibility to look at it in great detail. I personally feel as we look at this particular case that we are looking at today, this is another situation where we looked at it in great detail. This is a nonpartisan type of committee. I cannot recall a time when we have had a partisan vote on that committee.

In this one, this investigation took 6 long months. This was a good staff of people, including the General Ac-

counting Office investigators helping us out.

We looked at various parts of what had happened in this particular case. As I look at this, it comes down to those four counts, and on the one count, was there ghost voting?

I do not know of a more serious responsibility given to anyone in this House than when one is elected to represent almost half a million people and thus given a voting card. Forget the rule of 1978, go back to the others, look at the Constitution itself. Can my colleagues find anything in the Constitution that says a Member does not vote himself?

Yet, as we look at this electronic thing, we did not do it, the electronic analysis, on this because every day that has proven that it is right. Every day we have the opportunity to know whether we voted or we did not vote.

□ 1210

And the evidence is crystal clear that someone voted with that voting card.

I know a few things are sacred to any one of us, and what our people think, that when you go home that you actually had that card and honored that card and you keep that card. It is not only the idea that you put it in your desk, it is the idea that you take care of it.

We get into some other issues we are looking at at this particular time that were brought up. I do not know, but I think it is another sacred responsibility that you sign a certain document every month that says that those individuals who work for you actually did the work. Do you not sign that? I sign it. It says we certify that the people that work for us actually did the work.

Also in this particular case as we go through these areas, this ghost employee in deposition said that he was a no-show. He said he was not there. I do not see anything wrong with 435 independent businesses. Each one of us has a small business that we operate, and sure, we should have compassion and empathy in our hearts for those people having a hard time. But this is a person who was an absolute no-show using taxpayers' money.

We have empathy for those who come in front of us. No one likes to do this particular job, but I submit that the evidence is overwhelming. The committee did their work. It was exhaustive, and the facts were those that said we should come with those four counts.

We feel not good about it, but it is something that I would urge my colleagues to sustain the committee's recommendation.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MOLINARI].

Mr. MOLINARI. Mr. Speaker, I thank the gentleman for yielding the 2 minutes to me.

Let me say quickly that I respect all of the work that has been done by committee members on both sides of the aisle, and I know that they have worked very hard on this subject.

Let me also say I do not know Mr. MURPHY. I do not know AUSTIN MURPHY at all. I came here like a lot of my colleagues to listen and to make an independent judgment of how I am going to vote on this thing.

But what I have heard so far has troubled me, and I have listened intently to both sides. I am troubled by the charges that have been raised and the way the charges have been raised and the way the charges have been articulated here today against this gentleman. I hear statements like "You have to look at the totality of the charges." What does that mean? To me it means each and every one of those charges may be weak on its face, and I think from what I have heard indeed they are weak on their face, but we have a number of charges to consider. And we are asked to consider the fact that the committee did in fact spend a lot of time, 6 days of hearings, and that they spent a lot of time reading. What does that mean? It means they worked hard, but because they worked so hard and because they worked so long and because the vote was 11 to 0, does that mean that we then go along with whatever the committee says?

This question of the voting card. We have all seen since we have been here instances where people have voted and found out at the end of the year a vote was not recorded. Time and time again I have heard Members get up on the floor and say I was here and I voted; that machine screwed up somehow.

When they say the evidence is crystal clear that somebody voted, I do not accept that. I do not accept that at all.

The statement was made that we have a responsibility to protect the honor of this Chamber. Yes, indeed we do. But we also have the responsibility to protect the integrity of everybody who serves in this Chamber, and from what I have heard here so far I am very, very troubled by the charges. I think that this man is being singled out by the media attention, and I must in my own case support the gentleman from Pennsylvania. Any doubt that I have would be resolved in his favor.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PASHAYAN], a member of the committee.

Mr. PASHAYAN. Mr. Speaker, I join with my colleagues on the committee in saying this is not a happy moment. It is a grim occasion. But it is a matter of duty.

I should like simply to address one point in all of the discussion here, and that is the point of whether or not a rule existed in 1978 that prohibited proxy voting in the House of Representatives. Putting aside inferences in the Constitution, the chief phrase of which reads in article I, section 5, clause 3, "The yeas and nays of the Members of either House shall be entered on the Journal," and other phrases suggesting presence in the House, putting that aside we can focus on a ruling by Speaker Nicholas Longworth on March 5, 1930. I quote:

> There is no rule that the Chair knows of in the House of Representatives for any sort of proxy. No man can transfer his vote or permit another Member to vote for him. A Member must vote in person.

Mr. Speaker, the law or a rule is laid down for at least two principal purposes. One is to establish the behavior or conduct that is expected of people, and in this instance that is expected of a Member of this institution. A second purpose of a rule or a law is to give notice to the people subject to the law of what is expected under the terms of the law.

POINT OF ORDER

Mr. KANJORSKI. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. MCCURDY). The gentleman will state his point of order.

Mr. KANJORSKI. Mr. Speaker, a very peculiar thing has been called to my attention and I would like to call it to the attention of the House. If they will look at the voting board there is presently a vote being cast on the board as present, in the second column of the third sheet, and I would like the record to so note.

The SPEAKER pro tempore. The gentleman from Pennsylvania fails to raise a proper point of order. There is no vote in progress.

Mr. MYERS of Indiana. Mr. Speaker, this is a serious matter and we do consider our responsibility here very seriously and not to be treated lightly.

Mr. Speaker, I yield 3 minutes to the gentleman from Idaho [Mr. CRAIG], a member of the committee.

Mr. CRAIG. Mr. Speaker, I am a new member of the committee, and I can tell my colleagues as a member of this committee I had a difficult experience. Most of us view our attendance on committees with some degree of regularity, but all of a sudden I realized I was being asked to be a jury, and it was very important that I be there because potentially an individual's career was at stake. I will tell my colleagues a good many of us attended all of that time.

Nor do I believe we can ask, as the gentleman from New York has asked, that this whole case be tried again on this floor, in this well with all of the details and all of the facts that we dealt with in that committee. So let me point out only a few, on two counts

that I think are very important and that I dealt with a great deal of the time.

On the count of the diversion of Government resources, get the committee report. Find out in that report that there were checks, pictures of checks in which it says that checks were still being drawn in 1987 by the law firm of Murphy, France & Vanderman, and other individuals. And yet the gentleman from Pennsylvania [Mr. MURPHY] said before that committee that he terminated his relationship with that law firm, and that law firm was sold to his partner when he came to office. Yet there was a relationship that in my opinion was very clear.

A staff person said that when the Government copy machine came to the office, ours went to the basement. That is a fact. We believe it to be a substantial one. Also there was a receptionist being paid by Government funds who was receiving law firm phone calls on a daily basis and sat in the front of that law firm's office. That is believed to be a fact.

I could go on about those kinds of details, but if my colleagues want to try the case again as we did before the committee, hour after hour, then we ought to extend the time a great deal more than we are now doing.

A ghost employee, count No. 6, a difficult charge. The gentleman from Pennsylvania [Mr. MURPHY], our colleague, has a room in that employee's house during the time of that employee's absence from the committee that that employee admitted he was absent from.

Mr. MURPHY. Mr. Speaker, will the gentleman yield 2 seconds? Will the gentleman point in the testimony where that appears?

Mr. CRAIG. That was the evidence that was available to us and to the committee for decisionmaking.

Mr. MURPHY. It was not brought out at the hearing for explanation, was it?

Mr. CRAIG. Yes, it was asked.

It was also said by the gentleman from Pennsylvania [Mr. MURPHY] that when he decided that this employee needed to be discharged that he went to the "Man in the Green Hat" to find him. It appeared that he knew where the man was.

I am simply saying there were details involved, tremendous details that led the committee to the decision that we have brought you today in this report that my colleagues will have to decide upon.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, the committee has done a difficult job and presents us with a difficult vote. Many of us regard the gentleman from Pennsylvania as a friend, and judgments of this type are very tough.

Based upon the information gathered by the committee, and I did take time last evening to read the report, a reprimand of the gentleman from Pennsylvania seems an appropriate response in fulfillment of our constitutional obligations. The gentleman from Pennsylvania apparently violated House standards. We should respond to the facts of the case as developed by the committee.

But we also need to be concerned about justice in this matter. Whatever punishment we decide is appropriate in this case should be a consistent standard. I believe the gentleman from Pennsylvania has come to understand why some of us in the recent past have called for looking at basic reforms in the way that we handle these matters, and this case does raise some serious consistency concerns.

If the gentleman from Pennsylvania is to be judged guilty of having his vote cast for him by someone else, who is that other guilty party? Should there not be two accused before us today?

If the gentleman from Pennsylvania is to be judged guilty of misusing official money and employing ghost staff, there are other cases where similar punishment seems warranted.

I will vote for this reprimand. I will vote to reprimand the gentleman from Pennsylvania for his mistakes I believe that the committee has established he made.

If the whole House decides that is an appropriate action to take, however, we have a problem, not just a problem for the ethics committee, but a problem for the House. We have a problem because there are other cases far more serious, in my opinion, that all of us must address with at least similar types of punishments. Simple justice demands it.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. GINGRICH].

□ 1225

Mr. GINGRICH. Mr. Speaker, I commend the committee for its report and its recommendation. Given the facts, a reprimand is a reasonable recommendation and I will vote "yes" but I sympathize with the plight of Mr. MURPHY. We must be careful not to make a scapegoat of the gentleman from Pennsylvania.

This committee's earlier report on the gentleman from Rhode Island should be reexamined with this new yardstick. The committee's letter on the gentlewoman from Ohio should be scrutinized with this new yardstick. The admission of $24,000 in election law violations by the gentleman from California should be held up to this new yardstick.

Finally, the numerous allegations about the Speaker must be——

Mr. ROBINSON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MCCURDY). The gentleman will state it.

Mr. ROBINSON. Mr. Speaker, I thought we were here today to hear a very serious charge against one of our colleagues from Pennsylvania, not from California or other States.

The SPEAKER pro tempore. Will the gentleman suspend? Does the gentleman from Georgia yield?

Mr. GINGRICH. No, I do not yield, Mr. Speaker.

POINT OF ORDER

Mr. ROBINSON. Mr. Speaker, I raise a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. ROBINSON. Mr. Speaker, my point of order is that we are here to consider the committee's report against our colleague AUSTIN MURPHY and not against other Members today that the charges have not been substantiated or presented to the committee.

Mr. GINGRICH. Would the Chair——

The SPEAKER pro tempore. Will the gentleman suspend?

The Chair will yield on the point of order.

On the debate currently ongoing, there can be references made to other cases reported by the committee, not by individual or by name. The gentleman from Georgia, as the Chair understands, has not mentioned other individuals and the gentleman from Arkansas——

Mr. ROBINSON. Mr. Speaker, he has, too.

The SPEAKER pro tempore. The gentleman may compare disciplinary actions reported by the committee and should confine his remarks to the matters before the House.

Mr. ROBINSON. I have a further parliamentary inquiry, Mr. Speaker. To my knowledge, these charges are not before the committee.

The SPEAKER pro tempore. The gentleman from Georgia will proceed in order.

Mr. GINGRICH. The gentleman from Arkansas made my point. And my point is simple: You do not have the courage at this moment to raise the charges against those with power but just before Christmas you found a Member without power.

It is sort of shameful.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] has 1 minute remaining.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. FAZIO], a member of the committee.

Mr. FAZIO. Mr. Speaker, enough has been said about the difficulty of the task of the committee, the bipartisan nature of it, et cetera. But I think the committee needs to take a second to defend itself simply to the degree that we reaffirm the absolute conviction of all 12 of us that we are not engaging in any special treatment of any Member, we are not scapegoating any Member. We have taken heat before and we will take heat again, because we cannot please a body as diverse in their philosophy and their personality as this one.

We expect to take that heat, it is part of the job.

But I think it is important to point out that we have in the case of AUSTIN MURPHY rigorously reviewed all the matters that have come before us. We have whittled down the potential charges to a relative handful and we have not convicted him on all of those that he was originally charged with. We have tried to bring to the floor the simplest package that we think is indicative of a pattern of abuse. It is too much, I am afraid, for some of you, as jurists potentially, to accept that in what is really a limited amount of debate, only an hour. But I think you can place confidence in a group of 12 people who worked together endlessly to try to figure out what we can bring that will provide the best consensus of the group. We did not bring anything we could not defend. I am sure the chairman in his final remarks will do an adequate job—a better than adequate job, frankly, of rebutting those responses made by Mr. MURPHY on anyone else on this floor.

It is important, I think, however that you back the committee only to the degree that you are willing to assume that they have done the most thorough and comprehensive analysis of a lot of data, not just testimony, but thousands and thousands of pieces of paper and material. It, I think, attests to our efforts, to our validity and to our conclusions.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself the time remaining.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. MYERS] is recognized for 1 minute.

Mr. MYERS of Indiana. Mr. Speaker, it is, a difficult job we all have here today. Mr. MURPHY has cited that the machine has made mistakes. A colleague has cited that a "present" light is lit on the display panel when there is no vote being cast. If our electrical machine is that fragile, that prone to mistakes, would not a reasonable person as we all are, should we not also make sure that our vote is cast right?

Correspondingly, when we are not here, making sure that it did not cast a wrong vote in a way we do not want it to? Do we not have a responsibility to do that if that machine is that fragile?

And, yes, we are—if there was any question as to guilt, we would have come down on the side of the respondent. Clear and convincing was the charge of the evidence that we considered.

We were just as compassionate as everyone else. We did drop two of the charges.

In closing, we are all parents, or most of us are parents here. There have been times in our lives as parents we had to discipline our children; not a happy experience. It bothered us.

Today we are being asked, with the responsibility and charged with the responsibility of disciplining a colleague, a friend. It is painful today. But just as we did what was right with our children, we do what is right today for the institution of the House of Representatives that we all love so much.

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all sides be given an additional 10 minutes. It is my understanding that there are other Members who wish to speak on this matter and I think, just on the issue of fairness, that all Members should be allowed to be heard on this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. RUSSO. Mr. Speaker, reserving the right to object, it seems to me that the way the debate has been handled today, the respondent only has one-third of the time and the committee has two-thirds of the time, and it seems to me that if you would make any extension of time, it would be divided equally, that the respondent would get half of the time and the committee get the other half.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

The chairman of the committee divided the time that way because I felt that we have the burden to come forward and make our case. However, this Chair would ask unanimous consent to grant the gentleman from Pennsylvania [Mr. MURPHY] 15 additional minutes.

The SPEAKER pro tempore. Does the gentleman from California make that request for time for anyone else?

Mr. DONNELLY. Mr. Speaker, I have a unanimous-consent request pending.

The SPEAKER pro tempore. The gentleman from Massachusetts has requested 10 additional minutes for each side.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from California.

Mr. DIXON. I thank the gentleman for yielding.

Mr. Speaker, my unanimous-consent request was not to take any more time, but to grant the gentleman from Pennsylvania an additional 15 minutes.

Mr. DONNELLY. Mr. Speaker, I withdraw my unanimous-consent request.

PARLIAMENTARY INQUIRY

Mr. MYERS of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MYERS of Indiana. Mr. Speaker, as I understand it, the unanimous-consent request was 15 minutes for the respondent and 15 minutes for the committee, both sides?

Mr. DIXON. No. Mr. Speaker, my request was 15 minutes for the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MYERS of Indiana. And none for the committee?

Mr. DIXON. None for the committee.

Mr. MYERS of Indiana. That is satisfactory.

Mr. RUSSO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania [Mr. MURPHY] will be extended by 15 minutes. The gentleman from California [Mr. DIXON] has 9 minutes remaining, the gentleman from Pennsylvania [Mr. MURPHY] has 16 minutes remaining, and the gentleman from Indiana [Mr. MYERS] has no time remaining.

Mr. MURPHY. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I give tremendous respect to the unanimous judgment of the Ethics Committee. I came here feeling that if there were a unanimous judgment from these very fair men and women, the chances are in all probability I would vote to reprimand. In all candor, however, on the basis of the evidence that I have been able to assimilate thus far, on what I have been able to hear, and I have listened to every word, and what I have been able to read from the time that I was aware we would be considering this, it is difficult for me to vote to reprimand the gentleman. This causes me great personal difficulty.

Let me explain why: There are three basic charges. First of all, the vote. The allegations as I understand it are that twice, and I am not sure whether it was the electronic machine or whether or not it was the paper card which some name Murphy, when there were three Murphy's, indicated that Mr. AUSTIN MURPHY votes. Was it a paper card or was it the electronic

machine? And worse, the evidence that he was involved, especially when on sometimes that day he voted and sometimes that day he did not vote. And if he were having somebody vote for him, would it not have been done with some consistency?

I have difficulty with that one.

Second, with the issue of pay for an employee. How many of you have been awakened to the fact that some employees of yours have not given you the performance that you thought they were and then you have let them go and perhaps you have let them go with 4 weeks' severance or 6 weeks' severance or 8 weeks' severance, and they did not work for you during that 4-week period or 6-week period or 8-week period and yet you signed the payroll which payroll said that they did work for you, but it was a severance pay.

And the third issue—I leave aside the issue of parental leave or sick leave or what have you—and maybe there are answers to all of these. Maybe if we had those answers we should reprimand. But I have not heard them yet.

The third issue is the use of the Xerox machine and the telephone. I just do not know to what extent it was used, to what extent the telephone was used, how cumulative it was, or how casual was it?

And was there any type of an informal relationship where Mr. MURPHY was able to avail himself, for Government purposes, of secretarial help of the law firm, of the law books of the law firm, the physical building that the law firm was renting? I do not know. I do not know this.

But if there were, it troubles me that we might be reprimanding him without knowing the facts a little better.

Maybe the facts are in the record. Maybe the committee knows the facts, but I have not heard them yet today or read them yet today and they should come out before we can vote to reprimand.

Mr. MURPHY. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, first of all, I would like to thank the chairman of the committee for extending the time for an additional 15 minutes, for I am troubled by the rule as it exists at the present time where only 1 hour is allowed to decide the fate of a fellow Member. Forty minutes are given to the prosecution but only 20 minutes to the defense. And that is not equal nor fair.

I would, however, like to compliment the committee, for its procedure and ethics has improved tremendously, almost 100 percent in the last 6 years.

There was a time when investigators on the committee would actually break into a Congressman's office in the middle of the night, ransack the office and its contents looking for whatever information they wanted. Fortunately, that is no longer the case in the House of Representatives.

It is no wonder that the Supreme Court back in 1972 had this to say:

> An accused Member is judged by no specifically articulated standards and is at the mercy of an almost unbridled discretion of the charging body that functions at once as accuser, prosecuter, judge, and jury from whose decision there is no established right of review.

□ 1240

The Court went on to say:

> A Member would be compelled to defend in what would be comparable to a criminal prosecution without the safeguards provided by the Constitution.

That is what is happening now. The committee may be correct when it brings charges based on clear and convincing evidence. But even that does not seem to apply to all four charges in this case. We who act as the final jury would be wrong if we do not consider only those facts in evidence that are beyond a reasonable doubt. That is the way the courts are run in this country. The accused must be found guilty on presented evidence that is beyond a reasonable doubt. After hearing the evidence as presented and the defense that has been made, I have doubt. More than a reasonable doubt that these accusations as presented are beyond a reasonable doubt on all four counts, particularly since they are based on the fact that the alleged violation on at least two counts took place in 1978, when there was no direct prohibition against that violation, and since the committee itself corrected that discrepancy back in 1980 and had those rules changed by the House of Representatives. That was almost 2 years after the alleged violation.

Mr. MURPHY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. NAGLE].

Mr. NAGLE. Mr. Speaker, I have taken the opportunity during the debate to walk to the back of these hallways, and I think I can speak for a vast number of the Members when I say that many of us are frankly troubled by this case. We are caught on one hand with our legitimate desire to uphold the committee and support the committee and on the other hand by the very troublesome facts that have not come before us in this case.

We all believe in the sanctity of that voting machine and its accuracy, particularly when three Murphys were in this body at the same time when the phone system in this institution commences to work.

Second, I will believe that all of us have a responsibility to know what all of our employees are doing when we all know that. But we do not. I am also troubled by the fact that others who have had employees on phantom leave or ghost employees have been allowed to repay it without allegation.

We owe the committee our gratitude, but there is something else that is even more fundamentally at stake here. I do not even know AUSTIN MURPHY. I did not come here to speak today. But we owe him an obligation to vote and to recognize the consequences of that vote.

Committees come and committees go, but whatever stamp we put on AUSTIN MURPHY lives with him for the rest of the history of this Congress. I am not satisfied and I think many Members are not satisfied that we have seen enough for the pages of history to say that AUSTIN MURPHY is to be labeled as having been reprimanded by this institution on these allegations.

We are even down to accusing him of letting somebody use his Xerox machine, and that in my mind is nitpicking.

Mr. Speaker, I think we owe him our best judgment, not the committee. I think we owe it to each other when we are troubled to give each other the benefit of the doubt, and I, frankly, do not plan on voting, even though I respect the committee to uphold the committee.

Mr. MURPHY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, to the Democrats and the Republicans, let me say I am here in the well as a friend of AUSTIN MURPHY. I have not seen any specific proof other than the fact that we have Members who have been clamoring lately for people's heads on these ethics issues. There have been so many unjustifiable types of slanderous statements made that both Democrats and Republicans alike should be monitoring the behavior of some of those attackers, who do not live in glass houses, by the way, and their behavior has not been pristine.

What bothers me today is that Congress is so concerned about these ethics issues that we have finally started to focus in on one, and it has been AUSTIN MURPHY. AUSTIN MURPHY is the scapegoat today. There are a whole lot of people who have done a lot of things in this body, but at some point you look your accusers in the eye and they give you facts and they present proof.

This is not going to make me very popular with some Members, but I am going to vote "no." That is not just because AUSTIN MURPHY is a friend of mine, but when you make these types of accusations, you should prove them, and Congress should not be letting some of these Members get away with cheap shots. They have been doing it with our Speaker, they have been doing it with a lot of Members, and

the Ethics Committee, I believe, feels compelled to bring somebody before this body. I am not going to question the committee, but as a Member, I am not going to let them steamroll AUSTIN MURPHY either.

I am going to vote no, and I am asking the Members of this body who know of the good job AUSTIN MURPHY has done in his district, and that the people have sent him back because of that good job, not to let those few in here who cast stones get away with the type of behavior that runs us or herds us into a system of discipline that is not fair.

Mr. Speaker, I am voting "no."

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. MURPHY] has 6½ minutes remaining.

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleagues for the comments they have made. I know that I have been a colleague as well of the members of the committee, and I know that they have had a painful task.

All of the Members know that I am here daily, that I am on the floor, and that I quietly do the work that I can do.

But I do want to call the attention of the Members to this: One or two of the Members made some comment appointing to 17 pages of checks that my former law partner drew for various accounts. My name is not on one of those checks, except that when I left the law firm and sold it to him—and I established that with proof to the committee, that I sold it and had no participation in it—he bought the name, Murphy & France, because I had been in the community for years. So I guess his checks may still read with the name "Murphy." I never saw the checkbook. I do not have anything to do with that, and the committee knows that.

Then they brought out the fact that I stayed with Mr. Corbett. Yes, my plumbing broke for a couple of months in the winter of 1981 and 1982, and Mike had an extra room on the third floor and I stayed at Corbett's, but that was long before his absenteeism occurred and certainly long before I knew about it. I do hope that the Members now will have some awareness that I truly believe the pressure is on the committee by the media, by their peers, and by their constituents, and perhaps feeling it themselves, they have decided to bring a case here before you that is certainly not ironclad. If they think it is, then I was in a different courtroom from them for that week it occurred. I was there everyday, and I want to say that that is another problem with our system.

We are asking 12 of our peers, after they have been investigators, to now sit and be a jury. Some of those Members would be astonished at the percentage of time that they were able to devote to those hearings. I can understand why, because we have busy lives, but it is unfair for them. But it is also unfair for you and for me to be charged to submit all the facts before a jury that comes and goes and comes and goes—not all of them, but enough of them that it is a little disturbing to a defendant who sits there and figures, "Holy smokes, they've got a swinging door in the jury room."

I have been a prosecuting attorney, and I know what standards of proof are. I know what rules of evidence are, and that is another place where our committee is sorely lacking. They have no Parliamentarian or any unbiased person to say what the rules of evidence are. They should not go by what was in some deposition where we had no opportunity to cross-examine. They should not go by a briefing book that I have never seen to this day, and they were constantly being requested by their counsel to refer to their briefing book. I wish we had had that opportunity to have a briefing book.

Let me say to my friends that as much as I feel singled out for this discipline, I feel very strongly that you must address this procedure. I would not want to serve on that committee, and I know the anguish they have. But how do they take off their prosecutorial cloak and all of a sudden become a fair and impartial judge and jury?

Never once in the testimony was there any evidence that I permitted anyone to vote for me, that I permitted the diversion of the copy machine, or that I permitted Mr. Corbett's absenteeism until the last 6 to 7 weeks that he was there.

□ 1250

I take responsibility for that. If I was too compassionate, that is my fault, but that is the only thing that I tell you, my colleagues, that I permitted.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Speaker, I came here today as an attorney and one who believes in the high ethics of this House, to admonish the gentleman from Pennsylvania [Mr. MURPHY].

I did so because I, like you, wanted to uphold the very highest standards of this House. After listening to the report of the committee, I cannot do so.

The gentleman from Pennsylvania [Mr. MURPHY] is charged with four counts. There will not be four separate votes on this floor. In my judgment, if justice is to be done, you must each become convinced that each of those four separate counts are properly founded and supported by the evidence. There is no such evidence, make no mistake about it. Proxy voting is inappropriate. It is wrong. It should not be permitted, but it was not against the rules of this House when the gentleman from Pennsylvania [Mr. MURPHY] is alleged to have permitted another to have acted on his behalf.

I invite the Members of this body to read a letter written to the gentleman from California [Mr. FAZIO] on November 16 by the counsel of this House, Steven Ross, and I quote:

> Congressman Murphy can hardly be held to, and punished for, a standard of conduct that this committee determined two years after his alleged transgression. That hardly comports with either the House's admonition that the committee should only proceed against Members for allegations of breaches of standards of conduct that were in effect at the time of the conduct, or with such basic notions of fairness and due process which must attach to this committee's proceedings if they are to fulfill the important constitutional role assigned to this House.

That in the judgment of the counsel of this House.

I would further invite you to the conclusions of Mr. Ross when he wrote, and I quote:

> I believe that you should also have concerns regarding the committee's jurisdiction to proceed on these two charges.

Quoting further:

> The rules of the House are that no investigation shall be undertaken by the committee of any alleged violation of law, rule, regulation or standard of conduct not in effect at the time of the alleged violation.

My friends, you cannot in good conscience find that each of these four alleged violations have occurred. If the committee believes that it has evidence for the other three, proceed, return to this floor. I cannot in good conscience vote to find that all four have, indeed, occurred.

The SPEAKER pro tempore. All time of the gentleman from Pennsylvania [Mr. MURPHY] has expired.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I want to say to the Members of this body that I appreciate the attention that they have given to both sides of this issue.

I want to address in my closing the facts in this situation as the committee found them. We certainly could not bring to you all the evidence that we accumulated in an investigation in some 9 days of hearings on this matter, in a 1-hour resolution that the committee provides for. If you look at the resolution, the resolution requests an adoption of the committee report with the issue of reprimand.

It is the opinion of Steve Ross, the general counsel of the Clerk, as the gentleman in the well said, but I point out to you that, first, it was not his jurisdiction; second, he was not speaking

for the House; and third, in fact he says, "The views expressed here are mine and provided to you in response to a question."

There is some confusion here as it relates to counts one and two, and let me tell you what the facts are. An analysis was made. The votes were not made here or anyplace else. They were made at station 33 with a card; so the issue of whether they were made here and all the confusion, in all respect to the respondent, he is trying to cloud the issue.

Prior to 1973, that was the year that the voting devices were installed, was there any doubt in any Member's mind that they have to be here physically on the floor and vote? I do not think so.

After that time in an honorable House with honorable men and women, no one thought to change the rule, and so there is an issue that arose in the Morgan Murphy case as to the crime or breach of confidence or House rule as it relates to someone who took the card, not the person that was responsible for their own vote; and yes, there was a rule change made in 1980 that said not only do you have to be present, but because of technology, the person who does the voting has breached the House rules. That is what occurred in the Morgan Murphy case.

Mr. Murphy in that case took the well on the Monday after and said he did not allow anyone to vote him.

Now, the gentleman from Pennsylvania, Mr. AUSTIN MURPHY, says that some of this came to the committee's attention, and he is correct in part, by a May 7 Times article. Did Mr. MURPHY at that time look at the article, examine the dates, the specific two dates that were alleged, come to this well, notify the Speaker, "Yes, I was not here, and there was a recorded vote"? No, he waited until after a statement of alleged violation, after we knew where he was, and then he says, "Oh, yes, I leave my card—when I get this, now, when I in fact leave"——

Mr. MURPHY. Will the gentleman yield just for a question?

Mr. DIXON. I will not yield. The gentleman has placed his interpretation on the evidence. These are arguments I have a right to place my interpretation on the evidence.

I take my card and I put it in my desk drawer, and so when I leave here I do not have my identification card. With that, does he ever check his records to see if he has been recorded? No. He just does not know how it happended.

When you look at the fact that it did occur at station 33, there is no doubt that he either directed someone to do it, or he did not safeguard this card.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield just for a split second?

Mr. DIXON. I am glad to yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Speaker, I apologize. I have no idea how I am going to vote, but I am deeply troubled by this question of the account on voting. I am looking at this board and I do not know who is recorded as voting "present."

Mr. DIXON. There is no vote on. Ladies and gentlemen of this House, this has been brought out twice. There is a light on.

If you want to accept that this light being on is not clear and convincing evidence that Mr. MURPHY was recorded, by his own admission he left his card in his desk. He never disavowed it. If this light being on to this House is enough, so be it.

Every man here has to justify his vote. If this light on means that to you, vote it.

If you think that there was no House rule about being voted on this floor when you were not here, so be it.

This is not the committee's interest. This is this institution's interest.

If you think after the man stands in the well and says yes, Government supplies and property were used, he admits it, but he did not know anything about it. The evidence was it took place over 9 years.

There was one reception area. The person in that area was paid by the Federal Government. The evidence was that she received and did work for the law firm and the Federal Government. If you want to believe anything else, so be it. It is your vote. A ghost employee, by the man's own admission, for 10 months. He had a good reason in his heart. He had a parent that had cancer.

Do you think he lived with that man? He had on the surface a good reason, that Mr. MURPHY as subcommittee chairman did not know it for 10 months? If you believe any of that, you have a responsibility to vote no, you do.

If you can say to yourself that there was no rule, because this case is about what a Member's responsibility is, it is a responsibility to be here and vote. If you think that light gets him off the hook, so be it.

It is an issue of what your responsibility is as a subcommittee chairman. For 10 months the man said, "I didn't show up." If you believe that the excuse is justified, so be it. Vote "no."

The man admits, you have seen him in the well say, yes, they used the equipment. He asserts some offset. "It didn't happen for 2 or 3 months when I was just starting up." It happened for 9 years, and the committee went thoroughly through all this evidence. If you can believe the story the gentleman from Pennsylvania [Mr. MURPHY] and if you think there was no violation of House rules in 1978 that a Member must be present on the floor or at least safeguard about the CONGRESSIONAL RECORD and come to this well and disavow it, if you can believe any of that, it is your responsibility to vote no. This is an institutional problem. It is not the committee's problem. So anyone who stands up here in good conscience, if you can vote no after listening to the members of the committee, someone said they are troubled that they did not hear more Democrats speak. This is not a partisan issue. The gentleman from Indiana [Mr. MYERS] and I have been speaking for the 11 Members that voted on this report.

If you can believe any of that, I say to you, you have a responsibility to vote no. You should protect this institution, and if you think in any way we are picking on this man, vote no.

If you read the report, if you listen to his own statements here today, he admits the violation.

I suggest to you that you must uphold the committee's recommendation of a reprimand. When you look at the totality of this picture, there is no other answer for me and the other members of my committee.

The SPEAKER pro tempore. All time has expired.

Mr. DIXON. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

Mr. DIXON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 324, nays 68, answered "present" 20, not voting 21, as follows:

[Roll No. 495]

YEAS—324

Andrews	Buechner	Davis (IL)
Anthony	Bunning	Davis (MI)
Archer	Byron	de la Garza
Armey	Callahan	DeFazio
Aspin	Campbell	DeLay
Atkins	Cardin	Derrick
Baker	Carper	Dickinson
Ballenger	Carr	Dicks
Barnard	Chandler	DioGuardi
Bartlett	Chapman	Dixon
Barton	Cheney	Dorgan (ND)
Bateman	Clarke	Dornan (CA)
Bates	Clinger	Downey
Bennett	Coats	Dreier
Bentley	Coble	Duncan
Bereuter	Coelho	Dwyer
Berman	Coleman (MO)	Dyson
Bilbray	Collins	Eckart
Bliley	Combest	Edwards (CA)
Boehlert	Conte	Edwards (OK)
Boggs	Conyers	Emerson
Bonior	Cooper	English
Bonker	Coughlin	Erdreich
Boucher	Courter	Espy
Boulter	Coyne	Evans
Boxer	Craig	Fascell
Brennan	Crane	Fawell
Broomfield	Daniel	Fazio
Brown (CO)	Dannemeyer	Feighan
Bruce	Darden	Fields
Bryant	Daub	Flippo

Foley	Lott	Sabo
Frank	Lowery (CA)	Saiki
Frenzel	Lowry (WA)	Sawyer
Frost	Lujan	Saxton
Gallegly	Luken, Thomas	Schaefer
Gallo	Lukens, Donald	Schneider
Gekas	Lungren	Schroeder
Gibbons	Mack	Schuette
Gilman	MacKay	Schulze
Gingrich	Madigan	Sensenbrenner
Glickman	Markey	Sharp
Gordon	Martin (IL)	Shaw
Gradison	Mazzoli	Shays
Grandy	McCandless	Shumway
Grant	McCloskey	Sikorski
Green	McCollum	Sisisky
Gregg	McCurdy	Skaggs
Gunderson	McDade	Skeen
Hall (TX)	McEwen	Skelton
Hamilton	McGrath	Slattery
Hammerschmidt	McHugh	Slaughter (NY)
Hansen	McMillan (NC)	Slaughter (VA)
Harris	McMillen (MD)	Smith (FL)
Hastert	Meyers	Smith (IA)
Hatcher	Mfume	Smith (NE)
Hawkins	Mica	Smith (TX)
Hayes (IL)	Michel	Smith, Denny (OR)
Hayes (LA)	Miller (OH)	
Hefley	Miller (WA)	Smith, Robert (NH)
Hefner	Mineta	
Henry	Moakley	Smith, Robert (OR)
Herger	Mollohan	
Hertel	Montgomery	Snowe
Hiler	Moody	Solarz
Hochbrueckner	Moorhead	Spence
Holloway	Morella	Spratt
Hopkins	Morrison (CT)	St Germain
Horton	Morrison (WA)	Stallings
Houghton	Mrazek	Stangeland
Hubbard	Myers	Stark
Hunter	Natcher	Stenholm
Hutto	Nelson	Stokes
Hyde	Nichols	Stratton
Inhofe	Nielson	Studds
Ireland	Oakar	Stump
Jacobs	Oberstar	Sundquist
Jenkins	Obey	Sweeney
Johnson (CT)	Olin	Swift
Johnson (SD)	Owens (NY)	Swindall
Jones (NC)	Owens (UT)	Synar
Jones (TN)	Packard	Tallon
Jontz	Panetta	Tauke
Kanjorski	Parris	Tauzin
Kaptur	Pashayan	Taylor
Kasich	Patterson	Thomas (CA)
Kastenmeier	Pease	Thomas (GA)
Kennedy	Petri	Torres
Kennelly	Pickett	Traxler
Kildee	Pickle	Udall
Kolbe	Porter	Upton
Konnyu	Price (NC)	Valentine
Kostmayer	Pursell	Vander Jagt
Kyl	Ravenel	Volkmer
Lagomarsino	Ray	Vucanovich
Lancaster	Regula	Walgren
Lantos	Rhodes	Walker
Latta	Richardson	Watkins
Leach (IA)	Ridge	Waxman
Lehman (FL)	Rinaldo	Weber
Leland	Ritter	Weldon
Lent	Roberts	Whittaker
Levin (MI)	Robinson	Williams
Levine (CA)	Rogers	Wolf
Lewis (CA)	Rose	Wolpe
Lewis (FL)	Roth	Wortley
Lightfoot	Roukema	Wyden
Lipinski	Rowland (CT)	Wylie
Livingston	Rowland (GA)	Yatron

NAYS—68

Ackerman	Durbin	Leath (TX)
Anderson	Dymally	Lehman (CA)
Applegate	Early	Lewis (GA)
Badham	Flake	Manton
Beilenson	Foglietta	Marlenee
Bevill	Ford (MI)	Matsui
Bilirakis	Garcia	Mavroules
Borski	Gejdenson	Miller (CA)
Bosco	Gonzalez	Molinari
Burton	Gray (IL)	Murtha
Bustamante	Gray (PA)	Nagle
Chappell	Hoyer	Nowak
Coleman (TX)	Kleczka	Ortiz
DeWine	Kolter	Oxley
Dingell	LaFalce	Pelosi
Perkins	Scheuer	Visclosky
Price (IL)	Schumer	Wheat
Quillen	Shuster	Whitten
Rahall	Smith (NJ)	Wilson
Rangel	Solomon	Wise
Rostenkowski	Staggers	Yates
Roybal	Torricelli	Young (AK)
Russo	Traficant	

ANSWERED "PRESENT"—20

Akaka	Ford (TN)	Murphy
Annunzio	Gaydos	Neal
AuCoin	Goodling	Penny
Dellums	Guarini	Rodino
Donnelly	Howard	Roe
Fish	Hughes	Savage
Florio	Jeffords	

NOT VOTING—21

Alexander	Dowdy	Martinez
Biaggi	Gephardt	Pepper
Boland	Hall (OH)	Roemer
Brooks	Huckaby	Towns
Brown (CA)	Kemp	Vento
Clay	Lloyd	Weiss
Crockett	Martin (NY)	Young (FL)

□ 1320

Messrs. FLAKE, VISCLOSKY, DYMALLY, WISE, DINGELL, and MATSUI changed their votes from "yea" to "nay."

Messrs. HOWARD, DONNELLY, and PENNY changed their votes from "nay" to "present."

Mr. DEFAZIO changed his vote from "present" to "yea."

Mr. ROE changed his vote from "yea" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2310, AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987

Mr. MINETA. Mr. Speaker, I call up the conference report on the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. RICHARDSON). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 15, 1987.)

The SPEAKER pro tempore. The gentleman from California [Mr. MINETA] will be recognized for 30 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on H.R. 2310, the Airport and Airway Safety and Capacity Expansion Act of 1987. This legislation comes at a time when it is critical to expand and revitalize our aviation infrastructure to meet the demands being placed on it. Traffic is climbing rapidly. This year 450 million passengers are expected to fly compared with 415 million passengers last year. By 1990 it is estimated the load will be 500 million.

This legislation provides more than $20 billion of multiyear funding for airport grants, for continued modernization of the air traffic control system, for aeronautical research and development and for the user supported portion of the Federal Aviation Administration's operational expenses.

These programs are 100 percent supported by user taxes, particularly the 8-percent ticket tax and the general aviation fuel taxes. These taxes are reauthorized by this legislation. It is important to note that a significant change has been made in the user tax structure. In the past, the taxes have been collected irrespective of the funding levels provided through appropriations. This is a very significant reform which remedies the unfairness of users paying for programs that are not funded at the level anticipated.

Anyone who flies knows that the Nation' airport and air traffic control system is straining under the demands of rapidly growing traffic. This bill is a significant step in building an aviation system adequate to handle those demands as we move into the 1990's.

The bill also directs a number of very important safety initiatives in the areas of collision avoidance, airline seat strength, and commuter cockpit voice and flight data recorders.

This bill passed the House on October 1 on a 396-to-0 vote. The conference report before us today represents in large part, the House approach on the issues in dispute with the Senate. So I believe it is a conference report that we can all join in supporting.

I urge adoption of the conference report.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on the Airport and Airway Safety and Capacity Expansion Act of 1987.

The legislation reported by the conferees includes almost all of the provisions of the bill which passed the House on October 1, by a vote of 396 to 0. The conference bill also includes some highly desirable provisions from the Senate bill, including provisions which recently passed the House as part of other legislation. Overall, the conference bill will make a major contribution to aviation safety and to developing our Nation's airports and air traffic control system.

The conference bill reauthorizes the programs for capital development of airports and the air traffic control systems which are supported by the Airport and Airway Trust Fund. With these capital development programs, our aviation system should be able to accommodate the increased demand created by airline deregulation much better.

The conference bill authorizes more than $20 billion over the next 5 years for development of the aviation system. For capital development of

the air traffic control system, the conference bill authorizes $1.3 to $2.2 billion a year for the next 3 fiscal years. These authorizations will keep FAA's plans for modernization of the air traffic control system, known as the National Airspace System plan, on track. The NAS plan will replace current air traffic control equipment, much of which is based on vacuum tube technology of the 1960's. The NAS plan includes approximately 90 individual products. I call particular attention to the terminal doppler weather radar program which will permit advance detection of hazardous weather conditions such as windshear which has been a primary cause of a number of major airline accidents.

The conference bill also provides for funding of $1.7 to $1.8 billion a year for 5 years for capital development of our Nation's airports. This funding level will make a substantial contribution to meeting airport capital development needs.

The conference bill also includes a number of provisions which will enhance aviation safety. The bill includes provisions, similar to those in a bill which recently passed the House, to facilitate the development of collision avoidance equipment known as TCAS. The bill requires airlines to install TCAS II within 48 months and requires general aviation aircraft to install altitude encoding transponders to permit these aircraft to be detected by TCAS II and by air traffic controllers. Installation of TCAS II and transponders should virtually eliminate midair collisions involving airline aircraft.

The conference bill takes another step for aviation safety by increasing the penalty for safety violations from $1,000 per offense to $10,000. In addition the bill includes provisions requiring FAA to go forward with important safety related rulemaking, including rulemaking to require higher standards for the strength of airline seats, the installation of cockpit voice recorders and flight data recorders in accordance with recommendations of the National Transportation Safety Board, and improved safety measures for flights over bodies of water.

The conference bill also requires FAA to hire 1,000 additional air traffic controllers by the end of fiscal 1988.

To improve the security of U.S. airports, the conference bill sets stiff criminal penalties for unlawful entry into secure airport ramp and operations areas. In addition, we require the Secretary of Transportation to report back to the Congress in 90 days on the DOT and FAA's progress in strengthening airport security requirements and the enforcement of improved standards.

The conference bill renews the Essential Air Service Program. This program ensures that small communities, particularly those which were served by certificated airlines at the time of deregulation, will continue to get at least a minimum level of air service. The bill makes many improvements in the Essential Air Service Program and will make the EAS Program even more effective in providing air service to isolated communities in all areas of the country.

The conference bill continues the requirement in current law for a National Plan of Integrated Airport Systems [NPIAS] to meet the needs of our national air transportation system. This plan will enable us to go forward with the critical task of developing in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety for all airspace users.

Finally, Mr. Speaker, I would note that the aviation trust fund is fully supported by taxes paid by aviation users including an 8-percent tax on airline tickets and taxes on general aviation fuel. The provision of the conference bill within the jurisdiction of the Committee on Ways and Means includes a renewal of these taxes. We are pleased that the bill also includes a tax trigger which provides that taxes will be reduced by 50 percent in fiscal 1990 if less than 85 percent of the authorized amounts for capital development are appropriated over the next 2 years. This tax trigger will help encourage full spending of the funds contributed by aviation users for capital development. If this does not occur, the tax trigger will help ensure that the users are not requested to contribute more than the Government is willing to spend.

In conclusion, Mr. Speaker, the conference bill will make major contributions to improving the safety and efficiency of our air transportation system. I urge my colleagues to join in helping to pass this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2310.

This conference report represents the culmination of our efforts, which began with hearings last February, to address the needs of the aviation system during the remainder of this decade and beyond. I don't have to remind my colleagues of the problems we have seen this year—late flights, missed connections, lost luggage, and a rising tide of complaints about airline service from our constituents.

Although there were many reasons for these problems, the root cause was the failure of our Nation's airport and airway system to keep pace with the increase in demand from passengers and general aviation. This conference report begins to address these problems.

It addresses the problem by authorizing substantially more money for airport improvements and air traffic control modernization. This money can be used to build runways, to purchase sophisticated computers and navigation aids, and to take other steps that will enhance capacity and safety.

This increase in funding will not require any increase in taxes because the money will come out of the aviation trust fund which is entirely supported by user fees and already has a surplus of more than $5 billion.

There are several specific provisions in this conference report that I would like to briefly mention.

The legislation provides about $30 million per year over the next 3 years for additional instrument landing systems [ILS's]. Since the new microwave landing system is facing mounting delays, it is important that we move to intall more ILS's now. The legislation directs that 75 percent of these ILS's go to primary and reliever airports and 25 percent go to smaller general aviation airports. The airport at Rogers, AR, is one general aviation airport that we would expect to benefit from this 25 percent set-aside.

The conference report also contains a Senate provision requiring the FAA to continue their contract tower program. We have modified that provision, however, to direct the FAA to extend the program to other towers. Springdale, AR, which has purchased an air traffic control tower on its own, would be a good candidate for the expanded contract tower program.

In addition, the conference report retains the concept of the national plan of integrated airport systems (NPIAS), first articulated by the former ranking member of this committee, Mr. DON CLAUSEN. This requires the FAA to take a national systems approach to planning for airport development and capacity enhancement. It will require a major cooperative effort involving both the FAA and the airport sponsors.

It is in the national interest to develop, in metropolitan areas, an integrated system of airport s designed to provide expeditious access and maximum safety for all airspace users. This policy directive by the Congress takes on added significance as the Senate-House conferees emphasize the requirement for a systems' plan for our Nation's air transportation system.

Therefore, the conference continues the requirement for a national plan of integrated airport systems [NPIAS] for meeting the needs of our national air transportation system.

The plan shall include the type and estimated cost of eligible airport development necessary to provide a safe, efficient, and integrated system of public use airports to meet the needs

of civil aeronautics, the national defense, and the Postal Service.

In reviewing and revising the NPIAS, the Secretary shall consider the needs of and consult with all segments of civil aviation and, where appropriate, military aviation.

The planning, preserving, and enhancing of airport system capacity, safety, and security must continue to be a priority objective of FAA and all State and local airport sponsors.

In defining the airport systems planning process, the Secretary shall consider the needs of and consult with all airspace users, the aviation industry, and community interests in determining the long-term airport system capacity requirements through the year 2010. The FAA should issue guidelines to States and local airport sponsors that will result in a master plan of airport sites within the framework of a statewide airport systems plan that can be coordinated with FAA's national plan of integrated airport systems.

The concept of integrated airport systems has special applications tk the metropolitan and regional areas of the country. The basic objectives of the integrated airport system is to develop a master plan of airport site selection based on the airspace capacity of a given metropolitan or regional area. It should be designed to enhance air traffic flow management and meet the needs of all segments of aviation. The same concept can be applied to rural areas throughout the United States where a number of commujities in need of air transportation and airport services could coordinate their mutual aviation interests, establish a regional airport authority, or adopt a "joint exercise of powers agreement" planning document embracing the integrated airport system concept.

The master plan of airport sites, once selected, should then be agreed to and adopted, by formal resolution of each political subdivision of the local council of governments and designed to optimize the service to all commujities of a metropolitan or regional area.

In establishing priorities for distribution of funds, the Secretary may give priority to projects that are consistent with integrated airport system plans.

In addressing airport capacity enhancement, the FAA should increase its usage of airport simulator models and apply the information to:

First, airport site specific capacity enhancement; and

Second, airport system capacity enhancement.

The national plan of integrated airport systems should maintain and improve the performance of individual airports, as well as the entire airport system. Rather than being only a listing of specific airport projects, the national plan of integrated airport systems should define and outline the Nation's overall airport systems' needs for the future.

The cornerstone of the integrated airport systems concept is its emphasis on airport system planning and capacity enhancement and, in particular, the development of new airports, the development and improvement of satellite reliever and general aviation airports, heliports, and hub airports serving all-cargo air carriers.

The satellite reliever and general aviation airports in an integrated airport system will not only relieve congestion in our major metropolitan areas by attracting air traffic away from the busier air carrier facilities, but also provide safe and assured access to those areas for commuters, business, and general aviation.

Expedited implementation of a viable satellite reliever system is critically needed to increase the safety and enhance the capacity of our Nation's airport systems.

The conference report also includes a disadvantaged business enterprise provision, or DBE provision as it is commonly called, for airport improvement projects. This provision is virtually identical to the DBE provision in the Surface Transportation Act that the House overwhelmingly approved back in March. The provision requires that at least 10 percent of the airport improvement program funds be expended with firms owned by women and the traditional ethnic minority groups defined by the Small Business Act.

This is a modification of the present Airport Improvement Program. Currently, there is no statutory national goal for minority and women business participation in FAA funded projects, but the program is administered with two separate goals, one for minority-owned firms and one for women-owned firms.

The conference agreement before us today will consolidate the existing two-goal system into a one-goal system for DBE's. Airport improvement projects utilizing Federal funds would have only one goal for DBE's, giving contractors bidding on these projects the flexibility to make best efforts to meet DBE goals by utilizing qualified minority-owned businesses, women-owned businesses, or a combination of both.

Since passage of the Surface Transportation Act in April, DOT has implemented the same DBE provision with respect to highway and mass transit projects. That provision continued the 10 percent requirement already in law, and consolidated an existing two-goal system into a one-goal system by including women within the definition of DBE. In reports from DOT and the States, I understand that the consolidation of the program into a one-goal system is working quite well.

Since the highway, mass transit, and airport improvement programs constitute virtually all the Federal-aid construction programs of the Department of Transportation, it is important that there be consistency in the implementation of the DBE provisions applying to these programs. In view of the successful implementation of the DBE provision in the highway and mass transit programs, and to assure consistency and uniformity in the implementation of the virtually identical DBE statutory provisions, the same DBE regulations that apply to federally assisted highway and mass transit projects should also apply to federally assisted airport improvement projects.

I would like to draw my colleagues' attention to the Essential Air Service [EAS] Program which is part of this legislation. Last October, the EAS amendment that I offered to H.R. 2310 was overwhelmingly adopted by this body. The provision included in this conference report is almost identical to the version we originally adopted. It ensures the continuation of air service to many small communities throughout the Nation. It offers them the opportunity to improve their air service and to increase passenger usage. It will also give additional communities a chance to benefit from the program with only a modest increase in cost. Finally, the EAS section addresses the problem of code-sharing, the use of a major airline's 2-letter identification code by a smaller airline. Major airlines will be required to take some responsibility for the service provided by their smaller code-sharing partners. This applies to all code-sharing relationships, not just to those where one carrier is providing essential air service.

I would like to thank Mr. HOWARD, Mr. MINETA, and Mr. GINGRICH for their support for my efforts to include the EAS Program in this legislation. I would like to also thank Mr. OBERSTAR, Mr. STANGELAND, and Mr. LIGHTFKOT for their contributions to this effkrt.

In sum, Mr. Speaker, I behieve this is a good conference report and I urge its immediate passage.

□ 1335

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. RICHARDSON). The gentleman from Arkansas [Mr. HAMMERSCHMIDT] has consumed 3 minutes.

Mr. MINETA. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey [Mr. ROE] who chairs the Committee on Science, Space, and Technology.

Mr. ROE. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the conference report to H.R. 2310, and especially for that portion of the

bill committed to conference with the Science, Space, and Technology Committee for those expenditures by the FAA from the aviation trust fund for research, engineering and development.

In the research and development area, our differences with the other body were minor and we have reached a good compromise. I believe the result will lay the basis for real progress in the next few years.

Expenditures from the trust fund for R&D are vitally needed if we are to improve the safety and congestion of our air transportation system. For example, these funds will allow the FAA to develop better weather sensors that might prevent accidents like the Delta Airlines crash in Dallas 2 years ago. One hundred and thirty-five people lost their lives as a result of that tragedy. Research and development will go forward on improved collision avoidance systems. Such systems are needed to prevent accidents like the Aeromexico mid-air over California last year. And the money in this bill will support development of new fire-resistant cabin materials, the kind that might have prevented the Air Canada fire in 1983 in which 23 people died.

Additionally, this bill provides for the front-end costs of a long, overdue modernization of our Nation's air traffic control system, a project the FAA began in 1982, partly as a result of legislation originated by the Science, Space, and Technology Committee.

This work is key to solving some of the all-too-familiar problems faced by air travelers today. Furthermore, those air travelers are contributing all the resources that will be needed. The Government will not have to borrow any money. The deficit will not increase as a result of expenditures on air safety and productivity. In fact, if we don't spend the money, we will be guilty of bad faith with those who feed the trust fund, the traveling public.

I urge all of my colleagues to support this conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the ranking member of the Subcommittee on Aviation, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the agreement reached by the conferees on H.R. 2310.

This bill is a solid step toward a sound future for America's air transport system. While this is a multiyear reauthorization of capital development programs for expanding capacity at our Nation's airports, we can no longer just think in 3-year or 5-year cycles about infrastructure development. Congress needs to be asking about, and laying the groundwork for, the national air transportation system we want to have in the year 2000 and beyond.

That's the approach the conferees have taken in this bill, and in the decisions for funding levels for airport capacity improvements, facilities and equipment, and noise abatement. This bill, and the funding levels contained in it, represents an appropriate foundation on which to begin laying the structure for the future of American aviation.

There are changes to aviation programs in this agreement besides just increased authorization numbers. We've increased the entitlement for larger airports and established a new entitlement program for airports receiving scheduled all-cargo service. We've increased the funding for general aviation and earmarked money in a discretionary fund for capacity improvements.

It's important to note that the increased emphasis in this bill on expanding capacity at large airports has not been done at the expense of the smaller general aviation airports. They will continue to receive a percentage set-aside in the future. With our increased authorization levels, this means increased funding for general aviation airports.

This bill increases the set-aside in the airport improvement program for noise abatement. New airports and airport expansion are critical links in the development of America's air transport system. For that development to occur, we must continue to aggressively address noise problems. Noise is a public health, rather than a beautification problem.

This bill also includes a minimum level of funding for the installation of instrument landing systems and it prevents the Secretary of Transportation from closing or reducing the service level of flight service stations unless the area is served by automated equipment.

Mr. Speaker, this is a well thought out and comprehensive bill. I think it's an appropriate step in laying the groundwork for the future of American aviation. I urge my colleagues to support it.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in support of the conference report to accompany H.R. 2310, the Airport and Airway Improvement Amendments of 1987.

This legislation includes a provision which I sponsored here on the House side, and which was sponsored by Senator LAUTENBERG in the other body, which will defer funding for the Atlantic City Airport, in Pomona, NJ, until such time as a suitable regional authority has been created to operate that airport.

As some of my colleagues may know, Atlantic City has experienced tremendous growth in recent years. In fact, it is now the No. 1 tourist destination in the United States, with some 30 million people visiting the city each year.

Unfortunately, the transportation infrastructure of the region has just not kept pace with that growth. In particular, the region desperately needs a large, modern airport with regularly scheduled service by a major carrier.

The existing Atlantic City Airport at Pomona is an ideal candidate for expansion, but there are a number of serious legal and jurisdictional obstacles which have prevented needed planning and improvements from moving forward. For one thing, the ownership of the airport land is divided between the city of Atlantic City, with 83 acres, and the Federal Aviation Administration, which holds title to some 5,000 acres, including the acreage where a new terminal and runway extensions will be built.

A more serious problem, however, is that the governmental power to take effective action at the airport and surrounding environs is now fragmented among a number of local jurisdictions, including the city of Atlantic City, the county of Atlantic County, and three adjacent townships.

At the same time, whatever may happen with this airport in the future, the FAA and the Air National Guard have important missions which are carried out at this facility, which need to be protected.

As a result of these various problems, there in now general recognition that ownership and operation of the airport should be consolidated in a single entity which is capable of planning and implementing transportation policy on a regional basis.

Unfortunately, the local governments in the region have been slow to make the compromises which are essential to the formation of such an authority. Because of this political impasse, no major improvements have been made at the airport, except for Band-Aid plans to spruce up the old terminal building, which is obsolete and needs to be replaced with a new building located on land now owned by the FAA. Moreover, expansion of service has proven to be impossible, and the entire region has suffered.

Under the circumstances, it is very difficult to justify the expenditure of any further Federal funds at the Atlantic City Airport until such time as the local governments in the vicinity have compromised their differences and formed a regional authority that has the appropriate powers to undertake long-range planning and improvements.

The amendment sponsored by Senator LAUTENBERG and me defers further funding for the airport, except for safety-related needs, until such time as such an authority has been created. The amendment further prevents the transfer of any FAA land to the airport until such a regional authority has been created. The language of the amendment basically tracks the recommendations of the FAA's Atlantic City airport's role study, released in 1983, which set forth the characteristics required for an airport authority to operate and develop this important facility. In particular, that study called for a meaningful role by the local governments in the region.

Mr. Speaker, I am very optimistic that this amendment will achieve the desired results. Indeed, even though the amendment has not yet become law, ever since it was first approved on October 1 of this year, there has been notable progress. For the first time, the city, the county, and the local townships have been exchanging proposals and negotiating. While they have not yet found a complete solution, they are much closer together today than anyone would have dreamed possible just a few months ago. I am also pleased that Atlantic City has retained the services of the distinguished former Secretary of Transportation, William Coleman, in an effort to develop a proposal suitable to all of the parties.

I have every confidence that, in the not too distant future, we will see a renewal of Federal funding for the important airport facility at Pomona, NJ, on account of agreement by the local governments in the region to create a regional authority to operate the airport.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. PACKARD], a member of the committee.

Mr. PACKARD* I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, I would like to thank the Public Works Committee leadership, particularly NORM MINETA and NEWT GINGRICH for crafting this legislation which I believe is very important.

As many of you know, the House passed H.R. 1517, the Aircraft Collision Avoidance Act of 1987, as a separate piece of legislation. That important legislation, which will require TCAS-II on all commerical airplanes has been added to H.R. 2310. I believe this will be a major step in improving air safety.

As a conferee on the section of H.R. 2310 that deals with collision avoidance, and as the sponsor of H.R. 1517, I urge my colleagues to support this conference report. This legislation is urgently needed to improve air safety and the infrastructure of our air transportation system.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to the chairman of the Committee on Ways and Means, the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise today in support of the conference report on H.R. 2310. The Airport and Airway Improvement Amendments of 1987.

The House revenue title was approved by the Committee on Ways and Means on August 3, 1987, and was included as title II of H.R. 2310 as passed by the House on October 1, 1987. As approved by the conferees, title II would extend the present law airport and airway trust fund excise taxes for 3 years and the authority to spend from the trust fund to fully fund all expenditures contemplated by this bill over 5 years. The airport and airway trust fund would be updated to reflect the new authorized expenditures in H.R. 2310.

Title II also contains a provision which provides for an automatic 50-percent reduction in fiscal year 1990 in the air passenger ticket, cargo, and fuels taxes if the total appropriations for fiscal years 1988 and 1989 for airport improvements, facilities and equipment, plus research, engineering and development are less than 85 percent of the total amounts authorized for fiscal years 1988 and 1989.

Title II also provides an exemption from all applicable airport and airway excise taxes for emergency medical helicopters owned or leased by both nonprofit and for-profit health care facilities which derive insignificant benefits from the federally assisted facilities funded by these taxes. This provision will be effective September 30, 1988.

In order to continue the necessary funding for support of our Nation's airports and airways, I urge my colleagues' support for title II of the conference report.

Mr. Speaker, I want to commend the gentleman from California for doing an outstanding job. I think the cooperation that has been in constant existence between the Committee on Public Works and the Committee on Ways and Means is something that I want to continue, and I want to work as hard as I can with both the minority and majority of the committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. STANGELAND], a member of the Subcommittee on Aviation of the Committee on Public Works and Transportation.

Mr. STANGELAND. Mr. Speaker, I rise in strong support of the conference report on H.R. 2310, the Airport and Airway Safety and Capacity Expansion Act of 1987. This timely legislation authorizes crucial funding, program extensions, and new policy directives for the Nation's airports and airways. Our compromise will allow us to soar into the 1990's and the 21st century with an aviation system that is safer and more responsive to small and rural communities.

First, let me thank all the conferees and committee leaders who crafted this legislation and shepherded it through the legislation process. In particular, I want to commend the leadership of the House Public Works and Transportation Committee: Chairman JAMES HOWARD; ranking minority member JOHN PAUL HAMMERSCHMIDT; chairman of the aviation subcommittee, NORM MINETA; and ranking minority member of the subcommittee, NEWT GINGRICH. I also want to congratulate the conferees and members of the Science, Space and Technology Committee; the Ways and Means Committee; the Senate Commerce, Science, and Transportation Committee; and the Senate Finance Committee.

Mr. Speaker, H.R. 2310 is a long-term, capital investment in the Nation's Airport Development Program. This $22 billion, multiyear reauthorization bill will expand airport capacity and improve air safety. By spending the money in the airport trust fund, we can provide a long-term solution to the growing concerns about safety, delays and poor passenger service.

I am particularly pleased the conference report contains two provisions I included as amendments during full committee markup. The two amendments, slightly modified by the conferees, will guarantee increased funding for small airports and allow greater opportunity for all airports to develop their terminals. With these provisions, H.R. 2310 will help to put smaller airports on equal footing with others.

The first amendment, in section 103(e) of the conference report, expands the number of airports entitled to receive $300,000 of guaranteed funding each year without expanding the amount of funding or affecting the funding for other airports. It revises the definition of "primary" airports to include airports enplaning more than 10,000 passengers per year. Current law requires approximately 41,000 enplanements before an airport is eligible for entitlements. My original amendment would have required 18,000 enplanements.

My second amendment, now in section 111(a) of the conference report, improves the eligibility requirements for airport terminal development grants. Specifically, it allows for airports to receive grants up to their full entitlement and increases the Federal cost share so that terminal projects receive the same treatment as all other eligible projects.

Mr. Speaker, I also strongly support the essential air service provisions in H.R. 2310. These sections will extend and improve the program, which is set to expire in October of 1988. Hundreds of communities across America depend on these small subsidies in order to survive, grow and diversify their economies. Many rural areas simply need some form of assistance to keep vital transportation routes and commercial opportunities available. Today's legislation soundly addresses those concerns.

Like other States, Minnesota certainly benefits from an extension and improvement of the essential air service program. Our State has many rural, small communities which need continued assistance. In Bemidji, for example, citizens have very limited transportation opportunities and rely on air travel. Ground transportation is just not as efficient in many cases.

I am especially pleased the final conference report includes my EAS provision from the House bill. New section 419(d)(2)(B) of the Federal Aviation Act report establishes an opportunity for towns that previously had scheduled air service to qualify for guaranteed air service. I drafted this language to supplement the two EAS bills of Congressman OBERSTAR and Congressman HAMMERSCHMIDT (H.R. 2219 and H.R. 2318) so that currently ineligible communities would have greater opportunities to participate in and afford the EAS program. The House overwhelmingly adopted these and other EAS provisions in a floor amendment to H.R. 2310. The conferees then agreed to the provision, as modified, to allow for an increase in the non-Federal cost share.

My provision establishes four criteria based on certificate status, mileage, and non-Federal cost sharing, to allow certain communities to receive EAS subsidies at less than the full 50-50 cost sharing required for other new, eligible points. The provision, which calls for a 25-percent non-Federal share rather than a 50-percent share, is an attempt to interject some fairness into the equation. It recognizes the previous status and current fiscal abilities of these communities.

Despite its limited impact on the national program, my provision will have a significant and beneficial impact on various communities such as Fergus Falls, MN. For the first time, they will be eligible to receive truly essential air service through an affordable cost sharing partnership. This is a small price to pay for such an important transportation service.

Mr. Speaker, this capital development legislation will ensure our continued progress and help to solve our increasing safety demands and service needs. Along with its comprehensive provisions on essential air service, H.R. 2310 offers greater promise and stability for our Nation's aviation system.

□ 1350

Mr. MINETA. Mr. Speaker, I yield 2 minutes to the very distinguished gentleman from California [Mr. ANDERSON], a member of the Committee on Public Works and Transportation and the former chairman of the Subcommittee on Transportation, Aviation and Materials.

Mr. ANDERSON. Mr. Speaker, few issues this past year have generated the consensus for constructive Federal action more than the need to improve and expand the Nation's aviation system. This consensus was demonstrated when the House passed H.R. 2310 October 1 by a rollcall vote of 396 to 0. With that vote we recognized the need for a substantial authorization for airport expansion, improved safety systems, and a strengthened noise abatement program. The bill that returns from conference for consideration today retains the commitment to address these issues that created our consensus 2½ months ago. I again hope to see this bill passed without opposition.

The funding levels in this conference report correspond closely to the figures enumerated in the House version we accepted so overwhelmingly. In addition, by requiring altitude encoding transponders on all aircraft oprating in terminal control areas, the bill significantly reduces the risk of midair collisions. This provision, which closely mirrors the recently passed bill, H.R. 1617, will greatly enhance the abilities of air traffic controllers and for the first time enable commercial pilots to react to possible collisions independently. In short, H.R. 2310, is a comprehensive measure which addresses the major problems of capacity, noise and safety facing our aviation system today. I strongly recommend this bill with unqualified support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. DAUB], who was very instrumental in the taxing provisions of this bill.

Mr. DAUB. Mr. Speaker, as a conferee, I want to extend my congratulations not only to my ranking member on the full committee and his associates on the subcommittee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the gentleman from Georgia [Mr. GINGRICH], but as well to the leadership of the gentleman from New Jersey [Mr. HOWARD] and the gentleman from California [Mr. MINETA] for their fine work.

I think it is a really fine accomplishment on one of our country's real priorities to move this legislation along and bring it to conference and bring it to the floor of each body so the President can sign this bill before the end of the year.

Included in the bill is a tax trigger mechanism which would automatically reduce by 50 percent the amount of taxes collected under the fund if the funds' current $5.6 billion surplus is not drawn down through the appropriations process.

I strongly supported this particular provision, of course, as an author of it in the Committee on Ways and Means. I really feel that we finally reached the point where we can say there is some truth in budgeting from the abuse that has occurred by using trust fund balances tk collateralize or to directhy hide and mask the true deficits that we have in our overspending in the accounts of Government.

So I would like to refer to this as a step in truth in taxing and truth in spending. I think that we were using general funds moneys for purposes unintended, allowing the trust fund balances to remain untouched.

So this process will require over the next 2 years that if the appropriations process does not pull that money out of the trust fund and spend the money from the passenger tax, the cargo tax, and/or the aviation fuel tax, three parts of this fund, and they do not use it for the purpose intended, then in fact the hammer goes down and we are going to cut what would then amount to very unfair excise taxes that were being collected.

But more than the tax cut, this trigger is a directive to the Appropriations Committee and to the White House and to our airports who are much in need of these funds that we want our systems to be safer. We need to have safer airports, we need to better fund our expansion and improvement needs, and we have to take a real look at our noise abatement problems. The moneys paid by those using our airways should be used for these purposes, not for making this sorry excuse for a budget look better. Hopefully, we will see the benefits of this trigger and continue to add similar legislative initiatives to our Nation's trust funds.

Maybe we can go even further in my dreams for truth in budgeting and make these trust funds off budget, take them off line, and put them where they belong.

Lastly, I say to my colleagues, as I conclude in support of this conference report, that the essential air service provisions are very important. I compliment the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the work he has done. I am especially pleased about this because 11 of our Nebraska communities will be much better off a a result.

We have to remember that 280 million passengers flew when we deregulated our airlines. About 400 million-plus flew this year, and by the turn of

the century some 750 million people will be flying. This bill will make those airways safer.

Mr. MINETA. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. MCCURDY], the Member who chairs the Subcommittee on Transportation, Aviation and Materials of our Committee on Science, Space, and Technology, and who has jurisdiction of the research and development part of this bill.

Mr. MCCURDY. Mr. Speaker, I thank the gentleman from California [Mr. MINETA] for this time, and I certainly commend him and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their efforts in bringing forth this conference committee report.

As a conferee on this bill, I rise in strong support of this conference report. The Subcommittee on Transportation, Aviation and Materials, which I chair, has a long-standing interest in aviation safety and in the FAA research and development programs. Each year we have held oversight hearings on the progress of that research, and this year we have found, as we have in recent years, that the principal problem facing the R&D program has been inadequate funding, even though the funding comes from the aviation trust fund which records a surplus.

This year's request from the administration provided only for near-term needs associated with completing the current ATC modernization, that is, the National Aerospace System plan. The far-term needs, however, beyond the NAS plan were not included.

The FAA research and development program must be planning many years into the future to assure a safe system and allow for growth in air traffic.

The conference reports adds $51 million to restore these long-term research projects that had been planned but were cut this year. Items included were: automatic generation and transmission of clearances; future communications systems; flight service station enhancements; controller human performance studies; advanced wind shear sensor development; civil uses of global positioning system; centralized weather information processing; weather sensor enhancements; and cabin fire safety.

Recent subcommittee hearings have shown this research to be necessary because the prototype collision avoidance system on one airline, the Piedmont Airline, encountered a near collision every 15 hours. In other words, out of every 15 hours of operation, there was one near miss or one near midair collision.

Reported near collisions are up 46 percent so far this year, compared to 1986. Reports of severe weather, which is a factor in half of all aircraft collisions, will not be sent to pilots automatically until the late 1990's.

Research msut be expedited to develop the full capability Threat Alert and Collision Avoidance System [TCAS III] and the data dissemination components of the advanced weather reporting system.

Mr. Speaker, again I want to commend the conferees on this bill. I want to take a special moment to commend the ranking member of the Subcommittee on Transportation, Aviation and Materials, the gentleman from Florida [Mr. LEWIS], for his cooperation and fine work, as well as his staff and the staff on the majority side. We appreciate their efforts.

Mr. Speaker, I rise again in strong support of this measure. I think it is imperative for aircraft safety and airline safety that we continue the research and development programs and fund them at a rate that is necessary to insure the progress that we feel is necessary.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. DUNCAN], one of the conferees and the distinguished ranking member of the Committee on Ways and Means.

□ 1400

Mr. DUNCAN. Mr. Chairman, the Airport and Airway Improvement Amendments of 1987 ensures essential financing of our airways and airports by extending for three additional years, through 1990, current excise taxes levied on passenger tickets, noncommercial fuel, air freight and international departures. In addition, authority to make expenditures from the trust fund is renewed for 3 fiscal years, and 5 years in the case of amounts for airport improvement grants.

Also of great importance is the inclusion of a "tax reduction trigger." The conference report calls for an automatic 50-percent reduction in aviation excise taxes—except for the international departure tax—in 1990 if appropriations for fiscal years 1988 and 1989 fall below 85 percent of authorizations during the same period. Although I would have preferred the exact trigger that the House passed, the compromise reached in conference does send a clear signal that revenues raised from aviation taxes should be spent for the purposes they were intended. I feel confident that the Committee on Ways and Means will exercise close oversight over trust fund expenditures, especially those amounts devoted for the safety of our air system.

Finally, the conference agreement expands upon a current exemption from aviation taxes in the case of emergency medical helicopters which do not use federally assisted airways.

Although I have some reservations about the report, particularly with respect to the trigger language, I do intend to vote for it, and suggest that my colleagues support it also.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to my very fine colleagues on our Public Works and Transportation Committee who chairs the Investigations and Oversight Subcommittee, the very distinguished gentleman from Minnesota [Mr. OBERSTAR], who had a very essential part with the portion of this bill dealing with essential air service.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of H.R. 2310, the conference report on the Airport and Airways Development Act of 1987, and especially, of course, as the chairman just mentioned, of title II, which extends and improves the Essential Air Service Program.

I want to commend the chairman of the full committee [Mr. HOWARD] the ranking member of the full committee, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the gentleman from California [Mr. MINETA], and his counterpart on the Republican side, the gentleman from Georgia [Mr. GINGRICH] for a superb job of negotiating with the other body and bringing back this report that retains essentially the bill which came out of the House, with a few enhancements; it is a superb piece of work.

The gentleman from Arkansas and I both introduced EAS extension legislation, and have worked together to bring to the House floor, and ultimately to the conference agreement, a program which will provide better air service to many of this Nation's smaller communities, while ultimately reducing the cost of the program to the American taxpayer.

Mr. Chairman, essential air service is precisely that—in this day and age air links to the major transportation routes of this country and abroad are absolutely essential to the survival, growth and diversification of the economies of small communities across the Nation. Air transportation is today what roads, rivers, and railroads were in the past: the sine qua non of commerce and growth.

It is the absolutely essential basic ingredient of commerce, growth and economic expansion. Air service is as essential as telephones today if a community expects to grow and regions expect to expand economically.

The Essential Air Service Program enacted in 1978 has preserved air service to eligible communities, and of equal importance, the costs of essential air service have been dropping each year. However, despite what we may have hoped in passing the original legislation, a number of communities, and a very substantial number of communities remain dependent on subsidies.

Part of the reason for the continued need for subsidies has been problems

with the current program, including a Government policy, at best, passive indifference in the hope of running up the costs in the 1988 expiration deadline. In the wake of that policy service deteriorated to small communities and outlying areas, boardings dropped, service was therefore further reduced, and the downward spiral continued.

The program we have before us today in this conference report will improve service by providing the communities themselves a major role in designing the very kind of service they need, and if they want enhanced service, to pay an additional increment of cost as required to have that higher quality of service.

The bill creates three kinds of service: basic essential service, enhanced service, and service to other communities.

Basic essential air service must, for most eligible points, consist of two well-timed morning and evening flights, 6 days a week, to and beyond a hub airport. This will assure that travelers can catch morning flights out of their hub to other cities across the country. Generally, basic service means aircraft with an effective capacity of 15 seats or more, with two pilots, and pressurization for higher altitude flights.

One of the important elements of basic service is cargo. While cargo has generally taken a back seat to passenger service, the ability to move goods over the air routes of this country is equally essential to a community's economic health and growth. In communities like those in my northeastern Minnesota congressional district, essential air service means not only room for tourists but for their luggage, camping gear, and other equipment as well. A vacationer has limited time, to begin with; it does that visitor no good to arrive at his destination, ready to set off for a 2-week camping or fishing trip, if his sleeping bag and fishing gear are still sitting in Minneapolis because the plane couldn't carry them!

Businesses in distant parts of my geographically huge district rely on being able to get products out into the transportation mainstream on a daily basis; to get crucial replacement parts for machinery in; or to be able to respond, immediately, to an unexpectedly large request for, say, fish filets from a fancy restaurant in Chicago.

In order to assure that cargo is considered an integral element of essential service, the agreement before us defines basic service to include service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than 50 percent for smallest planes, or 60 percent for planes with 15 passengers seats or more. Further, the statement of managers states that, while the conferees do not expect DOT to force airlines to reconfigure their aircraft after their subsidy rate has been established in order to accommodate cargo, DOT should take the community's cargo needs into account when it establishes the frequency and aircraft size needed to meet the community's basic essential air service requirements. The load factor for cargo should be established by using a weight, cubic dimension, or passenger equivalency standard, depending on which measure will best ensure that the community's cargo needs are met.

Enhanced service means a higher level or quality of service. Many communities are convinced that they can generate more passengership if the service were better. Enhanced service gives the community a chance to try, with two options. A community has the option of agreeing to pay 50 percent of the additional costs above basic service. Alternatively, the community may receive a 100-percent subsidy if it agrees that if the proposed enhanced service is not successful within 2 years, it would lose its eligibility for all subsidies, including for basic.

Finally, there are provisions for communities, not otherwise eligible, to join the program under certain conditions, including cost sharing agreements.

Another problem with the existing EAS Program is that many carriers are not interested in providing such service. The conference agreement therefore also makes EAS more attractive to carriers, by providing improved compensation during the "hold-in" period, both to make the prospect of being "held in" less of a disincentive to providing EAS in the first place, and also to assure that DOT will diligently search for a replacement carrier once the original carrier wants to drop service.

Mr. Chairman, my original bill, H.R. 2271, was a good bill. It was improved when it was merged with H.R. 2318, the bill offered by the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and both were, I believe, improved when we met with the Senate.

Again, I thank the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for his cooperation and assistance on essential air service, and urge my colleagues to support it, and all of the conference agreement now before us.

Thank you.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I would like to engage in a colloquy with our very distinguished Member from San Francisco, the gentlewoman from California [Ms. PELOSI], and I yield to her for that purpose.

Ms. PELOSI. Mr. Speaker, I, too, commend the committee for its fine work on this legislation. I have a question with respect to section 109 of the bill, which would revise section 511(a)(12) of the act pertaining to the use of airport revenues for transportation facilities. I wish to confirm that it is not the intent of the conference committee to have this amendment affect preexisting long-term agreements between airports and their tenants governing the accounting and disbursing of airport revenues. My understanding is that this amendment would not prevent airports from abiding by these preexisting agreements and continuing to receive airport grants.

Mr. MINETA. The understanding of the gentlewoman is correct. The amendment is intended to be prospective in effect. It is not the intention of the conference committee that this amendment would require an airport owner or operator to change a preexisting tenant agreement which was entered into before the date of enactment and which was consistent with the law then in effect on the use of airport revenues for transportation facilities.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, I just want to concur in the remarks just made for the RECORD and support the gentlewoman's request, and support the colloquy just had between the gentleman from California and the gentlewoman from California.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to our very fine colleague, the gentleman from Texas [Mr. PICKLE], who was on the conference committee as it relates to the Ways and Means Committee.

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, every city in America has air service problems, or potential problems, that affect us in scheduling, safety, regulations, or maintenance of facilities. This is a problem all across the land.

Now, you and I might have some variance of feelings about the formula and you might want it stronger or weaker, but I think the important thing for Members of this Congress to realize is the message we are sending. We are saying that it is the intent of Congress to spend more and more funds in the general area of improvement of airway systems. We will no longer let the OMB hold us hostage. If these facilities need improvement, we must move forward with this expenditure. This message ought to be clear and loud.

I want to add that I have visited with the FAA Commissioner, and I am very pleased with his response and his attitude. I think he will implement this particular legislation and move forward so that we can get relief in

areas of the country where it is desperately needed.

So I not only endorse the thrust of this legislation, but I think the House as a whole is saying to this administration, "Let's improve these airlines. Let's try to relieve this congestion. Let's make this system safe." That is the message we hope we give to them loud and clear and I am very pleased at the response that the FAA is giving to us at this time

Mr. MINETA. Mr. Speaker, I would like to again compliment the chairman of our committee, the gentleman from New Jersey [Mr. HOWARD]; our ranking Republican member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT]; the gentleman from Georgia [Mr. GINGRICH]; the gentleman from Minnesota [Mr. OBERSTAR]; the gentleman from Minnesota [Mr. STANGELAND]; the gentleman from New Jersey [Mr. ROE]; the gentleman from Illinois [Mr. ROSTENKOWSKI]; the gentleman from Nebraska [Mr. DAUB]; and the gentleman from Texas [Mr. PICKLE] for their part, and especially to everyone's respective staffs for their work on this bill.

Mr. ROWLAND of Georgia. Mr. Speaker, I am extremely pleased that this conference report is being considered today. While many criticize the Congress for lack of progress in other areas, I feel this bill is an excellent example of what can be done when we work together in a spirit of cooperation.

Apart from the obvious facts of increased funding for airport capacity and safety enhancements, this bill contains language which may not draw much verbal attention today but which I feel is particularly important in light of some of the news headlines we have all seen in the last several months. Namely, stories of pilot(maintenance personnel, and air traffic controller errors such as engines being inadvertently shut down, increased near midair collisions, flight delays resulting from equipment problems some say are nonexistent and really just work slowdowns from disgruntled employees.

These, to me, are all indications that we are not paying enough attention to the people problems inherent in any complex organization. Stress from workloads, poor management relations, and equipment designs which do not meld well with human limitations need more study. As a physician and as a member of the Aviation Subcommittee, I am strongly in support of the language contained which states that better use should be made of the Civil Aeromedical Institute. This institute has great potential to add to our understanding of pilot/controller errors and stresses and human performance standards. I look forward to the Administrator's report due in January, 1988.

Please supp ort the conference report.

Mr. BROWN of California. Mr. Speaker, I rise today in support of the conference report of the Airport and Airway Improvement Act amendments. This conference agreement authorizes $20 billion between fiscal years 1988 and 1992 for a variety of airport and airway development programs funded by the airport and airway trust fund. However, one section of this agreement is of particular importance to my constituents, and no doubt to the many people throughout our Nation whose lives are daily affected by the noise generated by airports.

The conferees for this bill have had the wisdom to adopt language that makes it possible for local governments to apply for and receive funding to soundproof public buildings used for education or medical purposes that are adversely affected by aircraft noise. The conferees are to be commended for their foresight in doing so.

My district is located in one of the fastest growing areas of our Nation, with one of the country's fastest growing airports in its midst. That growth has been a boon and a help to the district, but it has also brought with it the following, intolerable situation. Every day teachers must interrupt their teaching of hundreds of schoolchildren as they wait for planes to take off and land at nearby Ontario International Airport. If we add up the amount of time lost for these students over the course of their education, we find that they are losing hours upon hours—if not days—of valuable education time. At a time when our Nation should be considering more, not fewer, hours of education, we must improve the learning environment for these children, who are all entitled to uninterrupted study.

I urge my colleagues to support the conference agreement, approved yesterday by the Senate, and I urge prompt action by the administration to implement those portions having to do with noise abatement and mitigation. We can only improve our children's education by doing so.

Mr. MOLINARI. Mr. Speaker, I rise today to lend my support to the conference report on H.R. 2310, to amend the Airport and Airway Improvement Act of 1982. I am rather pleased to note that the bill contains an increase in civil penalties for safety violations. I had offered a similar provision to the airline consumer protection bill, H.R. 3051, which passed the House earlier this year.

By increasing the civil penalty for aviation safety related violations tenfold, from $1,000 to $10,000, we are sending a strong and clear message to the airline industry that they must put safety first. A fine must be substantial if it is to serve as a deterrent. The current $1,000 fine was established in 1938. Time alone warrants an increase in the fine.

If this is not reason enough, the Department of Transportation has requested the increase in the penalty level. The Department requested the increase in order to serve as a greater deterrent to violating safety laws.

The civil penalty increase provision also clarifies the Federal Aviation Act by mandating that penalties be administered for violations which occur on each flight. The Federal Aviation Administration has interpreted the act in this fashion while airlines have interpreted the language as violations on a per-day basis. The purpose of the act is to ground aircraft that violate safety rules immediately not at the end of the day after finishing its routes across the country. The ultimate safety violation occurs when such a plane is in use. This language clarification will prevent any uncertainty in the minds of the carriers that we do not want them flying aircraft that do not meet the minimum standards of safety.

Mr. Speaker, I commend the conferees for agreeing to this important safety issue.

Mr. GALLO. Mr. Speaker, I join with my colleagues today in support of final passage of legislation to improve safety equipment at the Nation's airports and I urge President Reagan to sign the measure.

This 5-year reauthorization of Federal airport improvement projects will increase the level of safety at our major airports and will provide the tools needed to meet increased demand for quality service into the 21st century.

This reauthorization is a critical component in the master plan of the Port Authority of New York and New Jersey for Newark International Airport and its commitment to serve air travelers in northern New Jersey.

This bill strengthens the PA's overall position and increases the options available to their efforts to make Newark International Airport safer and more convenient.

Among the priorities is a redesign of the taxiways that bring planes to and from the runways on landings and takeoffs and installation of state-of-the-art air traffic control equipment.

The bill also requires air noise monitoring and reduction programs in response to the very real concerns expressed by residents near our major airports.

We have spent a great deal of time working out the specifics of this bill and I think the final product is one that deserves the support of the President.

The bill provides a 5-year $8.7 billion authorization for airport improvement and noise reduction and a 3-year $5.2 billion authorization to modernize the air traffic control system. The bill also extends the Essential Airline Service Program for another 10 years to ensure continued passenger service to smaller airports.

The Nation's 423 largest airports will receive funding on a formula basis for a variety of improvement projects and safety features, including installation of additional instrument landing systems and updated air traffic control equipment.

This legislation deserves the support of the Members of the House.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of the Conference Report on H.R. 2310, the Airport Development and Improvement Act of 1987.

As the volume of air traffic continues to increase into the next century, our primary goals must be to further enhance safety and increase the capacity of our airport and airway system. The programs and funding levels included in this bill will help us reach these goals.

With regard to safety, increased funding levels for air traffic control equipment, research, and engineering and development will be instrumental in making the technological improvements that are so critically needed in today's system. The bill also contains safety provisions requiring transponders, collision avoidance systems, and other aircraft equipment improvements. I am confident that through the regulatory process outlined in the

bill we will be able to develop adequate safety requirements without imposing unnecessary costs and other burdens on users of the system.

I am pleased that the funding levels of the Airport Improvement program contained in the bill will help us to address a key aspect of our problem with capacity—the shortage of runways for both general aviation and commercial air service. Under this legislation, both general aviation and commercial air service airports will receive more funds for runway construction. General aviation airport construction funds are particularly important to communities in rural America that depend heavily on their general aviation or small commercial service airports in their efforts to diversify and expand their struggling economies.

I am also pleased that the conferees retained the 10-year extension of the Essential Air Service Program that was approved by the House. Although deregulation of the Airline industry has resulted in tremendous benefits for the consumer, the Essential Air Service Program is needed to fill the gaps in service that the free market would have left out in the cold. I also want to commend the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for the provisions he sponsored that will allow communities to upgrade their Essential Air Service Program through a matching funds agreement. These improvements seek to halt the downward spiral in the quality of service that many communities, such as Fort Dodge, IA, have experienced under the old program.

I also want to thank the conferees for adopting a trigger tax provision similar to that I joined Mr. GLICKMAN in introducing earlier this year. This provision will reduce aviation excise taxes by 50 percent in fiscal year 1990 if total appropriations for aviation programs are less than 85 percent of the total in fiscal years 1988 and 1989. Short of taking the aviation trust fund off budget, this trigger tax provision will help restore equity for the users of the system who pay taxes on airline tickets, aviation fuel, and other items only to have the funds diverted to other uses. We must, however, continue with efforts to remove the aviation trust fund from the unified budget.

Mr. Speaker, I want to commend the conferees on their work on the Conference Report on HR.. 2310, and I urge my colleagues to support it.

Mr. SOLOMON. Mr. Speaker, I want to thank the ranking member, Mr. HAMMERSCHMIDT; chairman of the Public Works Committee, Mr. HOWARD; and the subcommittee chairman, Mr. MINETA, for helping to maintain my amendment in the conference between the House and the Senate. This amendment corrects a blatant injustice brought about when the Federal Aviation Administration closed a number of flight service stations in Upstate New York, including those at the Warren County and Albany-Schenectady Airports. This was done despite the FAA's knowledge that Congress intended to keep those stations open with language in a supplemental appropriations bill.

And I would like to also thank Mr. STRATTON of New York for his strong effort in seeing this provision enacted into law.

Mr. STRATTON. Mr. Speaker, I would like to thank Mr. Solomon for his Herculean efforts in maintaining the flight service station at the Albany-Schenectady Airport, which will insure both the safety and well-being of passengers and pilots using these and other airports. Mr. SOLOMON has done a very great service to all private pilots.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 410, nays 1, not voting 22, as follows:

[Roll No. 496]

YEAS—410

Ackerman	Cardin	Eckart
Akaka	Carper	Edwards (CA)
Alexander	Carr	Edwards (OK)
Anderson	Chandler	Emerson
Andrews	Chapman	English
Annunzio	Cheney	Erdreich
Anthony	Clarke	Espy
Applegate	Clinger	Evans
Archer	Coats	Fascell
Armey	Coble	Fawell
Aspin	Coelho	Fazio
Atkins	Coleman (MO)	Fields
AuCoin	Coleman (TX)	Fish
Baker	Collins	Flake
Ballenger	Combest	Flippo
Barnard	Conte	Florio
Bartlett	Conyers	Foglietta
Barton	Cooper	Foley
Bateman	Coughlin	Ford (MI)
Bates	Courter	Ford (TN)
Beilenson	Coyne	Frank
Bennett	Craig	Frenzel
Bentley	Crane	Frost
Bereuter	Crockett	Gallegly
Berman	Daniel	Gallo
Bevill	Dannemeyer	Garcia
Bilbray	Darden	Gaydos
Bilirakis	Daub	Gejdenson
Bliley	Davis (IL)	Gekas
Boehlert	Davis (MI)	Gibbons
Boggs	de la Garza	Gilman
Bonior	DeFazio	Gingrich
Bonker	DeLay	Glickman
Borski	Dellums	Gonzalez
Bosco	Derrick	Goodling
Boucher	DeWine	Gordon
Boulter	Dickinson	Gradison
Boxer	Dicks	Grandy
Brennan	Dingell	Grant
Broomfield	DioGuardi	Gray (IL)
Brown (CA)	Dixon	Gray (PA)
Brown (CO)	Donnelly	Green
Bruce	Dorgan (ND)	Gregg
Bryant	Dornan (CA)	Guarini
Buechner	Downey	Gunderson
Bunning	Dreier	Hall (TX)
Burton	Duncan	Hamilton
Bustamante	Durbin	Hammerschmidt
Byron	Dwyer	Hansen
Callahan	Dymally	Harris
Campbell	Dyson	Hastert
Hatcher	McEwen	Schuette
Hawkins	McGrath	Schulze
Hayes (IL)	McHugh	Schumer
Hayes (LA)	McMillan (NC)	Sensenbrenner
Hefley	McMillen (MD)	Sharp
Hefner	Meyers	Shaw
Henry	Mfume	Shays
Herger	Mica	Shumway
Hertel	Michel	Shuster
Hiler	Miller (CA)	Sikorski
Hochbrueckner	Miller (OH)	Sisisky
Holloway	Miller (WA)	Skaggs
Hopkins	Mineta	Skeen
Horton	Moakley	Skelton
Houghton	Molinari	Slattery
Howard	Mollohan	Slaughter (NY)
Hoyer	Montgomery	Slaughter (VA)
Hubbard	Moody	Smith (FL)
Hughes	Moorhead	Smith (IA)
Hunter	Morella	Smith (NE)
Hutto	Morrison (CT)	Smith (NJ)
Hyde	Morrison (WA)	Smith (TX)
Inhofe	Mrazek	Smith, Denny (OR)
Ireland	Murphy	Smith, Robert (NH)
Jacobs	Murtha	Smith, Robert (OR)
Jeffords	Myers	Snowe
Jenkins	Nagle	Solarz
Johnson (CT)	Natcher	Solomon
Johnson (SD)	Neal	Spence
Jones (NC)	Nelson	Spratt
Jones (TN)	Nichols	St Germain
Jontz	Nielson	Staggers
Kanjorski	Nowak	Stallings
Kaptur	Oakar	Stangeland
Kasich	Oberstar	Stark
Kastenmeier	Obey	Stenholm
Kennedy	Olin	Stokes
Kennelly	Ortiz	Stratton
Kildee	Owens (NY)	Studds
Kleczka	Owens (UT)	Stump
Kolbe	Oxley	Sundquist
Kolter	Packard	Sweeney
Konnyu	Panetta	Swift
Kostmayer	Parris	Swindall
Kyl	Pashayan	Synar
LaFalce	Patterson	Tallon
Lagomarsino	Pease	Tauke
Lancaster	Pelosi	Tauzin
Lantos	Penny	Taylor
Latta	Perkins	Thomas (CA)
Leach (IA)	Petri	Thomas (GA)
Leath (TX)	Pickett	Torres
Lehman (CA)	Pickle	Torricelli
Lehman (FL)	Porter	Towns
Leland	Price (IL)	Traficant
Levin (MI)	Price (NC)	Traxler
Levine (CA)	Pursell	Udall
Lewis (CA)	Rahall	Upton
Lewis (FL)	Rangel	Valentine
Lewis (GA)	Ravenel	Vander Jagt
Lightfoot	Ray	Visclosky
Lipinski	Regula	Volkmer
Livingston	Rhodes	Vucanovich
Lloyd	Richardson	Walgren
Lott	Ridge	Walker
Lowery (CA)	Rinaldo	Watkins
Lowry (WA)	Ritter	Waxman
Lujan	Roberts	Weber
Luken, Thomas	Robinson	Weldon
Lukens, Donald	Rodino	Wheat
Lungren	Roe	Whittaker
Mack	Rogers	Whitten
MacKay	Rose	Williams
Madigan	Rostenkowski	Wilson
Manton	Roth	Wise
Markey	Roukema	Wolf
Marlenee	Rowland (CT)	Wolpe
Martin (IL)	Rowland (GA)	Wortley
Martin (NY)	Roybal	Wyden
Matsui	Saiki	Wylie
Mavroules	Savage	Yates
Mazzoli	Sawyer	Yatron
McCandless	Saxton	Young (AK)
McCloskey	Schaefer	
McCollum	Scheuer	
McCurdy	Schneider	
McDade	Schroeder	

NAYS—1

Sabo

NOT VOTING—22

Badham	Brooks	Dowdy
Biaggi	Chappell	Early
Boland	Clay	Feighan

Gephardt	Martinez	Vento
Hall (OH)	Pepper	Weiss
Huckaby	Quillen	Young (FL)
Kemp	Roemer	
Lent	Russo	

□ 1415

So the conference report was agreed to.

The result of the voting was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from California?

There was no objection.

□ 1430

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of the bill, H.R. 1259.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VETERANS' COMPENSATION AMENDMENTS OF 1987

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2945) to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1987".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$71";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$202";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$652";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$754";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$849";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,411";

(11) by striking out "$1,684" and "$2,360" in subsection (k) and inserting in lieu thereof "$1,754" and $2,459", respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,754";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,933";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,199";

(15) by striking out "$2,360" in subsection (o) and (p) and inserting in lieu thereof "$2,459";

(16) by striking out "$1,013" and $1,509" in subsection (r) and inserting in lieu thereof "$1,055" and "$1,572, respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,579".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$82" in clause (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$143" and "$45", respectively;

(3) by striking out "$57" and "$44" in clause (C) and inserting in lieu thereof "$58" and "$45", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$69";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$365" and inserting thereof "$380".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade:	*Monthly rate*
E-1	$518
E-2	534
E-3	548
E-4	583
E-5	598
E-6	611
E-7	641
E-8	677
E-9	[1] 707
W-1	656
W-2	682
W-3	702
W-4	743
O-1	656
O-2	677
O-3	725
O-4	766
O-5	845
O-6	952
O-7	1,029
O-8	1,128
O-9	1,210
O-10	[2] 1,327

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,422.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$76".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413(a) is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$376";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "$486"; and

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$97", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect as of December 1, 1987.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

SEC. 201. EXTENSION OF DEADLINE FOR VETERANS' JOB TRAINING ACT APPLICATIONS.

Section 17(a)(1) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) is amended by striking out "December 31, 1987" and inserting in lieu thereof "June 30, 1988".

SEC. 202. INCREASE IN LIMIT ON VOCATIONAL-TRAINING EVALUATIONS OF VETERANS RECEIVING PENSIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors and an increase in the number of

vocational-training evaluations of veteran-pensioners; and to amend the Veterans' Job Training Act to extend the deadline for veterans to apply for participation.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I will not object, but at this time I yield to the gentleman from Mississippi [Mr. MONTGOMERY] for an explanation of the bill.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows, because the other body decided to wrap the compensation and DIC COLA in a comprehensive bill which did not pass the Senate until about 2 weeks ago, we do not have the time to resolve all of the differences between the House and Senate-passed bills. Realizing that many members have received inquiries about the status of the veterans compensation COLA, yesterday the gentleman from New York and I sent a letter to each Member of the House explaining what we are doing today. I want to thank the very able gentleman from New York, Mr. SOLOMON; the chairman of the Subcommittee on Compensation, Pension and Insurance, Mr. APPLEGATE, and the ranking minority member of the subcommittee, Mr. MCEWEN, for their leadership and contributions in working something out with the Senate.

The gentleman from Ohio [Mr. APPLEGATE] is on the floor. As I stated, he has been involved in the negotiations and I would appreciate it if the gentleman from New York would yield to him for a brief explanation of the proposed Senate amendments.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Arkansas [Mr. HAMMERSCHMIDT] following which I will follow the recommendation of the gentleman from Mississippi and yield to the gentleman from Ohio.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of H.R. 2945, as amended, the Veterans Compensation Cost-of-Living Adjustment Act of 1987. The COLA is of paramount concern to our Nation's veterans, and I am pleased that the Congress is taking bipartisan action on it, as has been customary in the past.

Mr. Speaker, this COLA of 4.2 percent treats veterans fairly and helps keep their compensatioj and that of their survivors at an adequate level. We are all mindful of the extreme difficulties of this country's fiscal situation, but we are also mindful of the high priority which veterans' benefits have in the Federal budget.

It is imperative that the sacrifices of our veterans never be forgotten. While there are efficencies and economies which can be found for veterans' programs to contribute to deficit reduction, these cannot be permitted to reduce the fundamental commitment of the Congress to veterans. In a sense, we have become the protectors of the men and women who protected us.

Mr. Speaker, H.R. 2945, as amended, would also allow continuation of applications to the training program under the Veterans' Job Training Act until June 30, 1988, in order to give the House and Senate conferees additional time to resolve differences between the bodies on a number of veterans' employment and training issues.

Further, the bill would raise the CAP on evaluations from 2,500 to 3,500 for vocational training of veteran pensioners to prevent it from being reached long before the end of the 12-month period to which it applies. I highly recommend both of the provisions to my colleagues.

My old friend, SONNY MONTGOMERY, has been instrumental as chairman of our committee in reaching the compromise with the Senate to allow us to move this essential COLA legislation now. When I say old friend, I do not mean old in years; rather, I mean he has been my friend for a long time. Anyone who has worked with the gentleman from Mississippi knows that only a young man could keep up with a schedule like his.

Mr. Speaker, JERRY SOLOMON, the ranking member of the full committee, has been energetic and able in his leadership of the minority on this legislation, and I commend him for it. Also the chairman of the Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, and the committee's ranking member, BOB MCEWEN, have contributed greatly and I commend them as well.

Mr. Speaker, congressional approval of the COLA is of great importance to our veterans. I urge in the strongest possible terms a favorable vote on this bill.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pension and Insurance.

Mr. APPLEGATE. Mr. Speaker, before I describe the compromise agreement, I commend my chairman, SONNY MONTGOMERY, and the ranking minority member of the committee, JERRY SOLOMON, for their leadership in working out the details of this compromise and for bringing this measure to the floor so quickly. I also wish to recognize the valuable assistance I have received during the year from the ranking minority member of my subcommittee, Mr. BOB MCEWEN. I know the Nation's veterans will be grateful for their persistence in making sure that the Congress approved a COLA before the holidays.

Mr. Speaker, on July 28, the House passed H.R. 2945 to provide a 4.1-percent cost-of-living increase for our service-connected disabled veterans and their survivors. It was not until December 4 that the other body amended and passed H.R. 2616 with the provisions of S. 9, a comprehensive bill that contains 80 to 90 provisions in addition to a compensation and DIC COLA of 4.2 percent.

During the past 2 weeks we tried to resolve our differences with the other body, but there are just too many issues to clear before adjournment. So to be sure that we meet our responsibilities to service-connected disabled veterans and their families, we agreed with the other body to pass a COLA bill and keep working to resolve all the other issues. Hopefully, we will have an agreement ready for the House to consider when we return during the week of January 25.

The proposed Senate amendments would provide a 4.2-percent COLA to service-connected disabled veterans drawing compensation and widows drawing DIC effective December 1, 1987. This is consistent with the bill we passed several months ago. It also contains two minor provisions to cover expiring authorizations. It would provide a temporary 6-month extension, from December 31, 1987, to June 30, 1988, of the deadline for veterans to apply for benefits under the Veterans' Job Training Act, and increase from 2,500 to 3,500 the annual limit on the number of young pensioners who may be evaluated for vocational training.

Both the administration and the veterans organizations have urged a COLA that would match the inflation rate since the last increase. Social Security recipients will receive a 4.2-percent increase for December, which is based on the change in the Consumer Price Index. This is recognized as the amount necessary to offset inflation for veterans during the past 12 months.

Mr. Speaker, I am disappointed that the other body did not get its major legislation passed earlier because there are several worthy provisions, not only in their bill, but in several bills which we passed months ago. As I have said, it is our plan to continue to work with the other body so that we can bring the remaining issues to the floor soon after the second session begins in January.

Mr. Speaker, I urge the adoption of the proposed Senate amendments.

Mr. SOLOMON. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr Speaker, I would point out to my colleagues that we have a blue summary sheet if Members would like to find out exactly what this COLA bill does.

Mr. Speaker, again, I want to express my appreciation to the gentleman from New York [Mr. SOLOMON], the gentleman from Ohio [Mr. APPLEGATE], and the gentleman from Ohio [Mr. MCEWEN], for agreeing to allow

the COLA bill to go to the President and to continue our negotiations with the other body on the remaining issues.

I also want to thank the very able chairman and ranking minority member of the Senate Veterans' Affairs Committee, Mr. CRANSTON and Mr. MURKOWSKI, for their cooperation in agreeing to move the COLA bill. It is a great pleasure to work with each of them and with their very able staff.

There follows a more detailed explanatory statement on the compromise agreement and I urge the adoption of the proposed Senate amendments:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON H.R. 2945 AS AMENDED, THE PROPOSED VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1987

This document explains the provisions of a compromise agreement between the Committees on Veterans' Affairs of the Senate and House of Representatives embodied in a Senate amendment to H.R. 2945 as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 2945 as passed"). The agreement consists of (1) a compromise between the provisions passed by both bodies providing for a cost-of-living adjustment (COLA) in the rates of Veterans' Administration service-connected disability compensation paid to veterans and dependency and indemnity compensation (DIC) paid to survivors (in title I of H.R. 2945 as passed and section 101 of S. 9 as agreed to by the Senate on December 4 and incorporated in H.R. 2616 as passed by the Senate on that date); (2) a provision extending the Veterans' Job Training Act application deadline; and (3) a provision increasing from 2,500 to 3,500 the annual limit on the number of veteran-pensioners who may be evaluated for vocational training.

The Committees note that they have agreed to pursue the enactment of H.R. 2945 with only these three provisions in order to achieve enactment, during the First Session of the 100th Congress, of a compensation/DIC COLA and extensions of the two training programs. The Committees are currently engaged in extensive negotiations on an extremely wide range of issues arising out of veterans provisions that have been passed by either of the two Houses.

The Committees expect to conclude their negotiations on these measures at the outset of the Second Session of the 100th Congress.

The Committees' recommendation that the Congress now enact H.R. 2945 with only the provisions noted does not in any way indicate the outcome of negotiations on any remaining provisions in that measure as passed by the House or on any of the other veterans measures passed by the two Houses. For example, the Committees note that they have not concluded their negotiations on section 307 of H.R. 2616 as passed by the House on June 30, under which the VA would be required to establish an outpatient clinic in southern New Jersey. In this regard, the Committees note that funding for the lease of such a clinic was included both in the Administration's FY 1988 budget request for the VA medical care account and in H.R. 2783, the proposed "Department of Housing and Independent Agencies Appropriations Act, 1988", as initially passed by both bodies, and that the VA is proceeding with its plans to enter into a lease for the clinic during the current fiscal year.

Similarly, the Committees have not concluded their negotiations on section 406 of H.R. 2616 as passed by the Senate on December 4, under which the VA would be required to accept a transfer of the Arizona State Cemetery and operate the cemetery as part of the National Cemetery System.

The provisions of the compromise agreement are as follows:

TITLE I—COMPENSATION RATE INCREASES

House bill: Title I of H.R. 2945 as passed would provide for a 4.1-percent COLA, effective December 1, 1987, in the rates of VA compensation and DIC.

Senate bill: Section 101 of S. 9 as incorporated in H.R. 2616 as passed by the Senate on December 4 would provide for the rates to be increased by the same percentage as the December 1, 1987, Social Security/VA pension COLA—4.2 percent—effective on the same date.

Compromise agreement: The compromise agreement provides for a 4.2-percent COLA, effective December 1, 1987.

The Committees expect the VA to provide for the COLA to be reflected in veterans' and survivors' payments as soon as administratively feasible and appropriate and to include with their compensation and DIC payments—no later than the payments for January, which are delivered on or about February 1—notification to all recipients that the COLA has been enacted with retroactive effect as of December 1 and a description of when and how the COLA will be implemented and a retroactive payment made.

TITLE II—VETERANS' EMPLOYMENT TRAINING EXTENSIONS

Extension of Deadline for Veterans' Job Training Act Applications (Section 201)

Both the Senate, in section 11(e) of S. 999 as passed by the Senate on August 4, and the House, in section 2 of H.R. 1504 as passed by the House on June 30, have passed long-term extensions of various provisions in the Veterans' Job Training Act (VJTA). Pending the outcome of negotiations on those measures and in order to avoid a hiatus in the eligibility of veterans to apply to participate in VJTA programs, the compromise agreement contains a provision extending by 6 months, through June 30, 1988, the deadline for veterans to apply for such training.

Increase in Limitation on Vocational-Training Evaluations of Veterans Receiving Pension (Section 202)

Section 304 of H.R. 2945 as passed would increase from 2,500 to 3,500 the cap on the number of vocational-training evaluations which, during the 12-month period beginning February 1 of each year, the VA may provide to veterans under age 50 who receive new awards of VA nonservice-connected-disability pension. (These evaluations are conducted in order to assess the feasibility of a new pensioner participating in vocational training). In view of the advice to the Committees that the 2,500-evaluation cap will very soon result in the termination of evaluations during the 12-month period that expires on January 31, 1988, the compromise agreement contains the House provision.

Mr. SOLOMON. Mr. Speaker, I rise as ranking member of the Veterans' Affairs Committee in strong support of H.R. 2945, as amended, to provide for a 4.2-percent cost-of-living adjustment [COLA] for compensation of service-connected disabled veterans and for dependency and indemnity compensation [DIC], which goes to survivors of certain disabled veterans.

We have before us the COLA and, in addition, two noncontroversial extensions of program authority. The COLA for veterans is under the jurisdiction of the Veterans' Affairs Committees of the House and Senate and is set independently of the Social Security COLA. It represents a full allowance for inflation during 1987, which the Reagan administration has continued to keep under control.

Of course, the COLA is good news for America's veterans, who are especially deserving of it. Indeed, it is too bad that the willingness espoused by a number of veterans' service organizations to accept a delayed or reduced COLA, or none at all, if only other COLA's would be treated the same, is apparently not more widespread. If it were, we could really take more effective steps toward controlling the deficit.

Mr. Speaker, the filing time for applications under the Veterans' Job Training Act ends on December 31, 1987. H.R. 2945, as amended, would extend the application period until June 30, 1988. Additionally, vocational training evaluations for veteran pensioners are about to reach the program ceiling of 2,500. H.R. 2945, as amended, would raise the ceiling to 3,500 evaluations. Both of these worthwhile veterans' programs were generally expected and intended by our committee and the House to continue in operation, and they should.

This legislation, just passed by the Senate, evolved from the 4.1-percent COLA of H.R. 2945, which this body approved on July 28, 1987. Unfortunately, the Senate was unable to act until December 4, 1987, on its bill containing a COLA provision, S. 9(leaving insufficient time to complete work on a wide range of other proposals for veterans' programs from both bodies, including health care, employment and compensation. By an agreement with our counterpart Senate committee, the COLA was separated from the rest of the proposed legislation.

We could not in good conscience go home for Christmas without action on a COLA to let America's veterans know, that while the Congress may sometimes be slow, they will not be forgotten.

I want to acknowledge the vigorous leadership of our chairman, SONNY MONTGOMERY, in bringing this compromise bill to the floor, as well as the invaluable efforts of the chairman of the Subcommittee on Compensation, Pension and Insurance, DOUG APPLEGATE, and the subcommittees' ranking member, BOB MCEWEN. They are all truly devoted to American veterans.

Mr. Speaker, I am proud of our veterans. They have earned their benefits, and I strongly urge passage of this legislation to keep them equal with the cost of living and to extend the two needed program authorities.

Mr. DOWDY of Mississippi. Mr. Speaker, I want to express my strong support for H.R. 2945, amended, the Veterans' Compensation Cost of Living Adjustment Act of 1987.

Of particular interest to me as chairman of the Subcommittee on Education, Training and Employment is the provision in title II of the amended bill which would extend from De-

cember 31, 1987, to June 30, 1988, the deadline for eligible veterans to apply for employment and training assistance under the Veterans' Job Training Act [VJTA]. On June 30, 1987, the House passed H.R. 1504, a bill which would extend VJTA 3 years and enhance the effectiveness of this highly successful program. This measure was amended by the Senate with the provisions of S. 999, which also contained a long-term extension of VJTA. The limited extension in H.R. 2945, amended, will provide a bridge and avoid a stop-start situation while negotiations continue with the other body on this and other program amendments.

Since the enactment of the Veterans' Job Training Act in November 1983, more than 53,000 long-term unemployed veterans of the Korean conflict and the Vietnam era have found meaningful, long-term employment under this program. It is important that we continue to provide eligible veterans seeking employment the opportunity to participate in VJTA.

I want to commend the chairman of the full committee, my colleague from Mississippi, G.V. (SONNY) MONTGOMERY, and the distinguished ranking minority member, JERRY SOLOMON of New York, for their leadership. I also want to thank the chairman of the Senate Committee on Veterans' Affairs, ALAN CRANSTON of California, and the ranking minority member, FRANK MURKOWSKI of Alaska, for their support and cooperation in moving the legislation we are considering today.

I urge my colleagues to support H.R. 2945, as amended.

Mr. COLEMAN of Texas. Mr. Speaker, I wish to commend the authors of H.R. 2945, the Veterans' Compensation Cost of Living Adjustment Act, for bringing this bill to the floor. The House passed legislation authorizing the COLA nearly 5 months ago. The Senate passed its bill 2 weeks ago. I understand that there are some differences between the two versions. But I commend the chairmen of the committees, Mr. MONTGOMERY of Mississippi and Senator CRANSTON of California, for putting the needs of our veterans above their pride of authorship.

I am pleased that the veterans' COLA will be commensurate with those for retired Federal employees, military retirees and Social Security recipients. I know that the surviving relatives of veterans and the veterans themselves disabled by virtue of their service to our country deserve no less. There are many men and women in west Texas to whom these are vital issues affecting both their dignity and their wallets. They deserve the recognition accorded by the timely consideration of this legislation.

More comprehensive bills on VA compensation and programs are currently subject to negotiation in conference committees. But the issues of the COLA and continued eligibility for the Veterans' Job Training Act should be considered as expeditiously as possible. They refer in the first instance to modest increases in checks retroactive to December 1 and an extension, more than justified, to June 30 of next year in the second.

I urge immediate passage of this necessary and timely piece of legislation.

Mr. McEWEN. Mr. Speaker, I want to commend the chairman of our committee, SONNY MONTGOMERY, and the ranking minority member, JERRY SOLOMON, for their leadership in bringing this legislation to the floor in the waning hours of the 1st session of the 100th Congress.

I also want to express my deep appreciation to my friend and Ohio colleague, DOUG APPLEGATE, for his bipartisan spirit and cooperation. It is indeed an honor to work with him. As chairman of the Subcommittee on Compensation, Pension and Insurance, he has once again demonstrated his special commitment to America's veterans by shepherding this legislation through our discussions with Members of the Senate to the floor today.

Mr. Speaker, today the House of Representatives meets to consider the cornerstone of our responsibility. It is to assure that service-connected disabled veterans, their dependents and survivors receive that amount of compensation to which they are justly entitled. The bill before us, H.R. 2945, the Veterans Compensation Act, addresses that responsibility, and I wholeheartedly endorse it.

As the chairman indicated in his remarks, our committee has recommended a 4.2-percent cost-of-living increase for compensation and DIC recipients.

Mr. APPLEGATE has explained those issues as well as those pertaining to the DIC Program and Vocational Rehabilitation Training Program.

Mr. Speaker, H.R. 2945 is a good bill. Moreover, it illustrates our continuing commitment to America's disabled veterans and their families. I urge my colleagues to support the bill.

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 2945, the Veterans' Compensation Cost-of-Living Adjustment Act of 1987. I would also like to commend the distinguished chairman of the Veterans' Affairs Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the ranking minority member, my fellow colleague from New York [Mr. SOLOMON], for continuing their bipartisan efforts to ensure equitable treatment for our Nation's veterans.

H.R. 2945 provides for a 4.2-percent cost-of-living adjustment in the rates of Veterans' Administration disability compensation for veterans and dependency and indemnity compensation for survivors. As we wind down the 1st session of this 100th Congress, it is gratifying to find both Chambers working together in an expeditious and a bipartisan fashion to ensure that our veterans receive their COLA's for the upcoming year. As many of us are aware, the other body provided for a cost-of-living increase in an omnibus veterans' bill, which they did not adopt until a few weeks ago. Although we did not have the time to work out the differences between the House and Senate bills, a compromise was agreed to allow us to consider this important legislation.

Mr. Speaker, the bill brought before us also contains provisions to cover expiring authorizations. H.R. 2945 extends the deadline by which a veteran must apply to participate in the on-the-job training program for Vietnam era and Korean conflict veterans established under the Veterans' Job Training Act [VJTA]. It also raises the cap on evaluations for vocational training of veterans pensioners from 2,500 to 3,500 to prevent it from being reached long before the end of the 12-month period to which it applies. The VJTA has provided more than 53,000 long-term unemployed veterans of the Korean and Vietnam era with meaningful and long-term employment since its enactment 4 years ago. Congress needs only to look as far as this successful and cost-effective program for guidance while working on legislation to assist the homeless or reducing welfare dependency.

Mr. Speaker, H.R. 2945 illustrates our continuing commitment to our veterans. Accordingly, I ask my colleagues to join me in supporting this legislation. This is the best holiday gift we can give to the men and women who gave of themselves for our great Nation.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the Senate amendments to H.R. 2945 just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CALLING UPON THE SOVIET UNION TO IMMEDIATELY GRANT PERMISSION TO EMIGRATE TO ALL WHO WISH TO JOIN SPOUSES IN THE UNITED STATES

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 376) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses in the United States, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment and the House amendments to the Senate amendment as follows:

Senate amendment:

Page 3, after line 19, insert:

SEC. 3. In honor of J. Strom Thurmond, and in recognition of his long and outstanding service as a United States Senator, Governor of South Carolina, and South Carolina State Senator, to promote flood control, soil conservation, and rural electrification, the Clarks Hill Dam, Reservoir, and High-

way transversing the Dam on the Savannah River, Georgia and South Carolina, shall hereafter be known and designated as the J. Strom Thurmond Dam, Reservoir, and Highway, and shall be dedicated as a monument to his distinguished public service. Any law, regulation, map, document, or record of the United States in which such project is referred to shall be held and considered to refer to such project by the name of the J. Strom Thurmond Dam, Reservoir, and Highway.

House amendments to Senate amendment:

(1) Strike out "after line 19," and all that follows through "SEC. 3. In" and insert in lieu thereof the following:

strike out all that follows the resolving clause and insert in lieu thereof the following:

That in

(2) At the end of the amendment, add the following:

Strike out the preamble of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I yield to the gentleman from Florida [Mr. FASCELL] for an explanation of his unanimous-consent request.

Mr. FASCELL. Mr. Speaker, this action is necessary because of the following reasons:

First. Prior to the summit conference the House passed and sent to the other body a resolution calling on the Soviet Union to grant permission to emigrate to all those who wish to join their spouses or families in the United States.

Second. The other body passed that resolution with an amendment naming a dam and highway after the distinguished Senator from South Carolina STROM THURMOND.

Third. Since that action by the other body events have overtaken the basic resolution on divided spouses in that several of those named in the resolution have been given permission to emigrate. Furthermore, it is the thinking of the Committee on Foreign Affairs that the two issues should not be joined in one resolution.

Fourth. Therefore, the amendment that I offer amends the basic resolution to delete that portion dealing with the divided spouse issue.

Fifth. For the information of the Members, after passage of House Joint Resolution 376 it is my intention to ask unanimous consent for the immediate consideration in the House of a resolution dealing with the divided spouse problem.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in strong support of House Joint Resolution 376, renaming the Clarks Hill Dam, Reservoir and Highway on the Savannah River in honor of the distinguished Senior Senator from South Carolina, the Honorable STROM THURMOND.

This resolution is a most appropriate tribute to one who throughout his distinguished career in both the South Carolina Senate and the U.S. Senate, worked tirelessly for adequate flood control, soil conservation and rural electrification.

As a State Senator, he authored legislation that helped bring Federal support to the Clarks Hill project, and since coming to Washington, he has continued to work for the project and especially for economic development along Clarks Hill Lake.

In fact, so appreciated are his efforts by the folks back home that the Clar ks Hill authority has adopted a resolution requesting that the project be renamed in Senator THURMOND'S honor.

Health care for veterans has been a special concern of Senator THURMOND, and he has provided great leadership in efforts to recruit and retain nurses for the Nation's 173 VA hospitals. He has also been very active in having priority given to service-connected disabled veterans.

Most recently, he had really been the driving force in the Senate on behalf of legislation to provide the Veterans' Administration with Cabinet-level status. That measure, which had passed the House, now has 45 Senate sponsors.

Senator STROM THURMOND has a deep and abiding love for his country. As one small illustration of that, I recall that at last year's American Legion national convention in San Antonio, he marched and carried the American flag in the parade through downtown San Antonio in 101-degree heat.

STROM THURMOND is most deserving of the honor embodied in the resolution before us today, and I urge its support by iy colleagues.

STROM THURMOND has compiled an illustrious career of public service that few if any could ever hope to match. Even before he began his outstanding career in the U.S. Senate in 1954, he had already served as a judge, State senator, and Governor of South Carolina.

He is also a highly decorated veteran of World War II, A 36-year reserve officer, and a major general in the U.S. Army Reserve.

That outstanding military service obviously gave STROM THURMOND a keen awareness of the needs of the Nation's veterans, and he has beej a staunch supporter of veterans' programs throughout his long career in the Senate.

As a member of the Veterans' Affairs Committee and formerly ranking Republican member for a number of years, I have had the great privilege of working closely on veterans matters with STROM THURMOND. He is a long-term senior member of the Senate Veterans' Affairs Committee. In fact, we both have beej honored with the hifetime of service award from the Paralyzed Veterans of America and the Vietnam Veterans Institute.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, at the beginning of November, many of us in the House and the Senate were pleased to welcome a new resident to the United States—Mrs. Svetlana Braun.

Svetlana is the wife of a young Southfield, MI attorney, Mr. Keith Braun. Keith and Svetlana had been married since 1984. However, they were not able to live together as husband and wife should, because the Soviet Government refused to abide by accepted international agreements and let Svetlana emigrate to the United States to join her husband.

With encouragement from the administration, several congressional delegations to the Soviet Union, the news media and several other sources, the Soviet Government finally allowed Svetlana to emigrate.

However, while all of us were extremely happy to have Mrs. Braun with us in the United States, our joy was tempered by the knowledge of how difficult it was for her to emigrate, how difficult life was for her in the Soviet Union while she tried to come to the United States, and the fact that there are still many other divided spouses who are still separated because of Soviet emigration policy.

When Soviet officials denied Mrs. Braun and the many other divided spouses the opportunity to emigrate from the Soviet Union, they have ignored the 1975 Helsinki accords which the Soviet Union signed. That international agreement commits signatories to allow reunification of families and the right of binational couples to choose their country of residence.

Mr. Speaker, the Brauns and the other divided spouses should have been united years ago. House Joint Resolution 376, which is before us today, lets Soviet officials know that we do not take human rights lightly, and that we will hold the Soviet Government accountable to abide by the Helsinki accords which they signed.

I urge my colleagues to support this resolution and send this important message to the Soviet Government at this opportune time as we prepare for the visit of General Secretary Gorbachev.

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

TITLE AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. FASCELL:

Amend the title so as to read: "Joint resolution to designate the Clarks Hill Dam, Reservoir, and Highway transversing the Dam on the Savannah River, Georgia and South Carolina, as the J. Strom Thurmond Dam, Reservoir, and Highway."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

CALLING UPON THE SOVIET UNION TO IMMEDIATELY GRANT PERMISSION TO EMIGRATE TO ALL WHO WISH TO JOIN SPOUSES IN THE UNITED STATES

Mr. FASCELL. Mr. Speaker, I offer a joint resolution (H.J. Res. 430) calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or fiances in the United States, and ask

unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so to provide the gentleman from Florida [Mr. FASCELL], chairman of the committee, an opportunity to explain the joint resolution.

Mr. FASCELL. Mr. Speaker, I thank my colleague, the ranking member of the Committee on Foreign Affairs, for yielding.

Mr. Speaker, the joint resolution I have introduced calls upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join their spouses or fiances in the United States. A similar resolution was considered by the Committee on Foreign Affairs in November and passed both the House and the Senate with broad, bipartisan support.

This measure, Mr. Speaker, expresses the Congress' continuing concern for the plight of the half-dozen cases of divided spouses and blocked marriages involving American and Soviet citizens. It calls upon the Soviet Union to grant to those Soviets who have been separated from their American spouses and fiances immediate permission to emigrate. It draws particular attention to those cases that have remained unresolved for years.

It is both appropriate and important that the House consider this measure after the summit here in Washington between President Reagan and General Secretary Gorbachev. The summit, which we all welcomed, provided an excellent opportunity for the Soviet Union to—at long last—resolve the divided spouse and blocked marriage cases which have hampered improved United States-Soviet relations. I am quite pleased that many of the longstanding divided spouses and blocked marriage cases were resolved just prior to and during the summit. Among those reunited were Anatoly and Galina Michelson who had the dubious distinction of being the longest unresolved family reunification case between the United States and the Soviet Union. Every President since John F. Kennedy has raised this case with his Soviet counterpart. After 31 years of forced separation, the Michelsons are finally living together in Florida. The Soviet leadership apparently saw the wisdom—indeed, the necessity—of once and for all removing this thorn from the side of our relationship.

To live together as husband and wife, as a family, is so basic a right that its denial would be absurd if it were not so tragic. The speedy resolution of the other outstanding cases should be at the top of our diplomatic agenda with the Soviet Union and should be a precondition to improved relations. But more than this, we must ensure that there will be no more cases of husbands and wives forcibly separated by cynical and vindictive government policies. People should not be pawns in the superpower relationship and family relations should not be the stuff of international negotiations. Closer ties between the governments of the United States and the Soviet Union will inevitably result in closer ties between our people. The Soviet Union must be prepared to deal in a positive and routine fashion with the subsequent requests to marry and to live together that will result from these increased contacts.

While we are delighted by the recent resolution of some of the divided family cases, we look forward to the speedy resolution of all other outstanding cases and to the day when this issue finally will be wiped off our bilateral agenda. I urge the Soviet Union to seize the opportunity afforded by the summit to bring us closer to that day.

I urge unanimous adoption of the resolution.

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. MACK].

Mr. MACK. Mr. Speaker, I thank the gentleman for yielding. I want to also express my appreciation to the gentleman from Florida [Mr. FASCELL] for bringing this resolution back to the floor after it had been modified.

Mr. Speaker, I believe that all of us in the House are familiar with the problem of divided-spouses, a situation in which American/Soviet couples have been refused the right to live together in their country of choice.

This situation has hit home to me as I have worked on behalf of a constituent from my district, Anatoly Michelson. Mr. Michelson left the Soviet Union over 31 years ago. But still, after repeated appeals to the Soviet authorities, his wife Galina, daughter Olga and grandson Anatoly had not been granted permission to emigrate to the United States to be reunited with Mr. Michelson.

As State Department officials have pursued the issue of divided-spouses more vigorously in negotiations with the Soviets, we have seen progress in the resolution of these cases. On Monday, December 21, we will be celebrating the arrival of Mr. Michelson's family to the United States.

This arrival will mark the successful resolution of one of the most troublesome cases on record. In fact, many in Congress and in the diplomatic community feared that the case would never be resolved since Mr. Michelson was a defector from the Soviet Union.

Yet this case has proven to me that persistence coupled with courage can overcome even the most difficult of circumstances. Anatoly and Galina Michelson have never stopped pressing ahead despite the gloomy forecasts that many U.S. officials made.

We, in Congress, must remember this example of persistence, and emulate it as we address other difficult cases of Soviet intransigence in human rights.

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It is a rare opportunity I think that Members have the opportunity to come to the floor and indicate success with what we are working on. But I have the great opportunity on Monday to meet with Anatoly Michelson when he is going to be reunited with his wife after 31 years of separation. His wife, daughter, and grandson will be flying into Dulles on Monday afternoon and , again, after 31 years will have the opportunity to be reunited. I think it is only fitting that as we move toward this Christmas season, these holiday seasons, that we remember how fortunate we are and how fortunate the Michelson family is now.

Mr. Speaker, I want to thank everyone who participated in this resolution.

Mr. BROOMFIELD. Mr. Speaker, further under my reservation, I yield to the ranking member on the Subcommittee on Human Rights, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

Let me commend both the gentleman and the chairman of the full committee, DANTE FASCELL, for bringing this resolution to the floor in a timely manner. Let me also commend a member of our committee, CONNIE MACK, for his sponsorship of the legislation. Mr. Speaker and my colleagues, you know when Mr. Gorbachev was here in the United States, he tried to create an image of being forthright and for human rights, but nevertheless every time human rights were brought up, before any of the discussions he would clam up. That means that when he went back to the Soviet Union it is a forgotten issue.

One of the greatest human rights abuses in the world is that philosophy, a Communist philosophy which would divide spouses, that would divide people from their loved ones.

The only way that we are ever going to get results from the Soviet Union is to keep the pressure on. This kind of resolution will help to keep that pressure on and to bring some kind of satisfaction to so many people who are oppressed by international communism today.

So I commend the gentleman.

Mr. BROOMFIELD. Mr. Speaker, further under my reservation, I yield

to the gentleman from New York [Mr. GILMAN], a meiber of the comiittee.

Mr. GILMAN. Mr. Speaker, I rise to compliment the gentleman from Florida [Mr. MACK], for his consistent efforts, his continual efforts for human rights, particularly to help bring divided spouses together and bring fiances together. This is a battle that needs continual attention.

We appreciate the extensive efforts of the gentleman from Florida which he has undertaken in that regard. I want to commend the distinguished chairman from Florida, Mr. FASCELL, and our ranking minority member, the gentleman from Michigan, Mr. BROOMFIELD, for allowing us to bring this measure to the floor before we adjourn this session.

Mr. BROOMFIELD. Mr. Speaker, I yield to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding.

I too would like to join my colleague from Florida in expressing my happiness as to what has happened with his divided spouse. However, I would like to ask you, my colleagues, to not forget those who remain divided. At these, the happiest of holiday seasons, it can be the loneliest for those who are separated. Galina Vileshina, a constituent of mine and her husband, Pyatras are again going to be separated.

This I believe is their seventh or eighth holiday season away from each other. Let us not forget, in expressing our appreciation and happiness, let us not forget those who are left behind.

Mr. BROOMFIELD. Mr. Speaker, I rise in strong support of this motion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution as follows:

H.J. RES. 430

Whereas the Soviet Union is a signatory of the Final Act of the Conference on Security and Cooperation in Europe which states that "The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character—such as requests submitted by persons who are ill or old.";

Whereas the Final Act further states that, "In dealing with requests from couples from different participating States, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a State in which either one is normally a resident, the participating States will also apply the provisions accepted for family reunification.";

Whereas the Soviet Union has denied exit visas or marriage permits to several Soviet citizens who are married or engaged to Americans;

Whereas the United States officials have brought these divided spouses and blocked marriage cases to the attention of Soviet diplomats on numerous occasions, including during the recently concluded Washington summit meeting between President Reagan and General Secretary Gorbachev;

Whereas several similar long-term cases have been resolved within the last two years;

Whereas the Soviet Union has initiated a policy of "Democratizatsiya" which claims to give greater emphasis to basic human rights, including the right to live with one's family in the family's country of choice;

Whereas the Soviet Union and the United States have concluded a major arms reduction agreement, and the spirit of this agreement should foster progress between the Soviet Union and the United States in successfully addressing human rights concerns; and

Whereas the Soviet Union, as a signatory of the Final Act of the Conference on Security and Cooperation in Europe, is obligated to comply with the Act's provisions regarding the reunification of divided families and marriage between citizens of different states: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) welcomes the recent granting by the Soviet Union of permission to emigrate to several Soviet citizens who have been divided for many years from their American spouses and fiances including Galina Goltzman Michelson, Yuri Balovlenkov, Victor Faermark, Elena Kaplan, Victor Novikow, and Leonid Scheiba; and

(2) calls upon the Soviet Union—

(A) to immediately grant to all those who wish to join spouses of fiances in the United States (including Tatyana Alexandrovich, Yeugeni Grigorishin, Vladislav Kostin, Lyubov Kurillo, Pyatras Pakenas, and Sergei Petrov) permission to emigrate with their family members to the United States; and

(B) to give special consideration to cases that have remained unresolved for many years.

SEC. 2. The Secretary of State shall transmit a copy of this joint resolution to the President of the Union of Soviet Socialist Republics.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 376 and House Joint Resolution 430.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader the program for the balance of this day and any insight that he might be able to divulge on tomorrow and hopefully not too much beyond tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, we intend to take up next a unanimous-consent request from the Committee on Merchant Marine and Fisheries, followed by a rule for a bill reported from the Committee on Merchant Marine and Fisheries, Governing International Fishery Agreement With Japan, following which we will return to unanimous consents offered by a number of committees, and later in the afternoon we h ope to bring up the farm credit conference report.

That will be the last item on the agenda for today. It is my judgment that we could be adjourning between 6 and 7 tonight.

I hear behind me a voice saying "Until?" And the answer to that question is somewhat conceptual at this point, but let me give you the concept, with the understanding that this is not a firm announcement.

Our present intention would be to seek authority for a session tomorrow that would be pro forma but with recess permission so that we might take care of the presence of Members for conferences and the Rules Committee and so on. But Members would be assured that there would be no legislation of any kind scheduled for tomorrow and that we would then propose to return some time early Sunday afternoon, probably about 1 p.m., for the consideration of the conference reports on the continuing resolution and reconciliation bill and any accompanying rules. We would hope then to conclude the business of the Congress by early evening Sunday.

Now that is the concept, as I say, not an announcement for tomorrow and Sunday. But if that should be the program which we would more or less make official this afternoon later, Members would have an opportunity to leave tonight and to return Sunday afternoon and there would be at least that much assurance of the business to be taken up tomorrow, the lack of business to be taken up tomorrow.

Mr. MICHEL. Might I inquire of the gentleman: On the rule on the merchant marine item, we would consider the bill itself too, would we not?

Mr. FOLEY. Yes, the rule and the bill.

Mr. MICHEL. And then farm credit following that?

Mr. FOLEY. Then probably some unanimous-consent requests from various committees and then when it is ready and we hope it will be later this afternoon, the farm credit conference report.

Now there is a 2-hour availability under our procedures for that conference report and it would be helpful if we could perhaps in this particular case reduce that to some extent, make the adjournment tonight a little earlier.

Mr. MICHEL. I might make the observation for some Members who might inquire as to why we would even bother to have a pro forma session tomorrow with recess authority, we would grant the recess authority only on the condition that as the gentleman has very well said, we would not have any business scheduled for tomorrow and that, frankly, for the committees that are meeting on the CR and reconciliation, it facilitates their work if there are not interruptions of rollcalls similar to what we have had today. We really have got to get to that point where they are uninterruptedly sitting down, sitting around getting this thing hashed out or it will be forever. For those who may wonder why we would proceed that way, I think frankly that is the best alternative that we have.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, it is my understanding that the agreement with regard to legislative business for tomorrow would also include all unanimous consents, in other words, even unanimous consents that previously agreed to off the sheet would not come up under the pro forma session, is that correct?

Mr. MICHEL. The gentleman may want to direct that specifically to the majority leader.

Now, we reserve some time here after the Merchant Marine bill to take up some of those. I know there is a short list and a long list. We have been agitating for confining these considerations to the shorter list of those that are really urgent.

Mr. FOLEY. Well, our intention would be not to bring up unanimous consents tomorrow, to make our undertaking that there would be no legislation brought up by any means tomorrow.

Now we may want to extend that, in thinking about it, to procedural matters which should be, I think, subject to unanimous consent. That obviously involves the concurrence of the leadership. But as far as legislation is concerned, we would not offer legislation by unanimous consent.

Mr. DE LA GARZA. Would one of my colleagues yield? Who has the time?

Mr. MICHEL. I have the time and I would be happy to yield shortly.

I may be anticipating one question, a Member asked what would be the earliest time on Sunday? The majority leader just mentioned something in the neighborhood of 1 p.m. I do not think we are at that point yet where we could say specifically.

Mr. FOLEY. No, if the gentleman will yield.

Mr. MICHEL. Yes.

Mr. FOLEY. I want to emphasize again that my discussions about Saturday and Sunday are provisional and conceptual comments, not a firm announcement. But that is the concept which we would like to follow, I think. I think it would facilitate the convenience of Members as well as the expeditious conduct of our business.

Mr. DE LA GARZA. Mr. Speaker, will my colleague yield?

Mr. MICHEL. I yield to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman for yielding.

I would like to inform my colleagues in the House that the problem with the Farm Credit System is the Government Printing Office's facilitating the report and having it available. But we do have the substance of that report which we have printed in a brief form available at both Cloakrooms. Copies of the substance of the conference report are available and have been for about an hour in both Cloakrooms.

What I would like to suggest, with the assistance of both the majority leader and my distinguished colleague, the minority leader, is that if that is available when we get the original printed copy, if we might ask your assistance in not having to wait the 2 hours with the actual report here; maybe half an hour or less of time, if possible, because the substance is in the summaries that are in both Cloakrooms at this time.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I do not think from what I am hearing there would be very much difficulty in maybe getting done what the gentleman wants done in terms of changing the 2-hour availability so long as under unanimous-consent requests we could get a pretty reasonable description for purpose of legislative history of what it is we are going to be taking up. But having said that, I think we need to get some firmness in what it is we are agreeing to today with regard to the next 2 days. In other words, I do not think we want to say that we will allow the farm credit bill to come forward under something other than regular processes unless we know we have got a fairly firm commitment with regard to what is going to happen tomorrow. If we are going to be here voting tomorrow, we might as well be here voting on farm credit tomorrow.

Mr. FOLEY. If the gentleman would yield to me, I can give you firm assurance that we will not be taking up legislation tomorrow. The only thing I am reserving on is the precise times on Sunday. That is a matter I hope to be clarified this afternoon. But we would certainly be able to say definitely, before bringing up the farm credit bill this afternoon, that there would be no legislative business tomorrow.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield to me?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, if I were to make a unanimous-consent request that we be allowed less than 2 hours, a period to be decided by the leadership on both sides, so that we might have the leeway as to what time to come up, what time the report would be ready, and knowing that then it would be up to the leadership to negotiate the less than 2 hours, so that we can move on with the legislation.

□ 1500

Mr. FOLEY. Mr. Speaker, will the gentleman yield for the purpose of a unanimous-consent request?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order on the legislative day of tomorrow for the Speaker to declare recesses subject to the call of the Chair.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST TO MAKE IN ORDER ON TODAY CONSIDERATION OF CONFERENCE REPORT ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it shall be in order this afternoon to call up the conference report on the farm credit bill notwithstanding any rule regarding the availability of such conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, what would be helpful on this particular request, it seems to me, is if we could have that unanimous consent at the time you are coming to the floor so we could ask questions at that point about the nature of the unanimous-consent request.

Mr. FOLEY. Mr. Speaker, I withdraw the unanimous-consent request.

Mr. Speaker, I think that is about as far as we can go today, but perhaps it does give Members some indication of the plan for the remaining 2 days.

Mr. LOTT. Mr. Speaker, will the gentleman yield so I may ask one more question?

Mr. MICHEL. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, I think the gentleman is doing the best he can under the circumstances, but I want to ask a general question about the conferences and the conferees. I know they have been working hard and long hours, but this thing needs to be brought to a conclusion. Do we have a reason to expect that the conferees are going to reach an agreement this afternoon or tonight? Are we doing all we can to keep the pressure on the conferees to complete that work?

Mr. FOLEY. Mr. Speaker, the answer is yes to both questions. We have been meeting with the conferees and the chairmen of the conferences and urging them to proceed expeditiously, and they are doing so. We have every expectation that the conference agreements will be concluded tonight.

Mr. LOTT. Mr. Speaker, I thank the gentleman from Washington.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to ask this of the distinguished majority leader: I would ask if there is a practical way to let the Members know, since in truth we do not know what we are doing, although we have hopes, so that we could plan to meet at 10 Monday, we could plan to pass this by 2 o'clock Monday, and then we could either get vetoed or not vetoed? But I would say on behalf of all the Members that to be held in suspension the Sunday before Christmas is sheer foolishness.

Mr. FOLEY. Mr. Speaker, I advise the gentleman that the continuing resolution expires at midnight tonight, and that unless there is action by the Congress, the Government stands in danger of being shut down on Monday. I think it might perhaps be difficult to justify, if legislation were ready for consideration on Sunday, that it should be deliberately postponed until Monday, at the risk of the Government being closed. I think that might be difficult to justify.

We understand the reluctance of the granting of any additional continuing resolution, any short continuing resolutions, so our intention is to try to conclude the business at the earliest possible time on this weekend, and, frankly, I think it will perhaps be more in the interest of the Members and their convenience if we can get the House adjourned on Sunday and get the business done and then have Members go home for the holidays rather than to use additional time.

Mr. MICHEL. Mr. Speaker, it is my understanding that the appropriators will be called back within an hour to resume their work, so there are things happening.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I guess all I am saying as a back bencher who is not in those rooms making those kinds of decisions, since there clearly are clerical problems and there is a multiple hour leadtime, is that I wonder if there is any procedure by which on both sides the Cloakrooms could notify the Members sometime tomorrow at a time that is clearly mechanically necessary, either yes, we will be in, or no, we will not; I think for most Members that would be of great benefit.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further, I welcome that suggestion from the gentleman from Georgia.

Both the House Republican and Democratic Cloakrooms maintain recording devices. It will be our intention and, I am sure, the intention of the leadership on the Republican side to see to it that those telephones are kept abreast of every late decision or information, so that if it appears that it would be impossible for the House to conclude its business on Sunday afternoon and some decision were made to go over until Monday, we do not intend that, but if that would be the decision, Members would be able to discover that fact by calling the Cloakrooms and they would not have to come in and find that out when they arrive.

Mr. Speaker, if the gentleman from Illinois will indulge me a few minutes more, I would urge all Members over this weekend to keep in constant contact with the Cloakroom recording machines so that they are aware of the current state of House activities.

Mr. GINGRICH. Mr. Speaker, if the gentleman will yield to me one more time, I would just say to our distinguished majority leader that in the generous spirit of Christmas we thank the gentleman for his accommodation, and we look forward to being with him briefly one more time and then adjourning until next year.

Mr. FOLEY. Mr. Speaker, I thank the gentleman. I share that hope.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I yield back the balance of my time.

COAST GUARD AUTHORIZATION ACT OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2342) to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Coast Guard Authorization Act of 1987".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) For the operations and maintenance of the Coast Guard, $1,949,813,000 for fiscal year 1988 and $2,085,000,000 for fiscal year 1989.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $277,893,000 for fiscal year 1988 and $289,000,000 for fiscal year 1989, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000 for fiscal year 1988 and $20,500,000 for fiscal year 1989, to remain available until expended.

(4) For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000 for fiscal year 1988 and $390,000,000 for fiscal year 1989, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $10,400,000 for fiscal year 1989.

AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING

SEC. 3. (a) The Coast Guard is authorized an end-of-year strength for active duty personnel of thirty-nine thousand and forty-two for fiscal year 1988 and thirty-nine thousand five hundred for fiscal year 1989. The authorized strength does not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

(b) The Coast Guard is authorized average military training student loans as follows:

(1) For recruit and special training, 3,600 student-years for fiscal year 1988 and 4,100 student-years for fiscal year 1989.

(2) For flight training, one hundred and twenty student-years for fiscal year 1988 and one hundred and thirty student-years for fiscal year 1989.

(3) For professional training in military and civilian institutions, 400 student-years for fiscal year 1989.

(4) For officer acquisition, nine hundred student-years for fiscal year 1988 and nine hundred student-years for fiscal year 1989.

DEFENSE OF CERTAIN SUITS

SEC. 4. Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or the United States Coast Guard" immediately after "title 32)"; and

(2) in subsection (g), by inserting ", the Secretary of Transportation," immediately after "Defense".

INLAND NAVIGATIONAL RULES

SEC. 5. (a) Rule 3(g)(v), which appears under the heading of part A of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2003(g)(v)), is amended by sriking "minesweeping" and inserting in lieu thereof "mineclearance".

(b) Rule 27, which appears under the heading of part C of section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2027), is amended—

(1) in subsection (b), by striking "minesweeping" and inserting in lieu thereof "mineclearance", and

(2) by amending subsection (f) to read as follows:

"(f) A vessel engaged in mineclearance operations shall, in addition to the light prescribed for a power-driven vessel in rule 23 or to the lights or shape prescribed for a vessel at anchor in rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited under the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel."

DESIGNATION OF A NONNAVIGABLE WATERWAY

SEC. 6. The unnamed tributary of Newton Creek, located at block 641 in the city of Camden, New Jersey, is declared to be a nonnavigable waterway of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

HOUSING ASSISTANCE TO CERTAIN COAST GUARD EMPLOYEES

SEC. 7. Section 92 of title 14, United States Code, is amended by inserting immediately after paragraph (d) the following:

"(e) perform all functions of the Secretary of Defense under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), for purposes of assisting civilian and military employees of the Coast Guard as if they were employees of the Department of Defense with regard to any closing, in whole or in part, of an installation ordered by the Coast Guard, except that—

"(1) funds available to the Secretary for such purpose shall be limited to such sums as may, from time to time, be appropriated for operations and expenses of the Coast Guard; and

"(2) any such funds shall be maintained in a separate account in the fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(d)) for activities of the Secretary under this paragraph.".

HELICOPTER BASE

SEC. 8. Not later than six months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a full-time, permanent base at Charleston, South Carolina, for the operation of at least one HH65 short-range recovery helicopter, together with necessary support and operational personnel.

MOBILE LAW ENFORCEMENT BASE

SEC. 9. The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than three months after the date of enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

ICEBREAKER STUDY

SEC. 10. The Secretary of Transportation, in consultation with the Secretary of Defense, the Secretary of Commerce, the Director of the National Science Foundation, and the heads of affected departments or agencies of the Federal Government, shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than January 1, 1988, the Secretary shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national needs.

CONSTRUCTION OF CERTAIN VESSELS

SEC. 11. (a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition is subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"665. Restriction on construction of vessels in foreign shipyards.".

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1987"

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1988 as follows:

(1) For operation and maintenance, $1,978,000,000; and for increases in salary, pay, and other employee benefits authorized by law, such additional sums as may be necessary.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $325,500,000, to remain available until expended.

(3) For research, development, test, and evaluation, $20,119,000, to remain available until expended.

(4) For retired pay (including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans under chapter 73 of title 10, United States Code), and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000.

(b) If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) The Coast Guard is authorized a strength for active duty personnel as of September 30, 1988, of 39,121. The authorized strength does not include members of the Coast Guard Ready Reserve ordered to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1988, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 3,600 student-years.

(2) For flight training, 132 student-years.

(3) For professional training in military and civilian institutions, 400 student-years.

(4) For officer acquisition, 950 student-years.

SEC. 4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

(a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal year 1988 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

(b) A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and

the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

(1) describing the proposed transfers;

(2) stating the reasons for the determination under subsection (a); and

(3) describing the purposes for which the amounts to be transferred will be used.

SEC. 5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD.

(a)(1) It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2)(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by nongovernment personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by nongovernment personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to April 1, 1987, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b)(1) Except as provided in paragraph (2), performance by nongovernment personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by nongovernment personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d)(1) Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal year 1988 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may waive this subsection in the interest of national security or economic efficiency.

(2) As used in this subsection, the term "local resident" means an individual residing in or within daily commuting distance of a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) Section 9503(c)(4) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (A)(ii)(I), by striking "any fiscal year shall not exceed $60,000,000 for Fiscal Year 1987 only and $45,000,000 for each fiscal year thereafter" and inserting in lieu thereof "fiscal year 1988 shall not exceed $60,000,000";

(2) in subparagraph (A)(ii)(II), by striking, "Fiscal Year 1987 only and $45,000,000 for each fiscal year thereafter" and inserting "for fiscal year 1988"; and

(3) in subparagraph (E), by striking "1987" each place it appears and inserting in lieu thereof "1988".

(b) Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a), by striking "Fiscal Year 1987 and two-thirds for each Fiscal Year thereafter" and inserting in lieu thereof "fiscal year 1988 only"; and

(2) in subsection (c), by striking "Fiscal year 1987 and one-third for each Fiscal Year thereafter" and inserting in lieu thereof "fiscal year 1988 only".

(c) Section 13103 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(d) Before making any allocation under this section for a fiscal year, the Secretary shall retain not less than 1 percent nor more than 2 percent of the amount appropriated for that year for State recreational boating safety programs for the payment of costs of administration of this chapter.".

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

"(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

"(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

"(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.".

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) The Secretary of the department in which the Coast Guard is operating may sell, in whole or in part, parcels of land, and any buildings and improvements thereon, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be sold shall be as described in such surveys as may be satisfactory to the Secretary.

(b) Each sale of property under this section shall be conducted in accordance with competitive bidding procedures described in section 2304 of title 10, United States Code. Property may not be sold under this section for less than its fair market value.

(c) In consideration for a sale of property under this section, the Secretary may accept cash or real property, or both, which the Secretary determines to be suitable for the use of the Coast Guard. Within 36 months after such a sale, the Secretary may use any proceeds of the sale for purchasing land along the shore of Lake Worth Inlet, and any buildings and improvements thereon, which the Secretary determines to be suitable for the use of the Coast Guard. After such period, any unused proceeds shall be deposited in the general fund of the Treasury.

(d) In any sale or purchase of property under this section, the Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: "The committee terminates on September 30, 1992.".

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 95. Civilian agents authorized to carry firearms.

"Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.".

(b) The table of sections for such chapter is amended by adding at the end the following new item:

"95. Civilian agents authorized to carry firearms.".

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended by adding at the end the following new subsection:

"(n)(1) The Secretary of Defense shall provide assistance under this section with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987.

"(2) Assistance under this subsection shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(3) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary kf Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary kf the department in which the Coast Guard is operating shall ejter into an agreement under

which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.".

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

"(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

"(2) That upon graduation from the Coast Guard Academy the cadet—

"(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

"(B) will serve on active duty for at least five years immediately after such appointment.

"(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

"(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

"(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

"(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

"(2) A cadet who is transfered to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

"(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

"(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

"(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.".

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 513. RETROACTIVE PAYMENT OF PAY AND ALLOWANCES DELAYED BY ADMINISTRATIVE ERROR OR OVERSIGHT

"Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.".

(b) The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight.

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

"(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a powerdriven vessel in rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.".

SEC 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or within the Coast Guard" after "title 32)"; and

(2) in subsection (g), by striking "or the Secretary of a military department" and inserting in lieu thereof ", the Secretary of a military department, or the Secretary of the Department in which the Coast Guard is operating, as appropriate".

(b) The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946.

(a) The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 535 et seq.).

(b) The waters referred to in subsection (a) are a drainage canal which—

(1) is an unnamed tributary of the creek known as Newton Creek, loated at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking "on and under" the first place it appears and inserting in lieu thereof "on, under, and over".

SEC. 18. BRIDGE DEEMED UNREASONABLE OBSTRUCTION TO NAVIGATION.

Notwithstanding any other provision of law, the Mississippi River Railroad Bridge between East Hannibal, Illinois and Hannibal, Missouri, mile 309.9, Upper Mississippi River, is deemed to be an unreasonable obstruction to navigation.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than February 15, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to fulfill the responsibilities of the Coast Guard in the Maritime Defense Zone through possible procurement of AN/SQR-17 acoustic processors and other equipment for the antisubmarine warfare mission of Coast Guard medium-endurance cutters.

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking "members from" each place it appears and inserting in lieu thereof "representatives of".

(b) The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled "An Act Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 449), is amended by adding at the end the following: "Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.".

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall submit a report on the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

SEC. 23. ICEBREAKER STUDY.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than March 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(3) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

(a) It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) Not later than April 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing the Secretary's views on the following:

(1) The advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle.

(2) The Secretary's plans for converting to a 2-year budget cycle.

(3) A description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

(a) Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.".

(b) Not later than 30 days after the date on which the President submits to the Congress a budget for fiscal year 1989 under section 1105 of title 31, United States Code, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for fiscal year 1989.

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The analysis of such chapter is amended by adding at the end the following new item:

"665. Restriction on construction of vessels in foreign shipyards.".

SEC. 27. MANNING REQUIREMENTS.

(a)(1) Section 8103(a) of title 46, United States Code, is amended by inserting "radio officer," after "chief engineer,".

(2) Section 8103(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, on a documented vessel—

"(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

"(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

"(2) Paragraph (1) of this subsection does not apply to—

"(A) a yacht;

"(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

"(C) a fishing vessel fishing outside of the exclusive economic zone.

"(3) The Secretary may waive a citizenship requirement under this subsection, other than a requirement that applies to the master of a documented vessel, with respect to—

"(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons that operates from a foreign port;

"(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(A)); and

"(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.".

(b) Subsections (c) and (d)(1) of section 8103 of title 46, United States Code, are each amended by striking "from the United States".

(c) Section 8103(e) of title 46, United States Code, is amended—

(1) by inserting "and the radio officer" after "the master"; and

(2) by striking "until the vessel's first return to a United States port at which" and inserting in lieu thereof "until the vessel's return to a port at which in the most expeditious manner".

(d) Section 8103 of title 46, United States Code, is amended by adding at the end the following:

"(i)(1) Except as provided in paragraph (3), each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters or the exclusive economic zone of the United States must be—

"(A) a citizen of the United States;

"(B) an alien lawfully admitted to the United States for permanent residence; or

"(C) any other alien allowed to be employed under the Immigration and Naturalization Act (8 U.S.C. 1101 et seq.).

"(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in subparagraph (C) of that paragraph.

"(3) This subsection does not apply to a fishing vessel fishing e xclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).".

(e) Section 8702(b) of title 46, United States Code, is amended by striking "depart from a port of the United States" and inserting in lieu thereof "operate".

(f)(1) Chapter 87 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 8704. Alien deemed to be employed in the United States

"An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel which—

"(1) is a vessel of the United States engaged in the fisheries in the navigable waters or the exclusive economic zone of the United States; and

"(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.SC. 1802)).".

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

"8704. Alien deemed to be employed in the United States.".

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date of the enactment of this section.

SEC. 28. RESCUE HELICOPTER PRESENCE AT CHARLESTON, SOUTH CAROLINA.

As soon as may be practicable after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall maintain a rescue helicopter presence at Charleston, South Carolina, at such times as may be required to meet peak search and rescue demands in the Charleston area. The Secretary shall ensure that maintaining such presence shall in no way result in a permanent relocation of helicopters from any Coast Guard Air Station.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would just like to ask a couple of questions about the bill before we move forward with it.

Where are we with regard to House authorization figures in this bill the gentleman is bringing back to us?

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield, I would say to the gentleman that in the broad spectrum this so-called two-bill conference result is $75 million less than the House version.

Mr. WALKER. Less than the House version. Where are we with regard to the Senate version?

Mr. JONES of North Carolina. Approximately $70 million more.

Mr. WALKER. About $70 million more than the Senate version. Where are we with respect to the President's original request?

Mr. JONES of North Carolina. It is $70 million more than the President's original request.

Mr. WALKER. So we are $70 million above the President's request, we are $70 million above the Senate's request, and we are $75 million below the House-passed version?

Mr. JONES of North Carolina. The gentleman is correct.

Mr. WALKER. Are we within the budget figures of the House-passed budget as well as under the figures that would be in the agreement between the President and the Congress with regard to spending?

□ 1510

Mr. JONES of North Carolina. On that question, I would like the gentleman to yield to the chairman of the Coast Guard Subcommittee.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I appreciate the gentleman yielding.

As the gentleman from Pennsylvania knows, when we had the Coast Guard authorization on the floor, the point was made that it was well below the needs of the Coast Guard, and with regard to the budget constraints it was well below that. As far as the appropriation is concerned, even the figure we are talking about now has been reduced, as I understand, by the conference by 4 percent. They took the Senate figure and then reduced it by 4 percent. So this is a very, very lean budget. Probably the Coast Guard is going to have to make some very significant cuts, even with what we are authorizing and appropriating.

Mr. WALKER. Do I understand that the Department of Transportation does in fact favor the bill in its present form, including the funding figures?

Mr. HUTTO. I believe that is correct. Perhaps the chairman of the full committee could answer that.

Mr. WALKER. That is correct. Has OMB signed off on the bill in its present form?

Mr. JONES of North Carolina. Mr. Speaker, if the gentleman will yield, I cannot answer that.

Mr. WALKER. The gentleman is not certain of that?

Mr. JONES of North Carolina. No.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. To my knowledge, they have not objected.

Mr. WALKER. In other words, the gentleman knows of no Office of Management and Budget objection to the bill that we bring back?

Mr. YOUNG of Alaska. They have not notified the majority or the minority, to my knowledge.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the right to object, merely to allow the gentleman from North Carolina, Mr. JONES, to explain the legislation under consideration.

I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, the bill before us today, H.R. 2342, authorizes appropriations and manning levels for the Coast Guard in fiscal year 1988. While this measure originally passed the House on July 8, and was subsequently amended by the Senate on October 13, the bill before us today represents a compromise between the House and Senate.

I would like to briefly outline some major differences between this version of H.R. 2342 and the July 8 version. First, the bill we are considering today authorizes appropriations of $1.978 billion for operating expenses and $325.5 million for acquisition, construction, and improvements. These authorization levels are lower than those which the House originally authorized because we split the difference between the House and Senate bills. These levels represent modest increases over the administration's budget request and I believe that it provides a bare minimum level of funding for the Coast Guard. We have also split the difference on the active duty manning levels which the two bills authorized.

A new provision contained in this bill is a requirement for the Coast Guard to report on the advantages and disadvantages of a mobile law enforcement base. As most members know, the majority of the drugs smuggled into this country originate from South America. To stop this flow, the Coast Guard spends considerable time and money interdicting drugs on the waters of the Caribbean and off the Pacific coast of South America. Since these waters are a long way from our shores, the logistics of these interdiction efforts are great. Therefore, the mobile law enforcement base may greatly improve logistic support for Coast Guard vessels on patrol in these waters.

H.R. 2342 also directs the President to report to Congress by March of 1988 on the Nation's icebreaker needs. The Coast Guard operates the Nation's fleet of four icebreakers. Two of these vessels are over 40 years old and require constant, costly repairs. The Coast Guard has been unsuccessfully trying to obtain funding to replace these two icebreakers for several years. This language requires the President to determine how many icebreakers this country needs and to recommend how they should be procured.

The final new provision in H.R. 2342 directs the Secretary of Transportation to report to Congress by April 1, 1988, on the feasibility of putting the Coast Guard on a 2-year budget. Specifically, this provision directs the Secretary to report on: First, the advantages and disadvantages of a 2-year budget cycle; second, plans to convert to a 2-year budget cycle; and third, the impediments to converting to a 2-year budget cycle. This language is modeled after language used prior to the Department of Defense's shift to a 2-year budget cycle.

Several provisions have been dropped from this version of H.R. 2342. Most notable of these is the Persian Gulf tanker amendment which was the subject of a great deal of floor debate. This amendment has been overtaken by time and events. The bill also does not contain language which establishes an offshore advisory com-

mittee. This section was dropped because we no longer have offshore industries advocating its inclusion. Several other minor provisions have been dropped as a result of our discussions with the Senate.

In conclusion, this bill enjoys strong bipartisan support within the committee on Merchant Marine and Fisheries. It will authorize funds for an important agency which we in Congress have called upon time and time again and I urge all Members to support its adoption.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the ranking member, the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I rise in support of the House amendment to the Senate amendment to H.R. 2342, the fiscal year 1988 Coast Guard authorization bill.

Our distinguished full committee chairman has explained the basic differences between this version of H.R. 2342 and the bill as passed by the House in July. Although it authorizes appropriations at a lower level than we originally had approved, I believe it is the best we can achieve this year, and I urge all Members to support the amendment.

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, I strongly endorse this legislation, and I would like to add my recognition of the Coast Guard, the Coast Guard which has been charged by this Congress with numerous tasks and we have not adequately funded them over the years.

It is really the only active service, and I say that without any reservation, that we have today that does fulfill the needs of the society that we live in, drug interdiction, navigation, search and rescue, refugee interdiction, oilspill liability, vessel inspection, safety of boats, and I could go on and on.

I know in my State this unit is a unit that provides so much service to the people.

This legislation we are talking about today is less than what the House passed. It is not, I think, adequately funded at the present time, but I would respectfully say we believe this is a bare bones proposition that will still enable the Coast Guard to fulfill their charges as this Congress has placed upon their shoulders.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished gentleman for yielding.

There is in the bill, I am told, a relocation of trust fund moneys. Was that in the bill as it left the House, or was that modified in the Senate amendment, or in the gentleman's amendment to the Senate amendment?

Mr. YOUNG of Alaska. It is the House version, to my knowledge through staff, it is the House version. It is not an increase in funding.

Mr. FRENZEL. The question is not increased or decreased funding. The question is, Is it the same language that was in the House bill when it was passed?

Mr. YOUNG of Alaska. Yes.

Mr. JONES of North Carolina. The basic language?

Mr. FRENZEL. The language on the relocation of trust fund moneys for increased boating safety.

Mr. JONES of North Carolina. It is the same.

Mr. FRENZEL. May I inquire further of the Florida property transfer, was that in the House bill?

Mr. YOUNG of Alaska. Yes.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

Mr. DAVIS of Michigan. Mr. Speaker, we have before us today the Coast Guard Authorization Act of 1987, which is substantially the same as the legislation we passed on July 7. The Subcommittee on Coast Guard and Navigation and the Merchant Marine and Fisheries Committee as a whole have always been recognized for their support of the Coast Guard, but I feel that this support has been realistic in its approach to the Coast Guard budget. And, this House of Congress agreed with our assessment when it first passed this bill in July.

The events that have transpired in the last few days on the appropriations for the Coast Guard can only be described as disgraceful. The severe cuts proposed for the Coast Guard's operating expenses this year, after experiencing similar such cuts for the past 5 years, delivers a staggering blow to the agency. It is an insult to a service that has repeatedly shown its resourcefulness and determination to do the finest job possible despite severe budget constraints. Once again, I understand that after a roller coaster ride, the budget is back on track and the Coast Guard will survive the current cycle.

Our committee must make a statement and authorize the funds we feel are necessary for this agency to continue to serve our country as it is intended and I ask you to support our statement by voting for H.R. 2342.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

ORGANOTIN ANTIFOULING PAINT CONTROL ACT OF 1987

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2210) to prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Organotin Antifouling Paint Control Act of 1987".

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "antifoulant paint" means a coating, paint, or treatment that is applied to or used on a vessel to control fresh water or marine fouling organisms;

(3) "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes estuary-type areas such as the Chesapeake Bay, the Great Lakes, and other bays, shallows, and marshes;

(4) "organotin" means any compound of tin used as a biocide in an antifoulant paint;

(5) "person" means any individual, any partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including military;

(6) "qualified antifoulant paint" means an antifoulant paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(b); or

(B) until such final decision takes effect, is certified by the Administrator under section 5 as having a release rate of not more than 3.0 micrograms per square centimeter per day;

(7) "release rate" means the rate at which organotin is released from an antifoulant paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributylin compounds used in antifoulant paints; or

(B) any similar test method specified by the Administrator;

(8) "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing;

(9) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States; and

(10) "vessel" shall have the same meaning given to such term in section 3 of title 1, United States Code.

FINDINGS AND PURPOSE

SEC. 3. (a) The Congress finds the following:

(1) more than 70 percent of the worldwide commercial shipping fleets and recreational boats are painted with an antifoulant paint known generically as organotin;

(2) antifoulant paints containing organotin biocides are used to prevent the buildup of barnacles and other encrusting organisms on vessels;

(3) the elimination of fouling growths on vessels is highly beneficial for operating capability and leads to lower operating and maintenance costs and substantial fuel consumption reductions;

(4) laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels;

(5) vessels that are less than 25 met ers in length and are coated with organotin antifoulant paint account for a large amount of the organotin released into the aquatic environment; and

(6) the Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other marine life.

(b) The purpose of this Act is to protect the aquatic environment by reducing immediatehy the quantities of organotin entering the waters of the Ujited States.

PRKHIBITION

SEC. 4. (a)(1) Except as provided in paragraph (2), no person in any State may apply to a vessel that is 25 meters or less in length an antifoulant paint containing organotin.

(2) Paragraph (1) shall not prohibit the application of a qualified antifoulant paint on—

(A) the aluminum hull of a vessel that is 25 meters or less in length; or

(B) the outboard motor or lower drive unit of a vessel that is 25 meters or less in length.

(b) No person in any State may apply to a vessel greater than 25 meters in length an antifoulant paint containing organotin other than a qualified antifoulant paint.

(c) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person an antifoulant paint containing organotin, unless the antifoulant paint is a qualified antifoulant paint.

(d) No person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifoulant paint.

CERTIFICATION

SEC. 5. (a) Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifoulant paint containing organotin that the Administrator is able to determine has a release rate of not more than 3.0 micrograms per square centimeter per day.

(b) After the initial period of certification required by subsection (a), the Administrator, not later than 90 days after the receipt of information with regard to an antifoulant paint containing organotin submitted in response to a data call-in or pursuant to any provision of Federal law, shall certify such paint if, on the basis of such information, the Administrator is able to determine that such paint has a release rate of not more than 3.0 micrograms per square centimeter per day.

MONITORING

SEC. 6. (a) The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column sediments, and aquatic organisms of representative estuaries in the United States. This monitoring program shall remain in effect until 7 years after the date of the enactment of this Act. The Administrator shall submit annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report detailing the results of this monitoring program for the preceding year.

(b) The Secretary of the Navy shall provide for periodic testing, not less than annually, of any harbors and related waters serving as the home port for any Navy vessel to determine the level of organotin contamination in such harbor or waters, including testing of aquatic organisms. The Secretary shall provide a report and assessment of this monitoring data to the Administrator and to the Governor of the State in which the home port is located. Such report shall be included in the report to Congress required pursuant to subsection (a).

(c) To the extent practicable, the Administrator shall assist States in monitoring waters for the presence of organotins and in laboratory analysis of samples.

CIVIL PENALTIES

SEC. 7. (a) Any person who violates any provision of section 4 shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(b) A civil penalty for a violation of any provision of section 4 shall be assessed by the Administrator by an order made on the record after opportunity (provided in accordance with this section) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(c) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, economic benefit to violator resulting from such violation, any history of prior violations, the degree of culpability, and such other matters as jsutice may require.

(d) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this section.

(e) Any person who requested in accordance with subsection (b) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(f) If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (e), or

(2) after a court in an action brought under subsection (e) has entered a final judgment in favor of the Administrator,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in subsection (e) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

AUTHORITY TO SELL EXISTING STOCKS

SEC. 8. Notwithstanding the prohibitions contained in section 4, the Administrator shall provide a reasonable time, not exceed 180 days from the date of the enactment of this Act, for continued sale, delivery, purchase, receipt, application, and use of stocks of organotin antifouling paint and organotin additives that existed before the date of the enactment of this Act.

DISCLAIMER

SEC. 9. Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

WATER QUALITY CRITERIA DOCUMENT

SEC. 10. Administrator shall, not later than September 1, 1988, issue a final water quality criteria document, pursuant to section 304(a) of the Federal Water Pollution Control Act, concerning organotin compounds.

RESEARCH

SEC. 11. (a) The Administrator, in cooperation with the Secretary of the Navy, shall conduct research into alternative antifouling chemicals and nonchemical antifouling systems.

(b) The Administrator shall, within 3 years of the date of enactment of this Act, provide a summary assessment of such research in a report to the Speaker of the House of Representatives and the President pro tempore of the Senate.

EFFECTIVE DATES

SEC. 12. (a) Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

((b)(1) Section 4 and section 7 of this Act shall take effect 90 days after the date of the enactment of this Act. Subsections (b) and (c) of section 4 shall remain in effect only until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(A) is issued by the Administrator; and

(B) takes effect.

(2) For purposes of paragraph (1) of this subsection, a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I—ORGANOTIN ANTIFOULING PAINT CONTROL

SEC. 101. SHORT TITLE.

This title may be cited as the "Organotin Antifouling Paint Control Act of 1987".

SEC. 102. FINDINGS; PURPOSE.

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

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this title is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "Adminstrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 111(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 106 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 104. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) PROHIBITION.—Subject to section 111(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) EXCEPTIONS.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

SEC. 105. INTERIM PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS.—Subject to section 111(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

(2) apply to a vessel an antifouling paint containing organotin;

unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) PROHIBITION OF CERTAIN ORGANOTIN ADDITIVES.—Subject to section 111(d), no person in any State may knowingly sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 106. CERTIFICATION.

(a) INITIAL CERTIFICATION.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) SUBSEQUENT CERTIFICATION.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law:

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 107. MONITORING.

(a) ESTUARINE MONITORING.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year.

(b) NAVY HOME PORT MONITORING.—(1) The Secretary shall—

(A) provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters; and

(B) continue existing Navy program evaluating the environmental risks associated with the use of antifouling paints containing organotin.

(2) The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under paragraph (1) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(c) ASSISTANCE TO STATES.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(d) FIVE-YEAR REPORT.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing as assessment of—

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment; and

(2) recommendations for additional measures to protect human health and the environment.

SEC. 108. RESEARCH.

(a) ALTERNATIVE ANTIFOULANTS.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) REPORT.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Secretary and the Administrator shall submit reports to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

SEC. 109. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person violating sections 104 or 105(a) shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated sections 104 or 105(a) is

liable to the United States Government for the civil penalty assessed under paragraph (1). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) CRIMINAL PENALTIES.—Any person knowingly violating sections 104 or 105(a) or violating section 105(b) shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

SEC. 110. OTHER AUTHORITIES; STATE LAWS.

(a) OTHER AUTHORITIES OF THE ADMINISTRATOR.—Nothing in this title shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this title.

(b) STATE LAWS.—Nothing in this title shall preclude or deny any State or political subdivision thereof the right to adopt or enforce any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this title.

SEC. 111. EFFECTIVE DATES; USE OF EXISTING STOCKS.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) TERMINATION OF INTERIM PROHIBITION.—Section 105(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) FINAL DECISION DEFINED.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) USE OF EXISTING STOCKS.—Notwithstanding the prohibitions contained in sections 104 and 105, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

TITLE II—GRAYS HARBOR NATIONAL WILDLIFE REFUGE

SEC. 201. SHORT TITLE.

This title may be cited as the "Grays Harbor National Wildlife Refuge Act of 1987".

SEC. 202. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a 94-square mile estuary on the coast of the State of Washington—

(A) is of critical importance to certain migratory shorebirds and waterfowl; and

(B) provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is—

(A) a high tidal mudflat within the Grays Harbor estuary; and

(B) attracts hundreds of thousands of migratory shorebirds during the spring and fall migrations as well as peregrine falcons and other birds of prey;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to—

(A) prevent vegetative encroachment; and

(B) protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by the Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SEC. 203. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is being established, and for which it shall be managed, include—

(1) the conservation of fish and wildlife species within the Refuge, including the western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, and other shorebirds, migratory birds, and birds of prey, and their habitats;

(2) the fulfillment of international treaty obligations of the United States with regard to fish and wildlife and their habitats;

(3) the protection of endangered and threatened fish and wildlife species within the Refuge; and

(4) the provision of opportunities, consistent with paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SEC. 204. DEFINITIONS.

For purposes of this title—

(1) the term "Refuge" means the Grays Harbor National Wildlife Refuge;

(2) the term "lands and waters" includes interests in lands and waters; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 205. ESTABLISHMENT OF REFUGE.

(a) BOUNDARIES.—Subject to subsection (b), the boundaries of the Grays Harbor National Wildlife Refuge include the approximately 1,800 acres of lands and waters—

(1) located in the State of Washington; and

(2) depicted on the map entitled "Grays Harbor National Wildlife Refuge", dated December 1987, and on file and available for public inspection in—

(A) the office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and

(B) appropriate offices of the United States Fish and Wildlife Service in the State of Washington.

(b) BOUNDARY REVISIONS.—The Secretary of the Interior may make minor revisions in the boundaries of the Refuge if the Secretary determines that such revisions are necessary—

(1) to carry out the purposes specified in section 203; or

(2) to facilitate the acquisition of lands or waters for the Refuge.

(c) ACQUISITION.—(1) Within the 3-year period beginning on the effective date of this Act, the Secretary shall acquire by transfer or purchase, or both, the approximately 1,711 acres of lands and waters owned by the Port of Grays Harbor within the boundaries of the Refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may treat any lands and waters transferred to the Secretary under paragraph (1) as meeting, in whole or in part, mitigation obligations of the Port of Grays Harbor arising under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); except that the validity of such mitigation is subject to compliance with the guidelines issued under subsection (b)(1) of such section.

(3) The Secretary may—

(A) acquire not to exceed 68 acres of lands and waters owned by the City of Hoquiam, Washington, within the boundaries of the Refuge; and

(B) compensate the lessees on such lands and waters for improvements and relocation costs.

(d) ESTABLISHMENT.—Whenever the Secretary determines that sufficient lands and waters have been acquired under subsection (c) to constitute an area that can be effectively administered as a wildlife refuge, the Secretary shall establish the Refuge as a part of the National Wildlife Refuge System by publication of a notice to that effect in the Federal Register.

SEC. 206. ADMINISTRATION.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands and waters acquired under section 205(c) in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(b) OTHER AUTHORITY.—Consistent with subsection (a), the Secretary may utilize such additional statutory authority as may be available to the Secretary for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretive education as the Secretary considers appropriate.

(c) MANAGEMENT PLAN.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall prepare a management plan for the development and operation of the Refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis on interpretative education and research;

(2) viewpoints, boardwalks, and other means of access in the Refuge;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth management priorities and strategies for the Refuge.

SEC. 207. REFUGE DEVELOPMENT FUND.

The Director of the United States Fish and Wildlife Service shall promptly consult with the National Fish and Wildlife Foundation established by section 2(a) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701(a)) to request such Foundation to set up a separate account for the purpose of encouraging, accepting, and administering private gifts of property to carry out this subtitle. The Secretary shall, in preparing the management plan required by section 206, give special consideration to means by which the participation and contributions of local public and private entities in developing and implementing such plan can be encouraged.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of lands and waters under section 205(c); and

(2) $2,500,000 to carry out the other provisions of this subtitle.

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

Mr. FRENZEL. Reserving the right to object, Mr. Speaker, this bill comes back to us from the Senate with a nongermane Senate amendment. I presume that has been printed in the RECORD somewhere, but it has eluded my attention.

I would like to ask the distinguished chairman of the subcommittee something about the nature of that amendment, and also any other changes in the House bill that were made in the Senate.

Mr. Speaker, I yield to the gentleman from Massachusetts, if he cares to explain this legislation.

Mr. STUDDS. I am not quite certain to what the gentleman refers when he mentions a nongermane Senate amendment. Can the gentleman point to the text to which he refers?

Mr. FRENZEL. Pardon?

Mr. STUDDS. I am not clear to what the gentleman refers when he mentions a nongermane Senate amendment. Does the gentleman have a particular portion of that text in mind when he makes that reference?

Mr. FRENZEL. I understand that there is a Wildlife Refuge matter in that. Is that germane?

Mr. STUDDS. Mr. Speaker, if the gentleman will yield, that is the amendment we propose to add to the Senate amendment.

Mr. FRENZEL. Oh, I am sorry.

Well, then, will the gentleman explain the nature of the Senate amendment?

Mr. STUDDS. Certainly, if the gentleman will yield and permit me to briefly explain precisely what we are proposing here.

Mr. FRENZEL. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, H.R. 2210 is a bill to control the use of highly toxic organotin chemicals in boat paints. H.R. 2210 was unanimously reported out of the Merchant Marine Committee and passed by voice vote by the House on November 9 of this year. The bill we have taken from the desk is that bill, with a Senate amendment, which I will explain.

This legislation grew out of hearings held by the Merchant Marine Committee in both the 99th and 100th Congresses which led our committee to believe that action should be taken to protect our coastal waters from tributyltin, more commonly referred to as TBT, and similar chemicals.

Antifouling paints are used to keep barnacles, algae and other organisms from attaching themselves to boat bottoms. TBT began to be used for this purpose in the early 1970's. Unfortunately, it may do its job too well. TBT has been shown to kill fish and shellfish at almost infinitesimal doses. Recent studies have shown that in many coastal areas of the United States, TBT is present at concentrations which have been shown in the laboratory to be toxic to a variety of marine life.

The primary action taken by this bill is banning the use of any organotin paints on vessels less than 82 feet in length. Smaller boats tend to spend most of their time in shallow bays and estuaries, and much of that time at their moorings. If they are painted with TBT paints, the TBT is leaching into those waters. And those shallow, protected waters are the areas most susceptible to harm from it.

Banning the use of these paints on smaller vessels duplicates the approach taken by a number of States, including Virginia, Maryland, and Maine.

As a boat owner, I would note that practical, readily available substitutes for organotin paints are available, namely the traditional copper-based boat paints. Where copper-based paints do not constitute an immediately acceptable and practical alternative—on aluminum hulls and on larger vessels—the bill provides an exception. Those vessels would be allowed to use only those which meet a strict standard governing how much organotin they release into the water. Paints not meeting that standard would be banned. The bill sets an interim standard of 5 micrograms per square centimeter per day, and provides for a final standard to be promulgated by the Environmental Protection Agency.

The Senate amendment, a substitute text, differs from the House bill in two major ways. They propose a stricter interim standard for continued use of TBT—a 3-microgr am standard, as opposed to a 5-microgram standard. After both the Senate and House versions of this bill were introduced, the EPA issued a proposed rule governing the use of TBT, in which it proposes a 4-microgram standard. That—the administration proposal—is what our amendment to the Senate amendment would adopt.

The second major difference concerns the point at which we ban the use of TBT paints on certain vessels. The House bill bans TBT use on vessels under 65 feet. The Senate bill bans the use of TBT on vessels under 82 feet. We propose agreeing with the other body on this.

In addition to this compromise, our amendment incorporates the text of another measure which was reported unanimously out of the Merchant Marine Committee.

This measure is H.R. 3423, a bill to create a new National Wildlife Refuge at Grays Harbor, WA. It is cosponsored by the entire of that State's delegation, on both sides of the aisle, and was ordered reported favorably by the Merchant Marine Committee on Wednesday of this week. Moving this bill at this time would enable the Secretary of the Interior to take advantage of several unique situations which may make land acquisition for this refuge more feasible and far less expensive than may be the case if we delay action.

I will leave it to the gentlemen from Washington to extol the virtues of this particular area, and its suitability for inclusion in the National Wildlife Refuge System. I will merely say that as a major gathering point for migratory birds on the west coast it clearly is an exemplary candidate for addition to the refuge system.

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Ir. FRENZEL. Mr. Speaker, further reserving the right to object, I thank the gentleman for his explanation.

Further reserving the right to object, I yield to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, for one who looks not very often favorably on the creation of parks and refuges, I would say this one is thoroughly justified. It is an authorization, it is strongly supported by the total Washington delegation, both sides of the aisle. There is not an appropriation here, in fact no expenditure of money, if I am correct, exists in this legislation. Consequently we are trying to solve frankly two things at one time. That is the reason I am up here. Let us not lose sight of the first part of this bill which is crucially important to the estuaries of our harbors and oceans. These are supported very strongly by all involved.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, my problem with this is that what has happened is one entire bill has been folded into another bill under the guise of amending a Senate amendment.

This House is now without the opportunity to examine a committee report, to look at a CBO report on the subject, to offer amendments if it should so desire, or if any of its Members so desire. It is the kind of thing this House often does at this time of year and it is a process and a procedure which I think the House should not be indulging in.

That said, Mr. Speaker, and further reserving the right to object, I am going to yield to the distinguished gentleman from Washington [Mr. LOWRY] to explain to me why it is really all right.

Mr. LOWRY of Washington. Mr. Speaker, I thank my friend for yielding, and I was sitting here thinking of all the things that we have worked together on so closely over the years in this body with total cooperation.

This is an extremely important bird refuge of which there have been extensive hearings on over the years. There have been hearings for 8 years in the other House and in this body. After all those hearings and discussions this bill is unanimously supported by all 10 Members of the Washington delegation, 8 from this side, and 2 from the other body. It really has had an immense amount of hearing. I certainly understand the diligent role the gentleman from Minnesota [Mr. FRENZEL] plays, but in this particular case this House has been made very aware of this legislation.

Mr. Speaker, I rise in strong support of this legislation with the hope that we will be able to send it to the White House for Presidential signature before the end of this year. I strongly support the designation of Grays Harbor as a National Wildlife Refuge. The Grays Harbor estuary provides excellent habitat which is of critical importance for migratory shorebirds and waterfowl.

Mr. Speaker, at this time I would especially like to thank our chairman, Mr. JONES, and the ranking minority member, Mr. DAVIS, for agreeing to move this legislation expeditiously. I would also like to especially thank Chairman STUDDS and his staff for their careful efforts in helping to improve this legislation and for moving as quickly as possible. In addition, Mr. Speaker, I would like to thank and congratulate my two colleagues from the State of Washington on this important legislation, Mr. BONKER, and Mr. MILLER. The three of us were all able to visit the Grays Harbor estuary during the time of the bird migration last spring, which provided a clear demonstration of how important this estuary is in terms of migratory shorebird habitat and why it is critical that it be designated as a national wildlife refuge to ensure the protection of this important stopover point for thousands of migratory birds.

In addition to establishing the actual wildlife refuge which will comprise approximately 1,800 acres, and be managed by the Fish and Wildlife Service, the bill also authorizes the Secretary of the Interior to acquire approximately 68 acres of land owned by the city of Hoquiam within the boundaries of the refuge and to compensate the lessees for any improvements and relocation costs. In addition to the general administrative authority to manage the refuge, this legislation also authorizes the Secretary to establish a year-round visitor center including viewpoints, boardwalks, and other public access facilities in order to enhance the interpretive education and research associated with this important national wildlife refuge.

Mr. Speaker, the legislation authorizes $2.5 million for the general administration of this act including the purchase of the 68 acres from the city of Hoquiam and any compensation for relocation expenses to the existing lessees. The bill also authorizes such sums as may be necessary to implement the provisions of subsection 4(c)(1). The legislation also authorizes a refuge development fund, which is intended to encourage private contributions from local, public, and private entities to assist in the implementation and development of the national wildlife refuge.

Finally, I would like to point out one provision in section 4(c)(2) which was added to ensure that the validity of any "mitigation credits" is predicated on compliance with the guidelines issued under section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)). The intent of this provision is to help to ensure that the Environmental Protection Agency has the final determination with respect to whether or not any proposed mitigation projects or credits meet the requirements of the regulations established under section 404(b)(1) of the Federal Water Pollution Water Control Act, as amended. Mr. Chairman, I believe that this is an extremely important addition to the legislation to ensure that any land transfers associated with this national wildlife refuge must meet the requirements of the Environmental Protection Agency and not just requirements of the U.S. Army Corps of Engineers.

Mr. Speaker, I would again like to express my strong support for this legislation and urge its passage.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I came here today fully expecting to object to this bill, but the gentleman from Washington [Mr. LOWRY] has melted my heart, so I will only at this point, further reserving the right to object, yield to the other distinguished gentleman from Washington [Mr. BONKER] with whom I have also worked on a thousand wonderful projects.

Mr. BONKER. Mr. Speaker, with such an expression of magnanimity I am not going to prolong the discussion except to thank the gentleman from Minnesota for his wisdom and for seeing the merits in the pending bill.

Mr. Speaker, I rise in support of the unanimous-consent motion to amend the TBT bill and add provisons which would create a National Wildlife Refuge at Grays Harbor on the coast of Washington State. The legislation was ordered reported by the Merchant Marine and Fisheries Committee on Wednesday.

The entire Washington State delegation in both the House and Senate strongly supports this measure. The legislation is the product of more than a year of negotiations involving Federal, State, and local officials. The measure was introduced with the support of both conservationists and local interests and has been refined by the committee. There is no serious opposition to the establishment of the Grays Harbor National Wildlife Refuge.

The creation of this refuge is critical because of the dependence of a number of species of shore birds on certain coastal wetlands during their annual migrations from the Arctic to wintering areas in South and Central America. Every spring and fall, millions of these shore birds, plovers and sandpipers, turnstones and sanderlings, stop for a few days on their journey at one of only a few "staging" areas, including Grays Harbor, Washington.

About 40 of North America's 49 shore bird species make the annual journey from Arctic breeding grounds to the south and back. These migratory birds are extremely dependent on these refueling spots, and because of this are more vulnerable to extinction than their great numbers might suggest. At one time, there may be more than four-fifths of the entire breeding population of some species in one of these sites. If one of these areas, such as the Bowerman Basin at Grays Harbor were lost to pollution, overfishing, or development, then entire species of birds could be threatened with extinction.

Grays Harbor is the last major estuary many of the shore birds will use before embarking on the final 1,500-mile leg of their migration to Arctic and subarctic breeding grounds. Bowerman Basin is the most critical portion of the estuary, a particularly productive mudflat that is host to nearly half of the spring migrants. The birds arrive thin and exhausted after a flight of thousands of miles with little or no rest, in desperate need of food. Then, in a few days of feasting, they refuel for the next long leg of their journey. In order for them to do this, however, the food must be rich and abundant, as it is in the Bowerman Basin. It is because of the unique fertility of Bowerman Basin that protection of this area is a must.

The legislation we are considering today conserves this vulnerable natural resource and protect the birds and the impressive spectacle of their annual migration. Furthermore, the bill takes a balanced approach to meeting the needs of both the wildlife of the region and the local residents and economy. In the bill, there are provisions which will encourage and assist the economic development of the area in a manner consistent with our conservation objectives.

I will be working with the committee on report language that will clarify the use of "migration credits" which might be used, in whole or in part, to compensate the Port of Grays Harbor for its Bowerman acreage, and to ensure that the establishment of the refuge does not jeopardize contiguous landowners or industry in the area. I will also be working closely with the Fish and Wildlife Service and

the appropriations committees to ensure that the city of Hoquiam receives adequate and timely compensation for all of its 68 acres at Bowerman Basin.

In fact, it is my hope that the new wildlife refuge can serve as an economic boon to the Grays Harbor region. Designation as a National Wildlife Refuge will attract an increasing number of visitors. The construction of a year-round interpretive center and related facilities and trails will enhance the experience for visitors and minimize the environmental impact of the hordes of birdwatchers that already descend on the basin during the spring migration.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I yield to yet another gentleman from Washington [Mr. MILLER] for his comments.

Mr. MILLER of Washington. Mr. Speaker, as one who has great respect for my distinguished colleague from Minnesota's [Mr. FRENZEL] view of House procedures and policies, and also the substance of bills, I would just like to try to contribute to the melting process that is going on by saying that the words spoken so far are certainly true. This bill has received consideration for years in Washington State and finally has a bipartisan support on both sides of the aisle in both Houses of the Congress and is at a point where in order for acquisition to proceed it would be very helpful if it was not delayed further.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 2210, a bill to control the use of TBT-based paints in our coastal waters. As an original cosponsor of the bill, I strongly believe that there is an immediate need to regulate the input of toxic chemicals into our marine environment. The EPA is now engaged in a special review of TBT-based paints. Given that such a process might well prove to be a long and tedious one, I believe that H.R. 2210 will provide the necessary interim measure to control the input of TBT and other toxics into the marine environment until the EPA final regulations are promulgated.

Mr. Speaker, the problems of TBT-based paints are not limited solely to saltwater marinas and harbors. The Great Lakes have experienced a growing problem with TBT generated primarily from recreational boats. Given this, my home State of Michigan has announced a summary suspension of registration on TBT-based paints effective June 1, 1987.

Mr. Speaker, the amendment before us today would prohibit the application of TBT-based paints to vessels less than 25 meters in length. This amendment specifically targets recreational vessels which have been shown to be a leading contributor to the TBT leaching problem. The amendment also establishes the Grays Harbor National Wildlife Refuge in the State of Washington.

Mr. Speaker, I strongly urge my colleagues to join with me in supporting this bill.

Mr. BADHAM. Mr. Speaker, since tributyltin-based marine paints [TBT] were first introduced in the 1960's their use has grown dramatically, and the potential effects of this have become a source of serious concern among those who wish to protect the marine environment.

When added to marine paint, tributyltin [TBT] is a very effective antifouling agent, keeping marine organisms from building up on the hull of a vessel. The cleaner hulls keep down fuel costs by decreasing friction and reduce the frequency of repainting. Unfortunately, tributyltin compounds pose great risks for organisms in the marine environment other than those which foul boats.

As the use of TBT has increased, questions about its effects on the marine environment have also increased. The First District of Virginia, which I am proud to represent, includes Newport News Shipbuilding and some of the most productive shellfish beds in the world. Therefore, my concern about TBT is two-fold. I am concerned both about the possible health effects of TBT on the shipyard workers, if in the future, they are forced to use the pesticide, and the effects which TBT has on marine organisms, particularly those in the Chesapeake Bay.

Prompted by the introduction of my bill, the Tributyltin-Based Antifouling Paint Control Act of 1987, the House Merchant Marine and Fisheries Committee has taken swift and decisive action to restrict the use of this pesticide.

The Environmental Protection Agency, under intense pressure from myself and other Members of Congress, has undertaken a special review of the use of tributyltin pesticides. Unfortunately such reviews are extremely time consuming and after a hearing before the Merchant Marine Committee earlier in the year it became clear that interim action needed to be taken while the Environmental Protection Agency completed its special review of the use of organotins. This bill represents that interim action.

After it became clear that Congress would act on this issue, the Agency announced a preliminary determination of what action should be taken, however, it may be some time before preliminary determination becomes final. The chairman's amendment today will bring the release rate for TBT paints in line with the EPA's preliminary determination. The House bill called for a release rate of 5 micrograms per square centimeter per day, and the Senate bill calls for a release rate of 3. The EPA proposed release rate is 4, and the chairman's amendment would bring the legislation in line with that rate. I commend him for this amendment, and for all his efforts on this important issue.

H.R. 2210 would:

Prohibit the sale of marine paints that release TBT into the environment at a rapid rate;

Prohibit the use of organotin paints on vessels that are less than 25 meters in length;

Allow 6 months for the use of existing stocks of paints;

Provide for 7 years of monitoring by the EPA to guarantee that the problems the bill addresses are being solved; and

Encourage the use of new and improved antifoulants.

I am proud to have helped shape this legislation, and it is my hope that the House will approve this bill. I would also like to commend Chairmen JONES and STUDDS for their action on this issue.

Mr. FRENZEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1259

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 1259.

The SPEAKER pro tempore (Mr. MCCURDY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3674, UNITED STATES-JAPAN FISHERY AGREEMENT APPROVAL ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 337 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 337

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3674) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and to the substitute made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries now printed in the bill, as modified by the amendment printed in section two of this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered by title instead of by section and

each title shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the Committee amendment in the nature of a substitute, as modified, made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. At the end of the bill, add the following new title VI:

§ 6001. Declaration of disaster

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

§ 6002. Provision of assistance

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

§ 6003. Recent North Carolina Coast Red Tide Contamination Defined

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the Senate of North Carolina by unusually high concentrations of the algae known as Ptychodiscus brevis (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shellfishing closure proclamation on or after November 2, 1987.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. LATTA], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 337 is an open rule providing for the consideration of the bill H.R. 3674, the Governing International Fishery Agreement With Japan.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries.

The rule makes in order an amendment in the nature of a substitute recommended by the Committee on Merchant Marine and Fisheries, as modified by the amendment printed in section 2 of this resolution. The modified substitute will be considered as original text, and by title, with each title considered as having been read.

Mr. Speaker, the modification to the substitute provides for the incorporation of an additional title to H.R. 3674, which would direct the Administrator of the Small Business Administration to declare as a disaster area, a portion of the North Carolina coast because of red tide contamination.

In addition, Mr. Speaker, all points of order are waived against the consideration of the bill, and against the modified substitute.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 3674, which was reported out of the Merchant Marine and Fisheries Committee on December 16, consists of five titles. Title I implements language which would approve the expiring Governing International Fishery Agreement With Japan. Title II contains the text of H.R. 940, the Plastic Pollution Research and Control Act, which passed the House on October 13, 1987.

Title III reauthorizes the National Sea Grant College Program which is similar to the bill, H.R. 3017, which passed the House September 29. Title IV contains the text of H.R. 3584, the Driftnet Impact Monitoring, Assessment, and Control Act. The fifth title includes the text of H.R. 82, which passed the House on July 27, that deals with the transport of sewer sludge on U.S.-flag barges, and the towing of offshore oil rigs by foreign made U.S.-flag barges.

Mr. Speaker, this bill is not without controversy; there are a few provisions that some Members may have some reservations about. However, as I stated earlier this is an open rule and any Member can offer an amendment that they think could improve the bill. I urge my colleagues to adopt the resolution and allow the House to consider the bill.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule actually makes in order the consideration of a package of bills. I might say that the administration opposes the bill unless it is amended to delete two of its titles. The administration wants to delete title III which would amend and extend the National Sea Grant College Program, and title V which amends the Jones Act with respect to sewage sludge barges and certain launch barges. I understand there is some discussion that that matter will be dropped.

The administration points out that the National Sea Grant College Program was proposed for termination in the 1988 budget because State and local governments and industries, the primary beneficiaries of the program, should now assume responsibility for funding of sea grant activities.

Mr. Speaker, as the gentleman from Massachusetts [Mr. MOAKLEY] has pointed out, this is an open rule so if any Member objects to part of the package he may offer an amendment to strike it or change it.

Let me say this rule provides for blanket waiver for all points of order.

The record of the 1st session of the 100th Congress reveals that 24 percent of all rules granted were blanket waivers. This compares with 17 percent in the 99th Congress and only 2 percent in the 98th Congress. Let us hope certainly that the second session of this Congress can establish a better record of staying within its own rules.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

I, too, want to thank the Committee on Rules for reporting an open rule, but express my concern about that provision of the rule that waives all points of order against consideration of the bill.

As the gentleman from Ohio [Mr. LATTA] has pointed out, this is a pattern which has become very disturbing.

Not only has the Committee on Rules produced a whole series of closed rules, rules that make in order amendments along the way, self-enacting amendments, but we are going through a process now where nearly one-quarter of all the bills that the Committee on Rules brings to the floor waive all points of order against consideration. That is just absolutely wrong.

□ 1540

In this case you are bringing to the floor a bill which is a wholesale package of bills and then waiving all points of order against it, and some of the things you are waiving are pretty serious. For example, the waivers in this bill relate to germaneness so that you allow a whole package of bills to come to the floor whether or not they are germane to the initial legislation before us.

You also are permitting under this waiver an appropriation in a legislative bill. In this case what you are doing is you are going to allow a bypassing of the entire appropriations process in this House with provisions that are down in the bill with this waiver of all points of order.

Then you have also just thrown out the 3-day layover. We have been discussing on the floor here the need for some information about bills that are being brought before us. The 3-day layover is reasonably important in this particular case because you have a bill coming to the floor that has a number of different bills wrapped into it, and this House is not going to be able to reflect on whether or not all of that makes any sense. We have no report before us. As I understand it, there is not even a report in existence, that before this waiver was granted the Rules Committee had not even seen a report. The report is still being written somewhere, sometime, somehow.

We really have a problem if that is the way we are going to operate, particularly as we get toward the end of the session. We cannot expect this House to act intelligently on massive pieces of legislation if we do not know what is in them, if we are going to bypass our entire appropriations process, and we are going to allow nongermane bills to be brought to the floor. Yet that is what we do when we waive all points of order against consideration of this bill.

I would hope the House would vote against this bill. This particular rule is wrong, particularly at the end of a session. It is continuing a process whereby we waive points of order that ought to legitimately be brought on the House floor.

Vote no. Let us kill this.

Mr. LATTA. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCCURDY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 130, not voting 37, as follows:

[Roll No. 497]

YEAS—266

Ackerman	Applegate	Beilenson
Akaka	Aspin	Bennett
Alexander	Atkins	Bentley
Anderson	AuCoin	Bereuter
Andrews	Barnard	Berman
Annunzio	Barton	Bevill
Anthony	Bateman	Bilbray
Bilirakis	Hawkins	Pease
Boehlert	Hayes (IL)	Pelosi
Boggs	Hayes (LA)	Penny
Bonior	Hefner	Perkins
Bonker	Hertel	Pickett
Borski	Hochbrueckner	Pickle
Bosco	Horton	Price (IL)
Boucher	Howard	Price (NC)
Boxer	Hoyer	Rahall
Brennan	Hubbard	Rangel
Brown (CA)	Hughes	Ravenel
Bruce	Hutto	Ray
Bryant	Jacobs	Richardson
Bustamante	Jeffords	Ridge
Callahan	Jenkins	Rinaldo
Campbell	Johnson (SD)	Robinson
Cardin	Jones (NC)	Rodino
Carper	Jones (TN)	Roe
Carr	Jontz	Rose
Chandler	Kanjorski	Rostenkowski
Chapman	Kaptur	Roukema
Clarke	Kastenmeier	Rowland (CT)
Coelho	Kennedy	Rowland (GA)
Coleman (TX)	Kennelly	Roybal
Collins	Kildee	Sabo
Conte	Konnyu	Saiki
Conyers	Kostmayer	Savage
Cooper	LaFalce	Sawyer
Coughlin	Lancaster	Saxton
Coyne	Lantos	Scheuer
Crockett	Leath (TX)	Schneider
Darden	Lehman (CA)	Schroeder
Davis (MI)	Lehman (FL)	Schulze
de la Garza	Leland	Schumer
DeFazio	Levin (MI)	Sharp
Dellums	Levine (CA)	Sikorski
Derrick	Lewis (GA)	Sisisky
Dickinson	Lipinski	Skaggs
Dingell	Lloyd	Skelton
Dixon	Lowry (WA)	Slattery
Donnelly	Luken, Thomas	Slaughter (NY)
Durbin	MacKay	Smith (FL)
Dwyer	Manton	Smith (IA)
Dymally	Markey	Smith (NJ)
Dyson	Martin (NY)	Solarz
Eckart	Matsui	Spratt
Edwards (CA)	Mavroules	St Germain
English	Mazzoli	Staggers
Erdreich	McCloskey	Stallings
Espy	McCurdy	Stark
Evans	McHugh	Stenholm
Fascell	McMillan (NC)	Stokes
Fazio	McMillen (MD)	Stratton
Feighan	Mfume	Studds
Flake	Mica	Swift
Flippo	Miller (CA)	Synar
Florio	Miller (WA)	Tallon
Foglietta	Mineta	Tauzin
Foley	Moakley	Thomas (GA)
Ford (MI)	Mollohan	Torres
Ford (TN)	Montgomery	Torricelli
Frank	Moody	Towns
Frost	Morella	Traficant
Gallo	Morrison (CT)	Traxler
Garcia	Morrison (WA)	Udall
Gaydos	Murtha	Valentine
Gejdenson	Myers	Visclosky
Gibbons	Nagle	Volkmer
Gilman	Natcher	Walgren
Glickman	Neal	Watkins
Gonzalez	Nelson	Waxman
Gordon	Nichols	Weldon
Gradison	Nowak	Wheat
Grant	Oakar	Whitten
Gray (IL)	Oberstar	Williams
Gray (PA)	Obey	Wise
Green	Olin	Wolpe
Guarini	Ortiz	Wyden
Hall (TX)	Owens (NY)	Yates
Hamilton	Owens (UT)	Yatron
Harris	Panetta	Young (AK)
Hatcher	Patterson	

NAYS—130

Archer	Burton	Davis (IL)
Armey	Cheney	DeLay
Baker	Clinger	DeWine
Ballenger	Coats	DioGuardi
Bartlett	Coble	Dornan (CA)
Bliley	Coleman (MO)	Dreier
Boulter	Combest	Duncan
Broomfield	Craig	Edwards (OK)
Brown (CO)	Crane	Emerson
Buechner	Dannemeyer	Fawell
Bunning	Daub	Fields
Fish	Lujan	Shays
Frenzel	Lukens, Donald	Shumway
Gallegly	Lungren	Shuster
Gekas	Mack	Skeen
Gingrich	Madigan	Slaughter (VA)
Goodling	Marlenee	Smith (NE)
Grandy	Martin (IL)	Smith (TX)
Gunderson	McCandless	Smith, Denny (OR)
Hammerschmidt	McCollum	Smith, Robert (NH)
Hansen	McDade	Smith, Robert (OR)
Hastert	McEwen	Snowe
Hefley	McGrath	Solomon
Henry	Meyers	Spence
Herger	Michel	Stangeland
Hiler	Miller (OH)	Stump
Holloway	Molinari	Sundquist
Hopkins	Moorhead	Sweeney
Hunter	Murphy	Swindall
Hyde	Nielson	Tauke
Inhofe	Packard	Taylor
Ireland	Parris	Thomas (CA)
Johnson (CT)	Pashayan	Upton
Kasich	Petri	Vander Jagt
Kolbe	Porter	Vucanovich
Kyl	Pursell	Walker
Lagomarsino	Regula	Weber
Latta	Rhodes	Whittaker
Leach (IA)	Ritter	Wolf
Lewis (CA)	Roberts	Wylie
Lewis (FL)	Rogers	
Lightfoot	Roth	
Livingston	Schuette	
Lott	Sensenbrenner	
Lowery (CA)	Shaw	

NOT VOTING—37

Badham	Downey	Oxley
Bates	Early	Pepper
Biaggi	Gephardt	Quillen
Boland	Gregg	Roemer
Brooks	Hall (OH)	Russo
Byron	Houghton	Schaefer
Chappell	Huckaby	Vento
Clay	Kemp	Weiss
Courter	Kleczka	Wilson
Daniel	Kolter	Wortley
Dicks	Lent	Young (FL)
Dorgan (ND)	Martinez	
Dowdy	Mrazek	

□ 1555

Mr. COBLE changed his vote from "yea" to "nay."

Mr. COYNE and Mrs. BENTLEY changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNITED STATES-JAPAN FISHERY AGREEMENT APPROVAL ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 337 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3674.

□ 1605

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3674) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, with Mr. MOAKLEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 30 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 3674, a bill which provides congressional approval of the Governing International Fishery Agreement [GIFA] between the United States and Japan, implements the provisions of annex V to the International Convention for the Prevention of Pollution from Ships, reauthorizes the National Sea Grant College Program Act and improves efforts to monitor, assess, and reduce the adverse impacts of driftnets.

Before explaining the text of the amendment, I think it is important that my colleagues understand the work that has gone into putting this bill together. Very briefly, in addition to approving the new Japanese fishery agreement, this bill contains several measures which have already cleared the House. Unfortunately, the prospects for action by the appropriate committees in the other House on these measures were not good. During the past few weeks, committee staff from both sides of the aisle have been working with their appropriate counterparts in the other body to work out agreements on each component of this bill. Mr. Chairman, the changes we have made in the committee bill and the changes we will propose on the floor are necessary in order to amend the text to reflect what we believe to be an agreement between the relevant committees in both House. Our understanding with both the leadership in the House and the other body is that by bringing up the bill today and making these changes, we have crafted a bill which can simply be accepted by the legislators on Constitution Avenue and sent down to Pennsylvania Avenue before Christmas. This is critically important because without approval of the Japanese fishery agreement, our fishermen will lose millions of dollars.

Let me briefly explain the contents of our bill. Title I amends and extends for 2 more years the current Governing International Fishery Agreement [GIFA] between the United States and Japan. The current GIFA, negotiated in 1982 for a period of 5 years, expires on December 31 of this year. Without affirmative congressional action on the new revised GIFA this year, all directed and joint venture activities with Japan will be terminated until some time next year. A break in our fishery relationship with Japan would cause unwarranted financial hardship for many of our fishermen costing in the millions of dollars.

Title II incorporates the major provisions of H.R. 940, the Plastic Pollution Research and Control Act of 1987. As Members will recall, the House overwhelmingly supported this bill and passed it on October 13, 1987. The legislation implements an international agreement that seeks to regulate the disposal of garbage from ships—referred to as annex V to the International Convention for the Prevention of Pollution from Ships [MARPOL]. Enactment of these measures would prohibit all vessels from dumping plastic trash anywhere within 200 miles of our coastline and it would also prohibit the disposal of all garbage within 12 miles. Finally it requires the National Oceanic and Atmospheric Administration to continue its efforts to identify the lethal effects of plastics on the marine environment, and requires EPA to identify land-based sources of plastic pollution and other trash and report on methods to reduce those sources. I will be offering an amendment at the appropriate time that will amend this title to reflect what we believe to be a negotiated settlement between companion bills in the other body and the bill which the House passed.

Title III authorizes the National Sea Grant College Program for an additional 3 years. On October 13, the House passed this reauthorization as part of H.R. 940. Subsequently, our committee reconciled the differences between the House bill and its companion bill in the other body and during our full committee markup this week these changes were made in H.R. 3674 and approved by the committee. Members should know that the changes we made were to the authorization section of the bill. The overall level is the same as the House passed version—for totals of $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990—we simply restructured this section to more closely track the version from the other body. Again, the language contained in the bill is identical to that approved by the committee and reflects an agreement by both Houses.

Title IV of the bill contains the provisions of H.R. 3584, the Driftnet Fishing Control Act of 1987. The Merchant Marine and Fisheries Committee favorably considered H.R. 3584 and included it as part of the GIFA package. Our counterparts in the other body have favorably recommended similar legislation and the provisions in H.R. 3584 represent an agreement between us.

For those Members unfamiliar with the technique of driftnet fishing, let's briefly explain both the method and the problems associated with it. Driftnets are panels of plastic webbing tied together, placed in the water and allowed to drift. While drifting, these nets entangle fish and then they are retrieved in order to empty the catch. This method of fishing is principally used by foreign fishermen outside our 200-mile exclusive economic zone to harvest squid in the north Pacific Ocean. Unfortunately, these nets catch more than squid; they catch seals, porpoise, seabirds, and salmon from our rivers. Moreover, when these nets become lost, abandoned or in some cases discarded, they continue to catch fish, birds, and marine mammals.

Mr. Chairman, this driftnet fishing by foreign fishermen has created enormous problems with our fishermen and our environmental community in the Pacific Northwest. Because this activity is outside our EEZ in the north Pacific Ocean and thus escapes the jurisdiction of the United States, we must negotiate a solution to this problem. The Department of State has been attempting to do just that, with little success. In short this legislation strengthens our State Department's hand. It directs State and Commerce to negotiate with monitoring and enforcement agreements with those nations whose fishermen catch U.S. marine resources in their nets. These agreements are intended to provide us with information on what is being caught in these driftnets as well as to help enforce applicable domestic and international law. If adequate agreements are not reached, the Secretary of Commerce is directed to certify this fact to the President and this certification will allow the President, at his choosing, to invoke fishery trade sanctions against those nations.

Finally, title V contains provisions concerning an outbreak of the dreaded "red tide" in North Carolina and I expect that our committee chairman Mr. JONES will explain this title.

Mr. Chairman, our committee has worked very closely with the administration and the other body to reach agreement on an acceptable driftnet bill. The language in H.R. 3674 is identical to what the committee approved this week and has the support of the administration and the other body.

In closing, I want to reiterate that this bill and all its components represent compromises and agreements reached with the other body. It is our hope, our expectation and our wish that the other body accept this bill as it is and send it to the President so that our fishermen will have a Merry Christmas.

□ 1610

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], the

distinguished chairman of the full committee.

Mr. JONES of North Carolina. Mr. Chairman, I think it is very important to emphasize the fact that the Japanese treaty so desired by the administration is the only reason this bill is here this afternoon. That is the basic reason. It must be enacted into law prior to January 1.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill before us today and urge its adoption by the House.

This bill consists of four titles which have been reported by the House Committee on Merchant Marine and Fisheries. Title I of the bill gives approval to a fisheries agreement between the United States and Japan which is due to expire on December 31, 1987. Failure to approve this agreement will result in a substantial economic loss to United States fishermen who are operating in joint fishing ventures with Japanese companies. At hearings before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment, the administration strongly supported the bill and, in addition, our committee has received letters of support from a number of different commercial fishing organizations. This is a noncontroversial measure which will benefit the U.S. fishing industry.

Title II of this bill consists of the implementing legislation to the International Convention for the Prevention of Pollution at Sea. A similar bill was previously passed by the House as H.R. 940. The language included in this bill today represents agreements that we have worked out with the other body to ensure that the bill will be passed in a timely manner. The administration generally supports this proposal and I believe it is important to have it enacted to help combat the growing problem of ocean dumping of plastics.

Title III of this bill is a reauthorization and a series of amendments to the National Sea Grant Program Act. Again, this bill has already been passed by the House of Representatives and the changes that are included in the legislation here today represent agreements worked out with the other body. The National Sea Grant Program has been in effect since the 1970's and has been responsible for important marine research being conducted in the waters off our shores. In addition, the Sea Grant Program provides a marine advisory service to fishing communities which has helped improve the economic efficiency of commercial fishermen.

Title IV of the bill contains language to assess, monitor, and control impacts of high seas driftnet fishing on marine resources of the United States. The title requires the Secretary of Commerce, acting through the Secretary of State, to enter into negotiations with those nations that allow their vessels to engage in driftnet fishing on the high seas in order to establish agreements on monitoring and enforcement of those fisheries. As the Members know, these driftnet fisheries have been extremely harmful to seabirds, marine mammals, and salmon and need to be strictly controlled in order to prevent further harm to our valuable marine resources. This legislation is widely supported by the environmental community and is not objected to by the administration.

Title V contains language solving a red tide problem on the coast of North Carolina.

In regard to the driftnet bill, I wish to make two particular points. First, in regard to the agreements that are to be negotiated, our bill requires that the negotiations be initiated by the Secretary of Commerce, acting through the Secretary of State, and in consultation with the Coast Guard and the Department of the Interior as appropriate. While we are suggesting a lead role for the Department of Commerce because of their expertise on fisheries matters, this does not indicate that we wish the Department of State to have no role in these negotiations. The Department of State clearly has a role as negotiator of foreign policy and we expect the Department of State to fulfill that function. The participation of the Department of Commerce is necessary because of its fisheries expertise, but we are not seeking via this legislation to disrupt the traditional method of negotiating international agreements.

Second, I wish to make clear that in the minds of many of Alaska's fishermen this bill does not go far enough. I agree with them completely. I believe that more could have been done in developing this legislation. However, we are faced with the fact that we need to get the negotiation process moving which requires us to pass this bill and, in order to pass the bill, we need agreement from diverse interests. It is my personal intent to continue seeking ways to more closely control driftnet fishing on the high seas. I do not consider this bill to be the final chapter, but rather one more step in our effort to stop this tremendous waste of our marine resources.

Mr. Chairman, I believe this bill is a good one. It has the general support of the administration and we expect it to be cleared by the other body in an expedited manner. I, therefore, urge all Members to vote in favor of this legislation today. Thank you.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 3674, and in particular, title II of H.R. 3674.

Mr. Chairman, I rise in support of title II of H.R. 3674 which would strengthen protection of our oceans and inland waterways from pollution caused by the disposal of plastics and other forms of refuse.

Mr. Chairman, I would like to commend the leadership of the Committee on Merchant Marine and Fisheries for their attention to these issues. The gentleman from North Carolina [Mr. JONES] and the gentleman from Michigan [Mr. DAVIS], who are the chairman and ranking Republican member of the full committee, deserve much of the credit for bringing this bill to the full House. Also the chairman and ranking Republican member of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from Massachusetts [Mr. STUDDS] and the gentleman from Alaska [Mr. YOUNG] have worked diligently to assure quick action on this bill.

In addition, I want to express my appreciation to the leadership of the Committee on Public Works and Transportation for their hard work and attention to this important legislation. The gentleman from New York [Mr. NOWAK] and the gentleman from Minnesota [Mr. STANGELAND], who serve as the chairman and ranking Republican members of our Subcommittee on Water Resources are to be complimented for their leadership and dedication in fashioning a compromise bill. But especially, I want to commend the chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey [Mr. HOWARD], for his great interest and support for this measure. Over the years, JIM HOWARD has repeatedly demonstrated his commitment to the protection of the environment, especially our delicate coastal resources.

Title II would implement a comprehensive program of research and the control of pollution of oceans and inland waters caused by the discharge of plastics and other forms of garbage. In particular, title II would implement annex V of the International Convention for the Prevention of Pollution from ships [MARPOL], prohibiting disposal of plastics and other garbage from vessels of U.S. registry or vessels of foreign registry within 200 miles of the U.S. coastline. This is done by amending the act to prevent pollution from ships which currently regulates the discharge of refuse from vessels in marine waters.

Significantly, the protections afforded by this act are not only strengthened but are extended to all navigable waters of the United States. This includes waters which traditionally have been under the jurisdiction of the Committee on Public Works and Transportation. For purposes of these amendments, the term "navigable waters of the United States" means: The territorial seas of the United States; internal waters of the United States that are subject to tidal influence; and other nontidal waters that, first, are or have been used, or are or are susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, or second, a govern-

mental or nongovernmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

The bill prohibits the discharge of plastics from cretain publicly owned vessels but allows a period of 5 years to comply with the provisions of annex V. The bill, however, exempts Navy and Coast Guard vessels from the provisions of the bill and annex V during time of war or a declared national emergency.

Mr. Chairman, I believe title II of H.R. 3674 takes a positive step toward addressing the problem of plastics pollution. Therefore, I support expeditious passage of title II of this legislation.

Mr. STUDDS. Mr. Chairman, once again I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], chairman of the full committee.

Mr. JONES of North Carolina. Mr. Chairman, title V simply directs the Administrator of the Small Business Administration to declare the recent North Carolina coast red tide contamination a disaster for purposes of providing disaster assistance under the Small Business Act. The House Small Business Committee contributed to the drafting of this title and is fully aware and supportive of its purpose and provisions.

North Carolina's coast is experiencing a terrible disaster as a result of an unprecedented red tide—an unusual toxic marine algae that is causing a staggering amount of economic dislocation in my State.

The red tide has closed most of North Carolina's important fisheries for oysters, clams, and scallops since early November. This all follows the worst brown shrimp fishing in history. Other related industries are suffering too. Sales of finfish have plummeted. Restaurants, bait shops, charter boats, fishing piers, and motels are also suffering a very severe impact. The total economic impact is in the millions of dollars.

Thousands of our people are suffering, but the Small Business Administration has callously rejected our request for help. Many of our fishermen have now been without incomes for 2 months, and it is a particularly bleak Christmas for them and their families. Title V will make it clear that the citizens suffering the impact of this disaster are eligible for long-term loans. They must go through the same application procedures as everyone else, and show that they are able to repay the loans. This bill will simply help them survive until the red tide goes away and they are able to pursue their traditional livelihoods once again. They and I will be particularly grateful for your support.

□ 1620

Mr. YOUNG of Alaska. Mr. Chairman, I yield 8 minutes to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding this time.

I would like to begin by saying that I rise in strong support of H.R. 3674.

I would like at the same time to commend the gentleman from North Carolina, the chairman of our committee, for doing such a fine job in working through the committee process to put this bill into its final form, as well as the chairman of the subcommittee, the gentleman from Massachusetts [Mr. STUDDS], who has been most cooperative with other members of the committee.

Mr. Chairman, I rise with a certain degree of pleasure, and I would like also to explain that while I support the bill, with a certain degree of disappointment as well.

The provisions of the bill as it stands, I believe, are commendable. We need to expand the GIFFA and extend it for 2 years, as the bill provides.

That relationship with Japan is an important one and one that we should look to preserve and enhance.

Other provisions of the bill I behieve are equally important. The gentleman from Massachusetts [Mr. STUDDS] mentioned that the Plastic Pollution and Control Act is a title in this bill. There is the Sea Grant Program, which many of us stood here on this floor and spoke in support of and voted in support of, that is part of this bill.

The gentleman from Alaska [Mr. YOUNG] just spoke about the Drift Net Fishing Control Act, which is equally important, and of a great deal of importance of our chairman and the people of North Carolina is the section of the bill which deals with the red tide problem.

But there is part of a very serious problem that this bill does not deal with. It was the intention of this Member, and I believe I can say the gentleman from New Jersey [Mr. HUGHES], to have added a section of the bill to the bill which would have dealt with sludge dumping. Through the good nature of the gentleman from New Jersey [Mr. HUGHES], and I think myself, we concluded that that portion of the bill would have added sufficient controversy to this package, to this bill, to have rendered its future at least uncertain; so in committee we agreed not to attach or not to try to attach that provision to this bill. That provision would have stopped sludge dumping off the coasts of Maryland, Delaware, and New Jersey, as of December 31, 1991.

We felt and still feel that it is a provision that should be included. One only need look at the summer of 1987 to understand why that is necessary. In August 1987 and in the few months before, we had washups on our shores. We had our red tides. We had our beaches closed. We had hospital waste on our beaches and, yes, that sludge dump, which has now moved from the 12-mile site to 106 miles off shore is a further impediment to the environmental quality.

Yes, the sludge dump at the 106-mile site is an additional impediment to the ecological health of the offshore waters of New Jersey and of Maryland and of Delaware.

The Governor of New Jersey feels so strongly about this that he has committed over the next 5 years to spend $200 million of the State's money to look into and develop alternative means of dealing with various ocean pollution problems.

The sludge problem is something that he intends to address through our State legislature as well. The Governor's program is an important and comprehensive one and the stopping of sludge dumping off the coast is an integral ingredient in that program.

Some will say there is no evidence that sludge dumping in the ocean is detrimental to the ocean, but one need only to look at one the aspects of the ocean environment from this summer to understand how important it is. This summer, the first summer that the 106-mile site was used to dump sludge, 300 dolphins washed up on our shores. Perhaps that was a coincidence. Perhaps it was a coincidence that 300 dolphins died the first year that the 106-mile site was used, but perhaps it was not a coincidence.

Others would claim that there is no danger at all to the ocean environment, but when one looks at the fact that heavy metals are included in that sludge, such metals as lead, cambium, and zinc, one need only to recognize the potential danger posed by those heavy metals.

Just yesterday, Mr. Chairman, we supported unanimously, or close to unanimously, a bill in this House that had to do with endangered species. Today I am not going to offer the amendment and I do not believe my colleague is, either, about sludge dumping in the ocean, but I can tell you that we intend with all our might in the months ahead to push for that amendment as a free standing bill or as an amendment to another bill, because we do not want to add the bottlenosed dolphin to that list of endangered species that we dealt with yesterday.

Mr. STUDDS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BENNETT], who has been a leader in the fight for this legislation.

Mr. BENNETT. Mr. Chairman, I primarily want to congratulate the com-

mittee on its vigorous efforts in this Congress to cleanup the sea. We have done a number of things that are very, very important. One measure that is in this bill, title IV, I believe it is, has to do with driftnets. Driftnets are sort of like you start out with a car that has plenty of gasoline in it and not anybody at the wheel; and it just goes through a parking lot and knocks over everything. That is about what a driftnet does. It catches a lot of fish. It catches birds and things like that, which just die. There is never any utilization for these killed fish and killed birds as these driftnets take their uncharted courses across the waves, untended.

So Mr. Chairman, this is a good bill. It has a lot of very fine things in it, and I congratulate the committee on bringing it forth.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to compliment the gentleman, a leading Member in this whole problem of drift net legislation. The gentleman has been the front force in this. The gentleman has led us and worked with us. I want that to be on the record. The gentleman from Florida has been up-front and has worked very well on this issue.

Mr. BENNETT. I thank the gentleman for his kind remarks.

Mr. Speaker, the House overwhelmingly passed H.R. 940, the Plastic Pollution Research and Control Act. This was a good and much needed piece of legislation.

But plastic wastes continue to haunt us, especially plastic driftnets which are lost or discarded at sea, also known as ghost driftnets. They continue to fish and indiscriminately kill fish, seabirds, and marine mammals. Currently the foreign driftnet fishery in the North Pacific loses or discards as much as 1,000 miles of netting each year. Although the total impact of the foreign driftnet fishery is not known, it appears that the killing of marine life is staggering. Driftnets are also an inefficient and wasteful method of harvesting fisheries resources. As much as 50 percent of the fish ensnared in driftnets die and drop out of the net before it is picked.

In the 99th Congress and again in the 100th, I have introduced the Drift net Monitoring, Assessment, and Control Act, H.R. 537, as a companion bill to the Senate version introduced by Senator TED STEVENS. When the plastic pollution bill, H.R. 940, was introduced during the 100th Congress, a portion of the bill addressed the drift net problem. But during subcommittee markup, this portion was dropped. Driftnets pose a very serious problem and need to be addressed immediately. H.R. 537 has received strong support and currently has 63 cosponsors.

The inshore runs of salmon in Alaska in 1986 have been the lowest in 7 years, and many of the United States fishermen in the area say that the foreign seas driftnet fisheries, mainly those of Japan, Taiwan, and the Republic of Korea, are responsible for this. They claim that, because the runs are lower, tighter restrictions are placed on the taking of salmon in U.S. waters by U.S. fishermen, costing the Alaskan fisheries between $4 and $8 million. While Alaska fishermen purposely allow salmon to escape to the sea so that the fish can then return to the freshwater streams to lay their eggs, these same salmon are being caught with driftnets on the high seas before returning to their spawning grounds.

The International Convention for the High Seas Fisheries of the North Pacific Ocean sets seasonal and area restrictions for the highseas fishery so that impacts on U.S.-origin salmon are minimized. Coast Guard surveillance flights have repeatedly detected numerous violations by the Japanese squid driftnet vessels that have been sighted on salmon fishing grounds. This consistent record by the Japanese demonstrates their disregard for the international agreement. Yet the United States continues to allow the Japanese the privilege to fish within its 200-mile Exclusive Economic Zone [EEZ].

We must remind foreign fleets operating within our EEZ that it is their privilege to fish in this area, not their right. If these foreign fleets refuse to negotiate with us concerning U.S.-origin marine resources on the high seas, then they should be ready to face the consquences.

The unregulated use of driftnets has devastated the marine resources of the North Pacific for too long. This problem will not go away by itself, and I urge my colleagues to join me in support of this legislation.

Mr. BENNETT. Mr. Chairman, I thank the gentleman.

There were 60-some odd Members of the Congress who joined me in that legislation which I introduced and they deserve equal credit.

Mr. STUDDS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I rise today in support of title VI of H.R. 3674, the Japanese giffa bill. This provision focuses on the red tide which has wreaked havoc on an area in which the economy is hostage to the sea. Beginning on November 2, the North Carolina Division of Marine Fisheries, in accordance with the U.S. Food and Drug Administration regulations, closed 170 miles of North Carolina's coast to the harvesting of oysters, clams, scallops, and mussels, due to this unprecedented and sudden infestation of toxic red tide micro-organisms. After a vigrous and well documented attempt to have the area designated an economic injury disaster area by the Small Business Administration, the SBA declined saying that the red tide did not fit the SBA's narrow definition of a "physical disaster."

It is difficult for me to understand, even after reading SBA's regulatory interpretation of the law, how this red tide could be excluded from the category of "physical disaster." It is certainly a human disaster. The effect on small business was immediate and unmistakable—estimated losses during the first week of red tide infestation of over $87,000 for the fishing industry and or twice that for the motel and restaurant industry. Losses to date, have exceeded $3 million.

Can any logical distinction be made between the damage done to shell fish by red tide and not treated as a disaster and the damage done by freezing water, reduced salinity as the result of a flood, or hurricanes? The SBA has said the red tide is a micro-organism naturally occurring in the water and thus is not a "physical disaster." However, this particular micro-organism naturally occurs in tropical waters, not North Carolina waters. It has not previously been noted north of Jacksonville, FL. Subfreezing temperatures are natural in North Carolina, but a disaster in Florida. The same is true of red tide, but reversed.

Claims by the SBA of "hands tied" and "bound by precedent and by statute" have become common hiding places the last few years. Their position is ridiculously restrictive and could reasonably and easily contain more flexibility to help these small businesses in distress.

Mr. Chairman, we have the chance to remedy this misfortune for a number of individuals destined to reach into an empty Christmas stocking this year, otherwise.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, I thank the gentleman from Alaska for yielding this time. I will take only 30 seconds.

I want to commend the chairman of the committee, the gentleman from North Carolina [Mr. JONES]; the subcommittee chairman, the gentleman from Massachusetts [Mr. STUDDS], and my distinguished colleague, the gentleman from Alaska [Mr. YOUNG], the ranking member, for their work on this legislation.

Mr. Chairman, I rise in support of the United States and Japan Fishery Agreement Approval Act of 1987, which is very important to my constituents in Washington State.

Mr. STUDDS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. Mr. Chairman, I am pleased to speak in support of the bill.

H.R. 3674 provides necessary congressional approval of the governing international fishing agreement between the United States and Japan. Without timely congressional approval, these agreements will not be effective.

Mr. Chairman, I am also pleased to speak in support of the committee amendment which includes provisions to aid in our continuing efforts to curtail pollution of our waters from ships. The committee amendment includes language similar to that of H.R. 940, an act to implement the provisions of Annex V to the International Convention for the Prevention of Pollution From Ships, passed by this House on October 13, 1987. This bill would prohibit disposal of various types of garbage from ships; prohibit disposal into the sea of all plastics; require the preparation of a New York Bight Restoration Plan; and, mandate an EPA study of plastic debris in the New York Bight.

Ships have historically been afforded the right to dispose of their garbage in the open sea. In years past, this garbage has dispersed and degraded. Unfortunately the nature of today's garbage has changed significantly with the widespread use of plastics, inlcuding items such as synthetic ropes, synthetic fishing nets, six-pack beverage yokes, and garbage bags.

These plastic items do not degrade easily—they snare marine mammals and wind around the necks of birds causing drowning, suffocation and starvation. It is estimated that as many as 50,000 northern fur seals, 5,000 porpoises and hundreds of thousands of seabirds are killed each year as a result of entanglement in discarded fishing nets alone. The time has come for us to stop this senseless killing. The seas are not an open dumping ground to be fouled for the convenience of ocean travelers.

Along with the important provisions regarding the prohibition of garbage disposal are two sections to address the serious pollution problems in the New York Bight area.

The administrator of EPA is required within 3 years to prepare and submit a New York Bight restoration plan. This plan is to identify and assess the impact of pollutants, including their effect on human health and the marine environment; identify technologies and management practices for controlling pollutants (including their costs and a schedule for implementation); and, comprehensively assess alternatives to dumping municipal sludge in the New York Bight.

The Administrator is also charged with reporting to Congress within 6 months on the problems associated with plastic debris in the New York Bight, with specific attention to the effect of the debris on beaches, marine life, the environment, and coastal waters.

These two New York Bight provisions are necessary to improve the quality of life in the New York Bight area. We can no longer tolerate the death of the marine environment and the health risks posed by the pollution on the beaches such as occurred this past summer.

Mr. Chairman, the need for this legislation is clear and overdue if we are to protect the marine environment from the deadly effects of modern pollution. I urge enactment of the bill.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, I rise in support of title II in H.R. 3674, the Plastic Pollution Research and Control Act of 1987. Title II would strengthen protection of our oceans and inland waters against plastic pollution and other garbage.

Much of this legislation is based on H.R. 940 which was reported by the Merchant Marine and Fisheries Committee and sequentially referred to the Public Works and Transportation Committee. The House then passed H.R. 940 on October 13, 1987. Since then, various House and Senate committees have revised the legislation to incorporate provisions from other bills.

Today's action is the result of hard work and extensive study by the Merchant Marine and Fisheries Committee, particularly Chairman JONES, ranking minority member DAVIS, Chairman STUDDS of the subcommittee and ranking minority member YOUNG of the subcommittee. It is also very much the result of the leadership and cooperation offered by Chairman HOWARD, ranking minority member HAMMERSCHMIDT and subcommittee Chairman NOWAK of the Public Works Committee. I also want to commend the leadership on the Environment and Public Works Committee and the Commerce, Science, and Transportation Committee in the Senate. All of these players deserve our thanks for crafting this important and environmentally protective compromise.

Title II of H.R. 940 addresses a growing concern, highlighted dramatically by recent events along the Atlantic coast, by placing new controls on the disposal of plastic and other garbage from ships. The purpose of the legislation is to implement annex V to the International Convention for the Prevention of Pollution from Ships and to identify and reduce the effects of plastic pollution on the marine environment. The bill not only bans the disposal of plastic materials into the sea anywhere within 200 nautical miles of the U.S. coastline, but also extends all the dumping prohibitions in annex V to U.S. inland waterways—that is, its "navigable waters of the United States" as that term has been interpreted by the courts.

Mr. Chairman, title II extends annex V to the inland waters of the United States. This is an important change, one I am sure the Public Works Committee would like to have looked at in closer detail. As the committee with jurisdiction over pollution of the navigable waters, we would like to analyze further the consistency of this legislation with the Federal Water Pollution Control Act of 1972. In order to expedite this important legislation, however, we have agreed to the inclusion of "navigible waters" without the benefit of hearings. Of course, we will expect to follow the legislation if enacted into law, very closely.

Mr. Chairman, I urge my colleagues to support this important environmental legislation. With its provisions on the New York Bight, plastics pollution, and other refuse, the bill takes a major step forward in controlling water pollution.

Mr. DAVIS of Michigan. Mr. Chairman, the legislation before us includes several provisions besides the waiver of the 60-legislative-day waiting period for our Governing International Fishery Agreement with Japan. These include driftnet legislation that Congressman YOUNG has worked hard for, plastic pollution legislation (H.R. 940), which the House has already adopted, and legislation to reauthorize the National Sea Grant College Program.

We have all visited sea grant before, but title III is an improved version of what we earlier passed overwhelmingly from full committee last July and resoundingly supported in the House in September. It reflects the views of the Merchant Marine and Fisheries Committee and our colleagues in the other body, and I urge my colleagues once again to support reauthorization of a program which has contributed much to our coastal States, as well as those inland.

Section 3012 of the bill, which authorizes a Great Lakes shoreline mapping plan, is personally important to me and to those who live along the Great Lakes shore, recently so devastated from much higher than normal water levels. Coastal erosion and storm damage have so altered the shoreline that Federal, State, and local government entities no longer have an accurate picture of what they need to do to protect existing Great Lakes shore development. This mapping plan would be an important first step in providing important planning tools to the Great Lakes region, so long ignored by Washington bureaucrats as "not sufficiently important" to warrant the updating of shore maps prepared over 50 years ago.

I ask my colleagues to support the adoption of this bill.

Mr. LOWRY of Washington. Mr. Chairman, I would like to briefly explain the sea grant title of this legislation. Title III of this bill is almost identical to H.R. 3017, the sea grant reauthorization bill reported by the Committee on Merchant Marine and Fisheries and passed by the House. The only differences are as follows:

First, although the overall authorization levels are identical to the House-passed version for totals of $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990, in this title there is a further breakdown of the authorization funding structure. This breakdown is as follows:

	1988	1989	1990
The basic Sea Grant Program	41.5M	50.5M	51.0M
Strategic marine research	0.5M	5.0M	10.0M
Marine affairs and resource management	2.0M	2.5M	3.0M

These changes were made because the other body had problems with the single-fund structure in H.R. 3017.

In addition, title III also contains a change in the Sea Grant International Program which broadens the program geographically.

Finally this title III includes language which would place a 2-year limitation on funding under the marine resource management section for any single sea grant institution.

Mr. Chairman, again, these changes are minor, and I believe that we do have agreement with the Senate on this language as contained in title III, which will hopefully enable us to get the bill enacted this year.

□ 1635

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, as modified by the amendment printed in section 2 of House Resolution 337, shall be considered as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Japan Fishery Agreement Approval Act of 1987".

The CHAIRMAN. Is there an amendment to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

The CHAIRMAN. Is there an amendment to section 2?

The Clerk will designate title I.

The text of title I is as follows:

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH JAPAN

SEC. 1001. APPROVAL OF AGREEMENT.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States, dated November 17, 1987—

(1) is approved by Congress as a governing international fishery agreement for the purpose of such Act; and

(2) shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

The CHAIRMAN. Are there any amendments to title I?

The Clerk will designate title II.

The text of title II is as follows:

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Plastic Pollution Research and Control Act of 1987".

SEC. 2002. PURPOSES.

The purposes of this title are—

(1) to implement Annex V to the International Convention for the Prevention of Pollution from Ships, 1973 (hereinafter in this title referred to as "Annex V"); and

(2) to identify and reduce the effects of plastic pollution on the marine environment.

SEC. 2003. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) EXCEPTIONS.—Section 2003, 2108, 2110, 2201, 2203, 2204, 2205, and 2206 of this title shall be effective on the date of the enactment of this title.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "SEC. 2.".

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the Convention;".

(32) Subsection (a)(1) (as redesignated) is amended by striking all after "Annexes I"

and inserting ", II, and V thereto, including any modifications or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(42) Subsection (a)(1) (as redesignated) is amended by inserting "and 'garbage' " after "discharge".

(5) The following is added at the end of section 2:

"(b) For purposes of this Act, as used in Annex V to the Convention, the term 'sea' includes the navigable waters of the United States.".

SEC. 2102. APPLICATION OF ACT.

(a) IN GENERAL.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States.".

(b) EXCLUSIONS.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph and (Section 202(c) of the Plastic Pollution Research and Control Act of 1987), the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) REGULATIONS.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.".

SEC. 2103. POLLUTION RECEPTION FACILITIES.

(a) DETERMINATION OF ADEQUACY OF FACILITIES.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the first sentence of subsection (a)(1) (as redesignated) by inserting "for mixtures containing oil or noxious liquid substances" after "reception facilities"; and;

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall prescribe regulations respecting the adequacy of reception facilities for garbage at ports and terminals which specify the ports and terminals which are required to provide the reception facilities. Persons in charge of a port or terminal shall provide reception facilities, or ensure that the facilities are available, for receiving garbage in accordance with these regulations.".

(b) CONSIDERATION OF NUMBER AND TYPES OF SHIPS.—Section 6(b) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting ", and in prescribing regulations under subsection (a) of this section," after "reception facilities"; and

(2) by inserting ", or, as appropriate, ships," after "seagoing ships".

(c) CERTIFICATE ISSUANCE.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annexes I and II to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of the Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect of the person in charge to the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) ENTRY DENIAL.—Section 6(e) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(1)" after "(e)";

(4) in paragraph (1)(A) (as redesignated), striking "the MARPOL Protocol" and inserting "Annexes I and II to the Convention"; and

(5) adding at the end the following:

"(2) The Secretary may deny entry to a ship to a port or terminal required by regulations issued under this section to provide reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

SEC. 2104. VIOLATIONS.

(a) SHIP INSPECTIONS.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(2) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in paragraph (2) (as redesignated), inserting "or otherwise within the navigable waters of the United States" after "jurisdiction of the United States";

(5) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the" and inserting "The"; and

(6) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

(b) SHIP INSPECTIONS OTHER THAN AT PORT OR TERMINAL.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of the requirements of Annex V to the Convention.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this act.".

SEC. 2105. REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY.

Section 9(f) of the Act to Prevent Pollution from Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

Section 10 of the Act to Prevent Pollution from Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

SEC. 2107. LEGAL ACTIONS.

Section 11 of the Act to Prevent Pollution from Ships is amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(2) by inserting after subsection (b) the following:

"(c) Any person suffering damage or loss from an action of the Secretary taken pursuant to section 8(d) of this Act which is alleged to have been unlawful or to have exceeded that which is reasonably required in the light of available information, may bring an action under this section to recover compensation for that damage or loss.".

SEC. 2108. REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

Section 4(b) of the Act to Prevent Pollution from Ships is amended—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following:

"(2) The Secretary of the department in which the Coast Guard is operating shall—

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

"(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

"(B) seek an international agreement or international agreements which apply requirements equivalent to those described in subparagraph (A)(i) to all vessels subject to Annex V to the Convention; and

"(C) within 2 years after the effective date of this paragraph, report to the Congress—

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 2109. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

"SEC. 17. Any action taken under this Act shall be taken in accordance with international law.".

SEC. 2110. CIVIL PENALTY UNDER REFUSE ACT.

Section 16 of the Act of March 3, 1899 (33 U.S.C. 411) is amended—

(1) by inserting "(a)" after "SEC. 16."; and

(2) by adding at the end the following:

"(b)(1) A person who, after notice and an opportunity for a hearing, is found to have violated section 13 shall be liable to the United States for a civil penalty of not to exceed $25,000 for each violation.

"(2) Each day of a continuing violation of section 13 shall constitute a separate violation.

"(3) The amount of a penalty under this subsection—

"(A) except as provided in paragraph (4) shall be assessed by written notice; and

"(B) shall be determined by taking into account—

"(i) the nature, circumstances, extent, and gravity of the prohibited acts committed; and

"(ii) with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters as justice may require.

"(4) The amount of a penalty under this subsection may exceed $25,000 only if such penalty is assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(5) A penalty under this subsection which is subject to assessment or which has been assessed may be compromised, modified, or remitted, with or without conditions.

"(6) If a person fails to pay an assessment of a penalty under this subsection after it has become final, the matter may be referred to the Attorney General for collection in any appropriate district court of the United States.".

Subtitle B—Studies and Report

SEC. 2201. COMPLIANCE WITH ANNEX V, GENERALLY.

Within 2 years after the date of the enactment of this title, and biennially thereafter for a period of 10 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

SEC. 2202. COMPLIANCE BY FE DERAL AGENCIES.

(a) REPORT ON EXTENT OF COMPLIANCE.—Within 1 year after the effective date of this title, and each thereafter until the ships are brought into compliance with the refuse disposal requirements of Annex V which applies to commercial vessels, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1) of the Act to Prevent Pollution from Ships shall report to the Congress on the extent to which their ships are in compliance with the requirements referred to in that section.

(b) REPORT ON INABILITY TO COMPLY.—Within 3 years after the effective date of this title, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate.

SEC. 2203. LAND-BASED SOURCES OF PLASTIC MATERIALS.

Not later than September 30, 1988, the Administrator of the Environmental Protection Agency shall submit to the Congress a report on land-based sources of plastic materials in the marine environment. The report shall include—

(1) description of the types and classes of plastic materials in the marine environment which are from land-based sources, including medical wastes;

(2) description of specific statutory and regulatory authority available to the Adiinistrator, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine environment from those sources;

(3) analysis of whether the production or sale of particular types or classes of nondegradable plastic materials should be prohibited, taxed, or regulated in any other manner; and

(4) recommendation of legislation which is necessary to prohibit, tax, or regulate land-based sources of plastic materials that enter the marine environment.

SEC. 2204. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later then September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall include—

(1) identification and quantification of the harmful effects of plastic materials on the marine environment;

(2) assessment of the specific effects of plastic materials on living marine resources in the marine environment;

(3) identification of the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analysis, carried out in consultation with one Director of the National Bureau of Standards, of plastic materials which are claimed to be capable of reduction to environmentally benign subunits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommendation of legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2205. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

Not later than April 1, 1988, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall commence a program, to be conducted for a period of at least 3 years, to educate the public (including recreational boaters, fishermen, representatives of the plastics industry, representatives of the beverage industry, representatives of the glass industry, representatives of the paper industry, representatives of the metals industry, and consumer interest groups) regarding the harmfulness of plastic materials (regardless of source) in the marine environment. The program may include workshops, public service announcements, symposia, and any other means to educate the public regarding the harmfulness of plastics in the marine environment and the need to further reduce sources of plastics entering the marine environment.

SEC. 2206. NEW YORK BIGHT PLASTIC STUDY.

The Administrator of the Environmental Protection Agency shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the date of the enactment of this title with recommendations for the elimination of the threats posed by such plastic debris.

The CHAIRMAN. Are there amendments to title II?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS:

Amend title II of the bill to read as follows:

TITLE II—PLASTIC POLLUTION RESEARCH AND CONTROL

SEC. 2001. SHORT TITLE.

This title may be cited as the "Marine Plastic Pollution Research and Control Act of 1987".

SEC. 2002. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall be effective on the date on which Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, enters into force for the United States.

(b) EXCEPTIONS.—Sections 2001, 2002, 2003, 2108, 2202, 2203, 2204, and subtitle C

of this title shall be effective on the date of the enactment of this title.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The authority to prescribe regulations pursuant to this title shall be effective on the date of enactment of this title.

(2) EFFECTIVE DATE OF REGULATIONS.—Any regulation prescribed pursuant to this title shall not be effective before the effective date of the provision of this title under which the regulation is prescribed.

SEC. 2003. PREEMPTION: ADDITIONAL STATE REQUIREMENTS.

(a) PREEMPTION.—Except as specifically provided in this title, nothing in this title shall be interpreted or construed to supersede or preempt any other provision of Federal or State law, either statutory or common.

(b) ADDITIONAL STATE REQUIREMENTS.—Nothing in this title shall be construed or interpreted as preempting any State from imposing any additional requirements.

Subtitle A—Amendments to Act to Prevent Pollution From Ships

SEC. 2101. DEFINITIONS.

Section 2 of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) is amended as follows:

(1) "(a)" is inserted after "Sec. 2.".

(2) Subsection (a)(1) (as redesignated) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention of Pollution from Ships, 1973, and includes the Convention;".

(3) Subsection (a)(2) (as redesignated) is amended by striking all after "and" the second time it appears and inserting in lieu thereof the following: "Annexes I, II, and V thereto, including any modification or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(4) Subsection (a)(3) (as redesignated) is amended by inserting "and 'garbage'" and after "discharge".

(5) The following is added at the end of section 2:

"(b) For purposes of this Act, the requirements of Annex V shall apply to the navigable waters of the United States, as well as to all other waters and vessels over which the United States has jurisdiction.".

SEC. 2102. APPLICATION OF ACT.

(a) IN GENERAL.—Section 3(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) This Act shall apply—

"(1) to a ship of United States registry or national ity, or one operated under the authority of the United States, wherever located;

"(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the Ujited States;

"(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

"(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the Ujited States.".

(b) EXCLUSIONS.—Section 3(b) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), this Act shall not apply to—

"(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

"(B) any other ship specifically excluded by the MARPOL Protocol.

"(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply after 5 years after the effective date of this paragraph to a ship referred to in paragraph (1)(A).

"(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) REGULATIONS.—Section 3(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.".

SEC. 2103. POLLUTION RECEPTION FACILITIES.

(a) DETERMINATION OF ADEQUACY OF FACILITIES.—Section 6(a) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in subsection (a)(1), as so redesignated, by striking "reception facilities of a port or terminal" and inserting in lieu thereof the following: "a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances"; and

(3) by adding at the end the following:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.".

(b) CONSIDERATION OF NUMBER AND TYPES OF SHIPS.—Section 6(b) of the Act to Prevent Pollution from Ships is amended by striking "terminal," the first time it appears and inserting in lieu thereof the following: "terminal, and in establishing regulations under subsection (a) of this section," and by striking "seagoing ships" and inserting in lieu thereof the following: "ships or seagoing ships".

(c) CERTIFICATE ISSUANCE.—Section 6(c) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(c)(1) If reception facilities of a port or terminal meet the requirements of Annexes I and II to the Convention and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

"(2) If reception facilities of a port or terminal meet the requirements of the Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.

"(3) A certificate issued under this subsection—

"(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

"(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

"(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.".

(d) ENTRY DENIAL.—Section 6(e) of the Act to Prevent Pollution from Ships is amended—

(1) by inserting "(1)" immediately after "(e)";

(2) by striking "(1)" and inserting in lieu thereof "(A)";

(3) by striking "(2)" and inserting in lieu thereof "(B)";

(4) in subparagraph (A), as so redesignated, by striking "the MARPOL Protocol" and inserting in lieu thereof the following: "Annexes I and II of the Convention"; and

(5) by adding at the end the following:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide adequate reception facilities for garbage if the port or terminal is not in compliance with those regulations.".

SEC. 2104. VIOLATIONS.

(a) SHIP INSPECTIONS.—Section 8(c) of the Act to Prevent Pollution from Ships is amended by—

(1) striking "(1)" and inserting "(A)";

(1) striking "(2)" and inserting "(B)";

(3) inserting "(2)" immediately after "(c)";

(4) in the last sentence of paragraph (2) (as redesignated), striking "If a report made under this subsection involves a ship, other than one of United States registry or nationality or o ne operated under the authority of the United States, the" and inserting "The"; and

(5) inserting before paragraph (2) (as redesignated) the following: "(1) This subsection applies to inspections relating to possible violations of Annex I or Annex II to the Convention by any seagoing ship referred to in section 3(a)(2) of this Act.".

(b) SHIP INSPECTIONS OTHER THAN AT PORT OR TERMINAL.—Section 8 of the Act to Prevent Pollution from Ships is amended by redesignating subsection (d) as subsection (f) and inserting after subsection (c) the following:

"(d)(1) The Secretary may inspect a ship referred to in section 3(a)(3) of this Act to verify whether the ship has disposed of garbage in violation of Annex V to the Convention or this Act.

"(2) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act.

"(e)(1) The Secretary may inspect at any time a ship of United States registry or nationality or operating under the authority of the United States to which the MARPOL Protocol applies to verify whether the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol or this Act.

"(2) If an inspection under this subsection indicates that a violation of the MARPOL Protocol has occurred the Secretary may undertake enforcement action under section 9 of this Act.".

SEC. 2105. CIVIL PENALTIES.

(a) PAYMENT FOR INFORMATION.—

(1) INFORMATION LEADING TO CONVICTION.—Section 9(a) of the Act to Prevent Pollution From Ships is amended by inserting after the first sentence the following: "In the discretion of the Court, an amount equal to not more than ½ of such fine may be paid to the person giving information leading to conviction.".

(2) INFORMATION LEADING TO ASSESSMENT OF PENALTY.—Section 9(b) of the Act to Prevent Pollution From Ships is amended by adding at the end the following: "An amount equal to jot more than ½ of such penalties may be paid by the Secretary tk the person giving information leading to the assessment of such penalties.".

(b) REFERENCE OF VIOLATION TO COUNTRY OF REGISTRY OR NATIONALITY.—Section 9(f) of the Act to Prevent Pollution From Ships is amended by striking "to that country" and inserting "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

SEC. 2106. PROPOSED AMENDMENTS TO PROTOCOL.

Section 10 of the Act to Prevent Pollution From Ships is amended—

(1) in subsection (a), by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization"; and

(2) in subsection (b), by striking "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and inserting "Annex I, II, or V to the Convention, appendices to those Annexes, or Protocol I of the Convention", and by striking "Inter-Governmental Maritime Consultative Organization" and inserting "International Maritime Organization".

SEC. 2107. ADMINISTRATION AND ENFORCEMENT; REFUSE RECORD BOOKS; WASTE MANAGEMENT PLANS; NOTIFICATION OF CREW AND PASSENGERS.

(a) ADMINISTRATION AND ENFORCEMENT, GENERALLY.—Section 4(a) of the Act to prevent pollution from ships is amended to read as follows:

"(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the Convention apply only to seagoing ships.".

(b) REFUSE RECORD BOOKS; WASTE MANAGEMENT PLAN; NOTIFICATION OF CREW AND PASSENGERS.—Section 4(b) of the Act to Prevent Pollution from Ships is amended by—

(1) inserting "(1)" after "(b)"; and

(2) adding at the end the following:

"(2) The Secretary of the department in which the Coast Guard is operating shall—

"(A) within 1 year after the effective date of this paragraph, prescribe regulations which—

"(i) require certain ships described in section 3(a)(1) to maintain refuse record books and shipboard management plans, and to display placards which notify the crew and passengers of the requirements of Annex V to the Convention; and

"(ii) specify the ships described in section 3(a)(1) to which the regulations apply;

"(B) seek an international agreement or international agreements which apply requirements equivalent to those desecribed in subparagraph (A)(i) to all vessels subject to Annex V to Convention; and

"(C) within 2 years after the effective date of this paragraph, report to the Congress—

"(i) regarding activities of the Secretary under subparagraph (B); and

"(ii) if the Secretary has not obtained agreements pursuant to subparagraph (B) regarding the desirability of applying the requirements described in subparagraph (A)(i) to all vessels described in section 3(a) which call at United States ports.".

SEC. 2108. COMPLIANCE WITH INTERNATIONAL LAW.

The Act to Prevent Pollution from Ships is amended by adding at the end the following:

"SEC. 17. Any action taken under this Act shall be taken in accordance with international law.".

Subtitle B—Studies and Report

SEC. 2201. COMPLIANCE REPORTS.

(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter for a period of 6 years, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters.

(b) REPORT ON LIABILITY TO COMPLY.—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

(1) the technical and operational impediments to achieving that compliance;

(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

(4) any other information which the agency head considers relevant and appropriate.

(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.

SEC. 2202. EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Commerce, shall commence a study of the adverse effects of the improper disposal of plastic articles of the environment and on waste disposal, and the various methods to reduce or eliminate such adverse effects.

(b) SCOPE OF STUDY.—A study under this section shall include the following:

(1) A list of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in coastal and waterfront areas, endanger human health or safety, or cause other significant adverse impacts.

(2) A description of specific statutory and regulatory authority available to the Administrator of the Environmental Protection Agency, and the steps being taken by the Administrator, to reduce the amount of plastic materials that enter the marine and aquatic environment.

(3) An evaluation of the feasibility and desirability of substitutes for those articles identified under paragraph (1), comparing the environmental and health risks, costs, disposability, durability, and availability of such substitutes.

(4) An evaluation of the impacts of plastics on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including recycling.

(5) An evaluation of the impact of plastic s on the solid waste stream relative to other solid wastes, and methods to reduce those impacts, including—

(A) the status of a need for public and private research to develop and market recycled plastic articles;

(B) methods to facilitate the recycling of plastic materials by identifying types of plastic articles to aid in their sorting, and by standardizing types of plastic materials, taking into account trade secrets and protection of public health;

(C) incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling and to decrease the amount of plastic debris, especially in the marine environment;

(D) the effect of existing tax laws on the manufacture and distribution of virgin plastic materials as compared with recycled plastic materials; and

(E) recommendations on incentives and other measures to promote new uses for recycled plastic articles and to encourage or require manufacturers of plastic articles to consider re-use and recycling in product design.

(6) An evaluation of the feasibility of making the articles identified under paragraph (1) from degradable plastics materials, taking into account—

(A) the risk to human health and the environment that may be presented by fragments of degradable plastic articles and the properties of the end-products of the degradation, including biotoxicity, bioaccumulation, persistence, and environmental fate;

(B) the efficiency and variability of degradation due to differing environmental and biological conditions; and

(C) the cost and benefits of using degradable articles, including the duration for which such articles were designed to remain intact.

(c) CONSULTATION.—In carrying out the study required by this section, the Administrator shall consult with the heads of other appropriate Federal agencies, representatives of affected industries, consumer and environment interest groups, and the public.

(d) REPORT.—Within 18 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to the Congress the results of the study required by this section, including recommendations in connection therewith.

SEC. 2203. EFFECTS OF PLASTIC MATERIALS ON THE MARINE ENVIRONMENT.

Not later than September 30, 1988, the Secretary of Commerce shall submit to the Congress a report on the effects of plastic materials on the marine environment. The report shall—

(1) identify and quantify the harmful effects of plastic materials on the marine environment;

(2) assess the specific effects of plastic materials on living marine resources in the marine environment;

(3) identify the types and classes of plastic materials that pose the greatest potential hazard to living marine resources;

(4) analyze, in consultation with the Director of the National Bureau of Standards, plastic materials which are claimed to be capable of reduction to environmentally benign submits under the action of normal environmental forces (including biological decomposition, photodegradation, and hydrolysis); and

(5) recommend legislation which is necessary to prohibit, tax, or regulate sources of plastic materials that enter the marine environment.

SEC. 2204. PLASTIC POLLUTION PUBLIC EDUCATION PROGRAM.

(a) OUTREACH PROGRAM.—

(1) IN GENERAL.—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct for a period of at least 3 years, a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding—

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;

(C) the need to recycle plastic materials; and

(D) the need to reduce the quantity of plastic debris in the marine environment.

(2) AUTHORIZED ACTIVITIES.—A public outreach program under paragraph (1) may include—

(A) workshops with interested groups;

(B) public service announcements;

(C) distribution of leaflets and posters; and

(D) any other means appropriate to educating the public.

(b) CITIZEN POLLUTION PATROLS.—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

Subtitle C—New York Bight

SEC. 2301. NEW YORK BIGHT RESTORATION PLAN.

(a) IN GENERAL.—Within 3 years after the effective date of this section, the Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and other Federal, State, and interstate agencies, shall prepare a New York Bight Restoration Plan. In preparing such plan, the Administrator shall seek the views and comments of interested persons and hold public hearings in States to be affected by the plan. The first such public hearing shall occur not later than 8 months after the effective date of this section.

(b) SCOPE OF PLAN.—The New York Bight Restoration Plan prepared under subsection (a) shall, at a minimum—

(1) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping, that are affecting the water quality and marine resources of the New York Bight;

(2) identify those uses in the New York Bight and other areas that are being adversely affected by such pollutant inputs;

(3) determine the fate of the contaminants from such pollutant inputs and their effect on human health and the marine environment;

(4) identify technologies and management practices necessary for controlling such pollutant inputs;

(5) identify the costs of implementing such technologies and practices and any impediments to such implementation;

(6) devise a schedule of economically feasible projects to implement such technologies and practices and to remove such impediments;

(7) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects referred to in paragraph (6); and

(8) comprehensively assess alternatives to dumping of municipal sludge and the burning of timber in the New York Bight.

SEC. 2302. NEW YORK BIGHT PLASTIC STUDY.

The Administrator shall conduct a study of problems associated with plastic debris in the New York Bight, with specific attention to the effect of such debris on beaches, marine life, the environment, and coastal waters, and shall report to the Congress within 6 months after the effective date of this section with recommendations for the elimination of the threats posed by such plastic debris.

SEC. 2303. REPORTS.

(a) SCHEDULE FOR PRELIMINARY REPORTS AND RESTORATION PLAN.—Not later than 6 months after the effective date of this section, the Administrator shall submit to the Congress a detailed schedule (including associated funding requirements) for completing preliminary reports and the New York Bight Restoration Plan under this subtitle.

(b) PRELIMINARY REPORT ON ALTERNATIVES.—Not later than the earlier of January 1, 1990, or the date of any decision by the Administrator affecting the redesignation of the 106-mile Ocean Waste Dump site for municipal sludge or the designation of any additional municipal sludge dump site, the Administrator shall submit to the Congress a preliminary report assessing alternatives to the ocean dumping of municipal sludge.

(c) PRELIMINARY REPORT ON POLLUTANT INPUTS.—Not later than 1 year after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(1), (b)(2), and (b)(3).

(d) PRELIMINARY REPORT ON CONTROL MEASURES.—Not later than 2 years after the effective date of this section, the Administrator shall submit to the Congress a preliminary report on the examinations required under section 2301(b)(4), (b)(5), (b)(6), and (b)(7).

(e) SUBMISSION OF RESTORATION PLAN TO CONGRESS.—Not later than 3 years after the effective date of this section, the Administrator shall submit to the Congress the New York Bight Restoration Plan prepared under section 2301.

SEC. 2304 DEFINITIONS.

For purposes of this subtitle—

(1) NEW YORK BIGHT.—The term "New York Bight" means an area comprised of the Hudson-Raritan Estuary and waters of the Atlantic Ocean—

(A) west of Montauk, Long Island, New York (71 degrees, 50 minutes west longitude);

(B) north of Cape May, New Jersey; and

(C) extending seaward to the edge of the Continental Shelf.

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator not more than $3,000,000 for carrying out this subtitle during fiscal years 1988, 1989, and 1990.

Amend the table of contents in section 2 accordingly.

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, this substitute for the title represents a compromise between the House-passed bill, H.R. 940, and the bills that emerged from the two Senate committees of jurisdiction. Very briefly, this compromise contains subtitle I which relates to MARPOL annex 5. There are no major differences in this regard between the various bills. The compromise does contain all the major provisions in the House-passed bill with more minor modifications to reflect different stylistic approaches only.

Subtitle II contains several reporting requirements. The compromise adopts the Senate Environmental and Public Works Committee report on plastics pollution calling on the Environmental Protection Agency to study the impacts of plastics on the environment, the role of plastics in the waste disposal problem facing this country, and methods to recycle and reuse and substitute for plastics in order to alleviate the waste problem.

In adopting this proposal, our committee would like to thank the leadership of the House Committee on Energy and Commerce, particularly the gentleman from Michigan [Mr. DINGELL], the chairman, and at the appropriate time we will have inserted in the RECORD a letter from the chairman of the committee.

The compromise also contains a public education program on the impacts of plastics on the marine environment that was in the House bill and in the Senate committee bill.

Finally subtitle III applies to the New York bight restoration plan. It combines elements from the House bill and the Senate bills. It calls for a 6-month study of plastics in the New York bight, and this was authored by the gentleman from New Jersey [Mr. HUGHES] and the other gentleman from New Jersey [Mr. HOWARD].

It directs the Environmental Protection Agency to undertake a major New York bight restoration plan that will identify the sources of pollution in the

bight and methods to reduce those sources, and that was offered by the entire New Jersey delegation with the cooperation of the Senator from New Jersey as well.

Mr. Chairman, in the spirit of this package, this represents our best efforts to obtain a compromise reflecting the views of both sides of the aisle on this committee and of the relevant committees of jurisdiction in the Senate.

ADDITIONAL EXPLANATION OF SECTION 2202, EPA STUDY OF METHODS TO REDUCE PLASTIC POLLUTION

The study of methods to reduce plastic pollution required by section 2202 of the amendment shall focus on two distinct components of the plastic waste problem: plastic in the marine environment, especially as it effects marine life and contributes to the aesthetic degradation or economic losses in beach, coastal and waterfront areas; and plastic in the solid waste stream. Witnesses testifying before congressional committees noted that plastic comprises an increasing percentage of the waste that is filling landfills. Critical shortages of landfill capacity are predicted for several States within the next decade.

EPA, in consultation with NOAA, shall undertake a study describing the adverse effects that the disposal, both proper and improper, of plastics have on the environment, including the effects on fish and wildlife and the habitat of such species and the effects on beaches and other waterfront areas. The study shall identify the various means that are or, due to technological advances, may be available, to control or eliminate such adverse effects.

The study shall also evaluate the relative impact of plastics, as compared to other wastes, on the solid waste stream. The study shall include a compilation of improper disposal practices and associated specific plastic articles that occur in the environment with sufficient frequency to cause death or injury to fish or wildlife, affect adversely the habitat of fish or wildlife, contribute significantly to aesthetic degradation or economic losses in beach, coastal or waterfront areas, endanger human health or safety, or cause other significant impacts. In compiling such a list, it is the intention of Congress that EPA draw on existing studies, such as The Use and Disposal of Non-Biodegradable Plastic in the Marine and Great Lakes Environment, EPA contract number 68-02-4228.

The study shall also evaluate the land-based sources of marine and aquatic plastic pollution, such as landfills and municipal sources, and identify whether improved enforcement of existing laws or regulations is necessary. The study shall evaluate the feasibility and desirability of substitutes for those articles identified in the list under paragraph (1), including comparisons between the article identified and the substitute with regard to relative environmental risks, cost effectiveness, disposability, durability, impact on public health and safety, and the availability of such alternatives.

The study shall include an evaluation of the feasibility, and if feasible, the desirability of using recycling initiatives (including recovery of energy value), to reduce the amount of plastic entering the solid waste stream, including an analysis of the status of and need for public and private research and development to develop and market recycled plastics. The Congress realizes that if recycling of plastics is to become an economically viable alternative, it will be necessary to develop new uses for recycled plastics and analyze methods to facilitate the recycling of plastic materials by identifying different types of plastic material in common use and identifying methods to aid in the sorting of such different materials. Congress realizes that one obstacle to recycling of plastics is the many different plastic materials in common use. The study shall recommend methods for sorting plastic to facilitate recycling, including the desirability and feasibility of standardizing the types of plastic materials, considering protection of public health and trade secrets.

The study shall include an analysis of incentives, including deposits on plastic containers, to increase the supply of plastic material for recycling, and to decrease the amount of plastic debris, especially in the marine environment.

The effect of existing tax laws on the manufacture and distribution of virgin plastic material as compared with recycled material shall be addressed in the study. This part of the analysis should be conducted in consultation with the Secretary of the Treasury and the Secretary of Commerce, and should focus on whether a bias exists to favor virgin over recycled materials. The study shall include recommendations regarding measures, including fees or tax incentives, that can be implemented by the Federal Government or Congress to promote the development of new uses for recycled plastic articles. Recommendations shall be included regarding measures that can be implemented to provide incentives for manufacturers of plastic articles to consider reuse and recycling in product design.

The study shall make recommendations regarding a public education campaign, carried out under another section of this act, to promote any environmental and economic advantages to recycling of plastic materials. The study shall also include a list of recycled plastic products which could be purchased by the Federal Government.

The study shall include an evaluation of the feasibility of making articles identified under paragraph (1) from degradable plastic materials, taking into account the risk to human health and the environment, the properties of the end-products of the degradation of plastic materials, including biotoxicity, potential for bioaccumulation, persistence and fate within the environment under various physical conditions.

The study of degradable plastics should address the efficiency and variability of degradation due to differing environmental and biological conditions, and the relative benefits and purpose of such articles, including the duration for which such article was designed to remain intact, paying particular attention to the protection of human health, technical considerations and cost considerations.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. Mr. Chairman, I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I certainly agree with the explanation of the gentleman from Massachusetts [Mr. STUDDS]. I agree with his assessment of this amendment and I compliment him and of course the gentleman from New York [Mr. LENT] and other people on the Committee on Public Works and Transportation who worked toward this solution. This is an example of what can be done as thinking people get together and solve a problem.

The gentleman from New Jersey [Mr. HOWARD] and everybody else worked very well on this legislation. I want to compliment them.

Mr. STUDDS. Mr. Chairman, may I finally state my appreciation to the gentleman from Alaska [Mr. YOUNG] and to the minority Members as well and to the hard-working staff of the Committee on Merchant Marine and Fisheries who have had very little sleep in the past few days.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title III.

The text of title III is as follows:

TITLE III—MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Science, Technology, and Policy Development Act of 1987".

Subtitle A—National Sea Grant College Program Authorization

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "National Sea Grant College Program Authorization Act of 1987".

SEC. 3102. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3103. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated) the following:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources resulting from growing coastal area popula-

tions and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely.".

(2) Subsection (b) is amended by striking "ocean and coastal resources" and all that follows through the end of such subsection and inserting in lieu thereof the following: "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems.".

SEC. 3104. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'director of a sea grant college' means a person designated by their university or institution to direct a sea grant college, program, or regional consortium.";

(3) by striking paragraphs (6) and (7) and inserting in lieu thereof the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' means—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of a living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) CONFORMING AMENDMENTS RELATING TO GREAT LAKES RESOURCES.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking "ocean and coastal resources" each place it appears and inserting in lieu thereof "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3103(a)(A) of this subtitle).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of Section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204.

(E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a).

(F) Paragraph (1) of section 209(c).

(G) Section 210.

(2) Paragraph (5) of section 204(c) is amended by striking "ocean and coastal resource" and inserting in lieu thereof "ocean, coastal, and Great Lakes resources".

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking "Administrator" each place it appears and inserting in lieu thereof "Under Secretary".

SEC. 3105. CONTRACTS AND GRANTS.

(a) MINIMIZATION OF PRIOR APPROVAL REQUIREMENTS.—Section 205 (33 U.S.C. 1124) is amended by adding at the end of subsection (d)(1) the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize any requirements of prior Federal approval.".

(b) ACCEPTANCE OF FUNDS FROM OTHER FEDERAL AGENCIES.—Section 204(d)(6) is amended by striking "under section 205(a)".

SEC. 3106. SEA GRANT STRATEGIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) GRANT AND CONTRACT AUTHORITY.—The Under Secretary may make grants and enter into contracts to carry out the strategic research program provided for under this section. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) STRATEGIC RESEARCH PLAN.—Within 1 year after the effective date of the Marine Science, Technology and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan for the next 3 years. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with oceans, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research in those fields.

"(c) CONSULTATION AND CONGRESSIONAL REVIEW.—

"(1) CONSULTATION.—In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies; sea grant directors; other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia; non-governmental marine scientists; and other interested parties, both public and private.

"(2) SUBMITTAL TO CONGRESS.—Upon publication of each sea grant strategic research plan under subsection (b), the Under Secretary shall submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Merchant Marine and Fisheries of the House of Representatives.

"(3) RESTRICTION ON GRANTS AND CONTRACTS.—The Under Secretary shall not make a grant or enter into a contract under this section for priority area research under a strategic research plan before the 45th day after the date of receipt of the plan by the Committees referred to in paragraph (2).

"(d) CRITERIA FOR AREAS TO BE INCLUDED IN PLAN.—In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) critical resource and environmental areas that are precluded from adequate funding under other provisions of this Act because of—

"(A) their national, international, or global scope, fundamental nature, or long-range aspects;

"(B) the scale of the needed research effort; or

"(C) the need for the broadest possible university inolvement; and

"(2) areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) CONTRACT AND GRANT REQUIREMENTS.—Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made and contracts entered into, under this section.

(b) REGULATIONS.—Within 1 year after the effective date of this title, the Under Secretary of Commerce for Oceans and Atmosphere shall adopt rules and regulations in accordance with section 553 of title 5, United States Code, to carry out section 206(a), after giving notice and opportunity for full participation by relevant Federal agencies; State agencies; local governments; regional organizations; nongovernmental marine scientists; sea grant directors and other representatives of sea grant colleges, programs, and regional consortia; and other interested parties, both public and private.

SEC. 3107. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) IN GENERAL.—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) DEAN JOHN A. KNAUSS MARINE POLICY FELLOWSHIP.—The Under Secretary may award marine policy fellowships to support the placement of individuals at the graduate level of education in fields related to ocean, coastal and Great Lakes resources in positions with the executive and legislative branches of the United States Government. A fellowship awarded under this subsection shall be for a period of not more than 1 year.

"(c) POSTDOCTORAL FELLOWSHIP.—The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(1) shall be for 2 years;

"(2) may be renewed once for not more than 2 years;

"(3) shall be awarded on a nationally competitive basis;

"(4) may be used at any institution of post-secondary education involved in the national sea grant college program;

"(5) shall be for up to 100 percent of the total cost of the fellowship;

"(6) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206; and

"(7) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.".

SEC. 3108. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking the matter preceding paragraph (1) and inserting "The Panel shall

advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) by inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking the second sentence of paragraph (1) and inserting in lieu thereof the following: "The Director and a director of a sea grant program who is elected by the various directors of sea grant programs shall serve as nonvoting members of the panel.";

(B) by striking "five" in paragraph (1) and inserting in lieu thereof "8";

(C) by adding at the end of paragraph (2) the following: "At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

(D) by striking "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting in lieu thereof "office.".

SEC. 3109. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended to read as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) IN GENERAL.—The Under Secretary may provide annual grants during fiscal years 1988 through 1990 to institutions eligible under subsection (b) to assist the institutions in achieving the following objectives:

"(1) Development and improvement of curriculum offering in marine affairs and resource management at the graduate level, and development of related educational materials.

"(2) Fostering support of graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) Increasing multidisciplinary research in marine resources management.

"(b) ELIGIBILITY.—An institution is eligible for grants under this section if it is a sea grant college, sea grant regional consortium, or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) APPLICATIONS.—Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) LIMITATIONS ON GRANTS.—No grant in excess of $400,000 may be made to an eligible institution under this section for any year, and no more than 2 annual grants may be made to any such institution.

"(e) REPORT BY GRANT RECIPIENT.—Each institution receiving a grant under this subsection shall report to the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the activities conducted with the grant."

SEC. 3110. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out the provision of this Act other than sections 206 and 211, an amount—

"(1) for fiscal year 1988, not to exceed $41,500,000;

"(2) for fiscal year 1989, not to exceed $50,500,000; and

"(3) for fiscal year 1990, not to exceed $51,000,000.

"(b) STRATEGIC MARINE RESEARCH.—There is authorized to be appropriated to carry out section 206 and section 208(c), an amount—

"(1) for fiscal year 1988, not to exceed $500,000;

"(2) for fiscal year 1989, not to exceed $5,000,000; and

"(3) for fiscal year 1990, not to exceed $10,000,000.

"(c) MARINE AFFAIRS AND RESOURCE MANAGEMENT GRANTS.—There is authorized to be appropriated to carry out section 211, an amount—

"(1) for fiscal year 1988, not to exceed $2,000,000;

"(2) for fiscal year 1989, not to exceed $2,500,000; and

"(3) for fiscal year 1990, not to exceed $3,000,000.

"(d) AVAILABILITY OF SUMS.—Sums appropriated pursuant to this section shall remain available until expended.

"(e) REVERSION OF UNOBLIGATED AMOUNTS.—The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by the person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year thereafter shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.".

SEC. 3111. SEA GRANT INTERNATIONAL PROGRAM

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM

"(a) IN GENERAL.—The under Secretary of Commerce for Oceans and Atmosphere may enter into contracts and make grants under this section to—

"(1) enhance cooperative international research and educational activities on ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other Federal civilian agency international initiatives whose purposes are fundamentally related to research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources; and

"(6) enhance regional collaboration between foreign nations and the United States with respect to marine scientific research, including activities which improve understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in—

"(A) the Caribbean and Latin American regions;

"(B) the Pacific Islands region;

"(C) the Arctic and Antarctic regions;

"(D) the Atlantic and Pacific Oceans; and

"(E) the Great Lakes.

"(b) ELIGIBILITY, PROCEDURES, AND REQUIREMENTS.—Any sea grant college, sea grant program, or sea grant regional consortium, and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State, as defined in section 203(14) of the National Sea Grant College Program Act (33 U.S.C. 1122(14)), may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of the National Sea Grant College Program Act (33 U.S.C. 1124(d) (2) and (4)) and to any other requirements that the Under Secretary considers necessary and appropriate.".

Subtitle B—Great Lakes Mapping

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

SEC. 3202. GREAT LAKES SHORELINE MAPPING PLAN.

(a) PREPARATION OF PLAN.—Not later than nine months after the date of the enactment of this subtitle, the Director, in consultation with the Director of the United States Geological Survey, shall submit to the Congress a plan for preparing maps of the shoreline of the Great Lakes under section 3203.

(b) CONTENT OF PLAN.—A plan prepared under paragraph (1) shall include—

(1) a work proposal and a division of responsibilities between the National Oceanic and Atmospheric Administration and the United States Geological Survey;

(2) a time schedule for completion of maps;

(3) recommendation of funding needed for preparing the maps; and

(4) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of erosion or flooding.

SEC. 3203. PREPARATION OF GREAT LAKES SHORELINE MAPS.

(a) IN GENERAL.—The following completion of a shoreline mapping plan under section 3202 and subject to authorization and appropriation of funds, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes.

(b) CONTENT OF MAPS.—Maps prepared under this section—

(1) shall include—

(A) bathymetry of the nearshore area, to the extent that this area will affect coastal erosion and flooding;

(B) topography of the adjacent shoreline, to the extent that this area will directly affect or be affected by coastal erosion and flooding;

(C) the geological conditions of the nearshore area and shoreline to the extent that

these areas will directly affect or be affected by coastal erosion and flooding;

(D) information on the recent geological past of the nearshore area and shoreline areas described in paragraph (3); and

(E) appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes;

(2) shall be of appropriate scale and detail and take into account the greater informational needs of areas subject to a high risk or erosion or flooding; and

(3) to the maximum extent practicable, shall be consistent with similar shoreline maps prepared by, or for the used of, the Government of Canada.

(c) CONSULTATION.—In preparing maps under this section, the Director shall consult with, and take into consideration, the information needs of—

(1) the Army Corps of Engineers;

(2) the Federal Emergency Management Agency;

(3) other appropriate Federal agencies;

(4) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(5) appropriate local government units; and

(6) the general public.

(d) AVAILABILITY OF MAPS.—The Director shall make maps prepared under this section available to—

(1) Federal agencies;

(2) State governments;

(3) local government units;

(4) the Government of Canada; and

(5) the general public.

(e) RECOVERY OF COSTS.—The costs of reproducing and distributing maps prepared under this section may be recovered under section 9701 of title 31, United States Code, or another law.

SEC. 3204. CONTRACT AUTHORITY.

The Director may, subject to appropriations, enter into contracts and agreements on a reimbursable or cost-sharing basis with other Federal agencies, State governments, local governments, and private entities, to carry out this subtitle.

SEC. 3205. DEFINITIONS.

For purposes of this subtitle—

(1) The term "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(2) The term "Great Lakes" means Lake Erie, Lake Huron, Lake Michigan, Lake Ontario, Lake St. Clair, Lake Superior, the Saint Mary's River, the Saint Clair River, the Detroit River, the Niagara River, the Saint Lawrence River to the Canadian border, to the extent such lakes and rivers are subject to the jurisdiction of the United States.

(3) The term "high risk of erosion" means subject to erosion at a rate greater than 1 foot per year.

SEC. 3206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 3202 not more than $100,000 for fiscal year 1988. Amounts appropriated pursuant to this section shall remain available until expended.

The CHAIRMAN. Are there any amendments to title III?

The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL

SEC. 4001. SHORT TITLE.

This title may be cited as the "Driftnet Impact Monitoring, Assessment, and Control Act of 1987".

SEC. 4002. FINDINGS.

The Congress finds that—

(2) the use of long plastic driftnets is a fishing technique that may result in the entanglement and death of enormous numbers of target and nontarget marine resources in the waters of the North Pacific Ocean, including the Bearing Sea;

(2) there is a pressing need for detailed and reliable information on the number of marine resources that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded; and

(3) increased efforts are necessary to monitor, assess, and reduce the adverse impacts of driftnets.

SEC. 4003. DEFINITIONS.

As used in this title—

(1) DRIFTNET.—The term "driftnet" means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length.

(2) DRIFTNET FISHING.—The term "driftnet fishing" means a fish-harvesting method in which a driftnet is placed in water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(3) EXCLUSIVE ECONOMIC ZONE OF THE UNITED STATES.—The term "exclusive economic zone of the United States" means the zone defined in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(b)).

(4) MARINE RESOURCES.—The term "marine resources" includes fish, shellfish, marine mammals, seabirds, and other forms of marine life or waterfowl.

(5) MARINE RESOURCES OF THE UNITED STATES.—The term "marine resources of the United States" means—

(A) marine resources found in, or which breed within, areas subject to the jurisdiction of the United States, including the exclusive economic zone of the United States; and

(B) species of fish, wherever found, that spawn in the fresh or estuarine waters of the United States.

(6) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 4004. MONITORING AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary, through the Secretary of State and in consultation with the Secretary of Interior, shall immediately initiate, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for statistically reliable cooperative monitoring and assessment of the numbers of marine resources of the United States killed and retrieved, discarded, or lost by the foreign government's driftnet fishing vessels. Such agreements shall provide for—

(1) the use of a sufficient number of vessels from which scientists of the United States and the foreign governments may observe and gather statistically reliable information; and

(2) appropriate methods for sharing equally the costs associated with such activities.

(b) REPORT.—The Secretary, in consultation with the Secretary of State, shall provide to the Congress not later than 1 year after the date of enactment of this Act a full report on the results of negotiations under this section.

SEC. 4005. IMPACT REPORT.

(a) IN GENERAL.—The Secretary shall provide to the Congress within 1 year after the date of the enactment of this Act, and at such other times thereafter as the Secretary considers appropriate, a report identifying the nature, extent, and effects of driftnet fishing in waters of the North Pacific Ocean on marine resources of the United States. The report shall include the best available information on—

(1) the number and flag state of vessels involved;

(2) the areas fished;

(3) the length, width, and mesh size of driftnets used;

(4) the number of marine resources of the United States killed by such fishing;

(5) the effect of seabird mortality, as determined by the Secretary of the Interior, on seabird populations; and

(6) any other information the Secretary considers appropriate.

(b) INFORMATION FROM FOREIGN GOVERNMENTS.—The Secretary, through the Secretary of State, shall—

(1) request relevant foreign governments to provide the information described in subsection (a), and

(2) include in a report under this section the information so provided and an evaluation of the adequacy and reliability of such information.

SEC. 4006. ENFORCEMENT AGREEMENTS.

(a) NEGOTIATIONS.—The Secretary shall immediately initiate, through the Secretary of State and in consultation with the Secretary of the Department in which the Coast Guard is operating negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fishing that results in the taking of marine resources of the United States in waters of the North Pacific Ocean outside of the exclusive economic zone and territorial sea of any nation, for the purpose of entering into agreements for effective enforcement of laws, regulations, and agreements applicable to the location, season, and other aspects of the operations of the foreign government's driftnet fishing vessels. Such agreements shall include measures for—

(1) the effective monitoring and detection of violations;

(2) the collection and presentation of such evidence of violations as may be necessary for the successful prosecution of such violations by the responsible authorities;

(3) reporting to the United States of penalties imposed by the foreign governments for violations; and

(4) appropriate methods for sharing equally the costs associated with such activities.

(b) CERTIFICATION FOR PURPOSES OF FISHERMEN'S PROTECTIVE ACT OF 1967.—If the Secretary, in consultation with the Secretary of State, determines that a foreign government has failed, within 18 months after the date of the enactment of this Act, to enter into and implement an agreement under subsection (a) or section 4004(a) that is adequate, the Secretary shall certify such fact to the President, which certification

shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

SEC. 4007. EVALUATIONS AND RECOMMENDATIONS.

(a) MARKING, REGISTRY, AND IDENTIFICATION SYSTEM.—The Secretary shall evaluate, in consultation with officials of other Federal agencies and such other persons as may be appropriate, the feasibility of and develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable method for the determination of the origin by vessel, of lost, discarded, or abandoned driftnets and fragments of driftnets. In conducting such evaluation, the Secretary shall consider the adequacy of existing driftnet identification systems of foreign nations and the extent to which these systems achieve the objectives of this title.

(b) ALTERNATIVE DRIFTNET MATERIALS.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the use of alternative materials in driftnets for the purpose of increasing the rate of decomposition of driftnets that are discarded or lost at sea.

(c) DRIFTNET BOUNTY SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of and develop appropriate recommendations for the implementation of a driftnet bounty system to pay persons who retrieve from the exclusive economic zone and deposit with the Secretary lost, abandoned, and discarded driftnet and other plastic fishing material.

(d) DRIFTNET FISHING VESSEL TRACKING SYSTEM.—The Secretary, in consultation with such other persons as may be appropriate, shall evaluate the feasibility of, and develop appropriate recommendations for, the establishment of a cooperative driftnet fishing vessel tracking system to facilitate efforts to monitor the location of driftnet vessels.

(e) REPORT.—The Secretary shall transmit to the Congress not later than 18 months after the date of the enactment of this Act a report setting forth—

(1) the evaluations and recommendations developed under subsections (a), (b), (c), and (d);

(2) the most effective and appropriate means of implementing such recommendations;

(3) any need for further research and development efforts and the estimated cost and time required for completion of such efforts; and

(4) any need for legislation to provide authority to carry out such recommendations.

SEC. 4008. CONSTRUCTION WITH OTHER LAWS.

This title shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in existing law on the date of the enactment of this Act.

SEC. 4009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Commerce and the Department of State, such sums as may be necessary to carry out the purposes of this title.

The CHAIRMAN. Are there any amendments to title IV?

The Clerk will designate title V.

The text of title V is as follows:

TITLE V—MISCELLANEOUS

SEC. 5001. JONES ACT MODIFICATIONS.

Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), is amended—

(1) by inserting "(a)" after "SEC. 27.";

(2) in the first sentence by striking "Treasury" and inserting in lieu thereof "Treasury, or in the case of valueless material the actual cost of transportation"; and

(3) by adding at the end the following:

"(b)(1) For the purpose of this section, the term 'merchandise' includes valueless material.

"(2) This section applies to the transportation of valueless material from a point or place in the United States to a point or place on the high seas within the Exclusive Economic Zone, as defined in the Presidential Proclamation of March 10, 1983.

"(c)(1) The transportation of any platform jacket in or on a launch barge shall not be deemed transportation subject to this section if—

"(A) the launch barge—

"(i) has a carrying capacity of 12,000 long tons or more;

"(ii) was built or under construction as of the date of the enactment of this paragraph; and

"(iii) is documented under the laws of the United States; and

"(B) the platform jacket cannot be transported on and launched from a launch barge of lesser capacity.

"(2) Notwithstanding the provisions of this section, a vessel may transport municipal sewerage to a deep water disposal site designated by the Administrator of the Environmental Protection Agency under the Marine Protection, Research, and Sanctuaries Act of 1973 (33 U.S.C. 1401 et seq.) if that vessel is documented under the laws of the United States and—

"(A) is under construction for use for a municipality for the transportation of sewerage sludge on the date of the enactment of this paragraph; or

"(B) is under contract with a municipality for the transportation of sewerage sludge on the date of the enactment of this paragraph.".

SEC. 5002. TOWING OF VALUELESS MATERIAL BY U.S. TUG.

Section 4370(a) of the Revised Statutes of the United States (46 U.S.C. App. 316(a)) is amended by adding at the end the following: "This section applies to the towing of a vessel transporting valueless material from a point or place in the United States to a point or place on the high seas within the Exclusive Economic Zone, as defined in the Presidential Proclamation of March, 10, 1983.".

SEC. 5003. EXEMPTION FROM RESTRICTION ON SUBSIDIZED OPERATORS.

For the purpose of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1223(a)), a vessel described in section 5003(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise services, but the prohibitions of the second paragraph of section 805(a) apply to that vessel.

SEC. 5004. LIMITATION ON DOCUMENTATION.

Notwithstanding another law, the Secretary of the Department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 of title 46, United States Code, endorsed to restrict the use of a vessel to which such a certificate is issued to the transportation of valueless material in the coastwise trade, to a vessel that—

(1) is engaged in transporting only valueless material in the coastwise trade;

(2) had a certificate of documentation issued under section 12105 of that title on October 1, 1987;

(3) has been sold foreign or placed under a foreign registry before the certificate was issued; and

(4) was built in the United States.

The CHAIRMAN. Are there amendments to title V?

AMENDMENT OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUDDS: Strike title V and amend the table of contents in section 2 accordingly.

Mr. STUDDS. Mr. Chairman, this amendment simply strikes title V. Unfortunately, although we were hoping up to the last moment that this title would qualify under the criteria that we set for ourselves for inclusions of components in this bill; namely, that it meet with unanimity or as close as we could get unanimity among the minority and majority of this body and the other body, we were unfortunately unable to obtain clearance in the other body in places where necessary and consequently in compliance with my commitment to members of the Committee on Merchant Marine and Fisheries not to bring to the floor anything that did not meet those criteria, we are now moving to strike this title.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. Mr. Chairman, I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, I agree with the gentleman from Massachusetts [Mr. STUDDS] on this issue, because we do have that agreement. If something was controversial we have agreed to drop it. That is being done under this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment was agreed to.

The CHAIRMAN. The Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI

§ 6001. Declaration of Disaster

Notwithstanding any other provision of law, rule, or regulation, upon the date of the enactment of this Act, the Administrator of the Small Business Administration shall declare the recent North Carolina coast red tide contamination a disaster for purposes of section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

§ 6002. Provision of Assistance

Notwithstanding any other provision of law, rule, or regulation, for purposes of providing assistance under paragraph (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)(2)) for a disaster declared under section 1 of this Act, eligibility of individual applicants for assistance shall not in any way be dependent on—

(1) the number of disaster victims in any county or other political subdivision; or

(2) whether or not an applicant who normally conducts operations in the area of the recent North Carolina coast red tide contamination is otherwise situated or located in such area; or

(3) the type of business or industry in which the applicant is engaged.

§ 6003. Recent North Carolina Coast Red Tide Contamination, Defined

For purposes of this Act, the term "recent North Carolina coast red tide contamination" means contamination of waters under the jurisdiction of the State of North Carolina by unusually high concentrations of the algae known as Ptychodiscus brevis (commonly referred to as "red tide"), with respect to which the Director of the Division of Marine Fisheries of the North Carolina Department of Natural Resources issues a shellfishing closure proclamation on or after November 2, 1987.

The CHAIRMAN. Are there any amendments to title VI?

Mr. HUGHES. Mr. Chairman, I move to strike the last word.

Mr. HUGHES. Mr. Chairman, I do not have any amendment to the bill, and I strongly support the bill. H.R. 3667, the United States-Japanese Governing International Fishing Agreement is an important piece of legislation. I strongly support the driftnet provisions, the plastics pollution provisions that implement annex 5 of the international convention, and the other provisions that have been tacked on to this bill.

I must say, however, that I am very, very disappointed that we do not have next to this bill a provision that I offered in committee to another bill, offered by myself, the gentleman from New Jersey [Mr. SAXTON], the gentleman from Delaware [Mr. CARPER], and the gentleman from Maryland [Mr. DYSON], which deals with ocean dumping.

Mr. Chairman, there is nothing that has occupied more of my time in the Congress than the problem of ocean dumping off the east coast of the United States.

This past summer in New Jersey as well as other parts along the east coast we had major problems with kinds of things washing up on our beaches, plastics of all kinds, hospital wastes, trash, and garbage. We have been dumping for a number of years 12 miles off our beach sewage sludge which has created a virtual dead sea about 12 miles off of the Jersey coast in an area that we call the New York bight, and now we have moved that sludge dumping out to the 106-mile sight.

I do not want to suggest that much of the material that washed up on the Jersey beaches jeopardizing our multibillion dollar tourist economy comes from the sludge out there but we have some major concerns that the sludge perhaps may be one of the problems we are now experiencing with mammals.

Last summer we have a number of dolphin deaths. Many of our fisheries are concerned that perhaps the sludge dumping at the 106-mile sight is now going to impact another major industry in the New Jersey, the commercial fishing industry. We just do not know what impact it will have and what we would like to do is phase out all harmful ocean dumping. We thought we were doing that back in 1977 when I introduced a bill before the Committee on Merchant Marine and Fisheries. We had a major battle in committee and a major battle on the floor over that matter. We made some progress in moving out of our oceans a whole host of polluters. We had over 200 chemical dumpers, and we are down to two today. We have made major progress with the municipal dumpers. Philadelphia was forced out of the ocean, and they were fined over $300,000. They have now gone to composting. They are reclaiming land outside of the city of Philadelphia. They are creating a useful product and they are not dumping in the ocean as a result of that 1977 ban that was to phase out all harmful ocean dumping by December 31, 1981.

What happened? Well, in 1981 New York City brought suit against the Environmental Protection Agency and under Mrs. Burford's command she basically made a deal with the city of New York and they undercut our legislation basically throttling it so that, in fact, we no longer had the momentum going with us and as a result New York City and a number of northern New Jersey communities now still dump in the ocean.

In fact, north Jersey communities dump as much as New York City into the ocean.

Recently the State of New Jersey made a decision that we will bite the bullet and we are going to say that 1991, which is the new target date, the new phaseout date of the 106-mile site, that 1991 will be that phaseout date. We do that to send a clear signal to those who want to dump in the ocean because it is cheap, we say that 1991 is the new date which is when we want the dumpers out of the ocean.

What I had hoped to do today was to introduce an amendment which would be relevant to this bill that would basically lock in concrete the Environmental Protection Agency's decision to phase out all dumping of municipal sludge by December 31, 1991. My colleague, the gentleman from New Jersey [Mr. HOWARD] is here, and I know that nobody has worked harder to try to phase out harmful ocean dumping than my colleague from New Jersey, the chairman of the Committee on Public Works and Transportation.

He knows what impact it has had on our State. We are scared to death we are going to lose a multibillion dollar tourist economy. We saw what happened last summer in the last 2 weeks in August when people found out that the ocean may not be safe to swim in. We lost tourists in droves. One could get a room in a hotel in mid-August that could not be touched a year before. People are now afraid to swim in our ocean.

(By unanimous consent, Mr. HUGHES was allowed to proceed for 2 additional minutes.)

Mr. HUGHES. Mr. Chairman, I was taught that the ocean had medicinal value, that if one had athlete's foot, for example, one could go into the ocean and that was good for it, it was healthy. Today a lot of parents are afraid to let their kids swim in the ocean along the east coast. It is sad.

I mentioned the commercial fishing industry. People are afraid to eat seafood caught off our beaches. Some of the merchants in our area are advertising that they are not selling New Jersey products, but they are selling products from Massachusetts. I know that makes my colleague, the gentleman from Massachusetts [Mr. STUDDS], happy, but they are bringing in seafood from other parts of the country and it is not products from off our coast. We have a serious problem. I am not going to introduce the amendment today because I know it is controversial and I know that it would perhaps slow down if not perhaps derail this important piece of legislation.

Also, I have an understanding with the chairman of the Committee on Merchant Marine and Fisheries, chaired by the gentleman from North Carolina [Mr. JONES], who understands my problem and agrees that we will give this matter attention after the first of the year. Also, a commitment from the gentleman from Massachusetts [Mr. STUDDS], whom I have worked with over a number of years on the Committee on Merchant Marine and Fisheries that we will hold additional hearings if needed and move some legislation to deal with the problem and also hopefully move the Pacific tuna legislation where I do have a little provision like this tacked on, hopefully after the first of the year to deal with I think one of New Jersey's most serious problems.

Mr. Chairman, I have no amendment, but I hope my colleagues are sensitive to our concerns in New Jersey.

Mr. HOWARD. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. Mr. Chairman, I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Chairman, I wish to express my strong support for this legislation. The Marine Plastic Pollution Research and Control Act of 1987 is the first step in an effort to develop a coordinated national strategy

to reduce and eliminate the problem of plastic pollution in our waterways. The indiscriminate disposal of plastics is an unnecessary, unjustifiable form of pollution that endangers the environment and wildlife and is made even worse by the fact these materials survive for centuries. We have the technology to protect our environment. It is time to start that effort.

The Committee on Merchant Marine and Fisheries deserves commendation for its work on this bill. Special praise is due to the chairman, the gentleman from North Carolina [Mr. JONES] and the gentleman from Massachusetts [Mr. STUDDS]. This bill has shown how our two committees can work together to move needed legislation.

The issue of plastic pollution has been a major concern to me for several years. The six-pack rings that are manufactured by the thousands and the plastic shopping bags that have become so prevalent in our stores have only magnified the problem of our disposable society. These plastics are disposed of in the ocean and they last for 500 years. The mistakes that we make today will be haunting the planet five centuries from now.

The growing nature of the problem became evident this summer at the New Jersey shore as we attempted to cope with massive garbage slicks that consisted of large amounts of plastics. It is likely that as the number of plastic items increases and the disposal problem continues, there will be more and more plastic pollution in the ocean. This bill will take us on the road to stop the growing trend of plastic pollution.

This legislation directs the Environmental Protection Agency to begin a comprehensive study of the effect of plastics on the environment including the possibility of the substitution of degradable materials, some of which may degrade naturally in the environment within 6 months.

The bill also directs the Secretary of Commerce to review the possibility of prohibiting, taxing, or regulating sources of plastic that enter the marine environment. It also includes an important, 3-year public education program on the harmful effects of plastic pollution.

Of special importance to me is the comprehensive New York Bight Restoration plan which is included in the bill. First, it would require the EPA to report to Congress within 6 months on the problem of plastic pollution in the ocean off the New Jersey shore and to make recommendations for eliminating the problem.

Second, a 3-year, $3 million study and cleanup plan for the New York bight is authorized. The New York bight, which is the corner of the ocean between New Jersey and New York, has been ravaged by pollution for decades. The fouling of our ocean waters has come from sewage discharges, sludge dumping, dredged material disposal, and other sources. We have been successful in recent years in reducing and eliminating these sources of pollution but a comprehensive cleanup plan is needed. This bill authorizes the plan. Special recognition should go to my colleague from New Jersey [BILL HUGHES], who has been working on a comprehensive restoration plan for several years.

Under this plan, EPA is required to assess the sources of pollution in the New York bight, determine methods for controlling them and provide recommendations for implementing economically feasible projects for pollution control.

In addition, the bill requires a report on alternatives to the ocean dumping of sewage sludge in the ocean. There is no question that those of us from the New Jersey shore will strongly oppose the redesignation of any ocean disposal site for sewage sludge after the designation of the 106-mile site expires in 1991. BILL HUGHES has already begun the effort in the Merchant Marine Committee. The 106-mile site is the only site in all the coastal waters of the United States where sewage sludge is legally dumped. Nobody else is forced to endure having tons of sewage sludge dumped off their beaches—the people who live in the area surrounding the New York bight should not be forced to endure it either. It would make good environmental sense to stop all sludge dumping today. However, since there are still a handful of authorities that use the ocean for their legal sludge dumping, that decision will be delayed until 1991.

The legislation indicates a decision on our part to take important steps to protect the marine environment and to clean up the New York bight. It will move us toward stopping the current practices that will leave a legacy of pollution that will require hundreds of years to clean up. A vote for this bill is a vote for cleaner oceans and I urge my colleagues to vote in favor of this.

The CHAIRMAN. Are there further amendments?

The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. MOAKLEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3674) to provide for congressional approval of the Governing International Fishery Agreement between the United States and Japan, pursuant to House Resolution 337, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as modified, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes apeared to have it.

Mr. SHUMWAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 13, not voting 38, as follows:

[Roll No. 498]

YEAS—382

Ackerman	Clinger	Fields
Akaka	Coats	Fish
Alexander	Coble	Flake
Anderson	Coelho	Flippo
Andrews	Coleman (MO)	Florio
Annunzio	Coleman (TX)	Foglietta
Anthony	Collins	Foley
Applegate	Combest	Ford (MI)
Archer	Conte	Frank
Aspin	Conyers	Frost
AuCoin	Cooper	Gallegly
Baker	Coughlin	Gallo
Ballenger	Courter	Garcia
Barnard	Coyne	Gaydos
Bartlett	Crockett	Gejdenson
Barton	Daniel	Gekas
Bateman	Darden	Gibbons
Bates	Daub	Gilman
Beilenson	Davis (IL)	Glickman
Bennett	Davis (MI)	Gonzalez
Bentley	de la Garza	Goodling
Bereuter	DeFazio	Gordon
Berman	Dellums	Gradison
Bevill	Derrick	Grandy
Bilbray	DeWine	Grant
Bilirakis	Dickinson	Gray (IL)
Bliley	Dicks	Gray (PA)
Boehlert	Dingell	Green
Boggs	DioGuardi	Guarini
Bonior	Dixon	Gunderson
Bonker	Donnelly	Hall (TX)
Borski	Dorgan (ND)	Hamilton
Boucher	Dornan (CA)	Hammerschmidt
Boulter	Downey	Hansen
Boxer	Dreier	Harris
Brennan	Duncan	Hastert
Brown (CA)	Durbin	Hatcher
Brown (CO)	Dwyer	Hayes (IL)
Bruce	Dymally	Hayes (LA)
Bryant	Dyson	Hefley
Buechner	Eckart	Hefner
Bunning	Edwards (CA)	Henry
Burton	Edwards (OK)	Herger
Bustamante	Emerson	Hertel
Callahan	English	Hiler
Campbell	Erdreich	Hochbrueckner
Cardin	Espy	Holloway
Carper	Evans	Horton
Carr	Fascell	Howard
Chandler	Fawell	Hoyer
Chapman	Fazio	Hubbard
Clarke	Feighan	Hughes

Hutto	Moakley	Shuster
Hyde	Molinari	Sikorski
Inhofe	Mollohan	Sisisky
Ireland	Montgomery	Skaggs
Jacobs	Moody	Skeen
Jeffords	Moorhead	Skelton
Jenkins	Morella	Slattery
Johnson (CT)	Morrison (CT)	Slaughter (NY)
Johnson (SD)	Morrison (WA)	Slaughter (VA)
Jones (NC)	Mrazek	Smith (FL)
Jones (TN)	Murphy	Smith (IA)
Jontz	Murtha	Smith (NE)
Kanjorski	Myers	Smith (NJ)
Kaptur	Nagle	Smith (TX)
Kasich	Natcher	Smith, Denny (OR)
Kastenmeier	Neal	Smith, Robert (NH)
Kennedy	Nichols	Smith, Robert (OR)
Kennelly	Nowak	Snowe
Kildee	Oakar	Solarz
Kleczka	Oberstar	Solomon
Kolbe	Obey	Spence
Konnyu	Olin	Spratt
Kostmayer	Ortiz	St Germain
Lagomarsino	Owens (NY)	Staggers
Lancaster	Owens (UT)	Stallings
Lantos	Oxley	Stangeland
Latta	Packard	Stark
Leach (IA)	Panetta	Stenholm
Leath (TX)	Parris	Stokes
Lehman (CA)	Pashayan	Stratton
Lehman (FL)	Patterson	Studds
Leland	Pease	Sundquist
Levin (MI)	Pelosi	Sweeney
Levine (CA)	Penny	Swift
Lewis (CA)	Perkins	Swindall
Lewis (FL)	Petri	Synar
Lewis (GA)	Pickett	Tallon
Lightfoot	Pickle	Tauke
Lipinski	Porter	Tauzin
Livingston	Price (IL)	Taylor
Lloyd	Price (NC)	Thomas (CA)
Lott	Pursell	Thomas (GA)
Lowery (CA)	Rahall	Torres
Lowry (WA)	Ravenel	Torricelli
Lujan	Ray	Towns
Luken, Thomas	Regula	Traficant
Lukens, Donald	Rhodes	Traxler
Lungren	Richardson	Udall
Mack	Ridge	Upton
MacKay	Rinaldo	Valentine
Madigan	Ritter	Vander Jagt
Manton	Roberts	Visclosky
Markey	Robinson	Volkmer
Marlenee	Rodino	Vucanovich
Martin (IL)	Roe	Walgren
Martin (NY)	Rogers	Watkins
Matsui	Rose	Waxman
Mavroules	Roth	Weber
Mazzoli	Roukema	Weldon
McCandless	Rowland (CT)	Wheat
McCloskey	Rowland (GA)	Whittaker
McCollum	Roybal	Whitten
McCurdy	Sabo	Williams
McDade	Saiki	Wilson
McEwen	Savage	Wise
McGrath	Sawyer	Wolf
McHugh	Saxton	Wolpe
McMillan (NC)	Scheuer	Wyden
McMillen (MD)	Schneider	Wylie
Meyers	Schroeder	Yates
Mfume	Schuette	Yatron
Mica	Schulze	Young (AK)
Michel	Schumer	
Miller (CA)	Sensenbrenner	
Miller (OH)	Sharp	
Miller (WA)	Shays	
Mineta	Shumway	

NAYS—13

Armey	DeLay	Nielson
Cheney	Frenzel	Stump
Craig	Hopkins	Walker
Crane	Hunter	
Dannemeyer	Kyl	

NOT VOTING—38

Atkins	Clay	Houghton
Badham	Dowdy	Huckaby
Biaggi	Early	Kemp
Boland	Ford (TN)	Kolter
Bosco	Gephardt	LaFalce
Brooks	Gingrich	Lent
Broomfield	Gregg	Martinez
Byron	Hall (OH)	Nelson
Chappell	Hawkins	Pepper
Quillen	Russo	Weiss
Rangel	Schaefer	Wortley
Roemer	Shaw	Young (FL)
Rostenkowski	Vento	

□ 1705

Mr. WALKER changed his vote from "yea" to "nay."

Messrs. DEFAZIO, DREIER of California, and ALEXANDER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read "A bill to provide congressional approval of the Governing International Fishery Agreement between the United States and Japan; to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships, 1973; to reauthorize the National Sea Grant College Program Act; to improve efforts to monitor, assess, and reduce the adverse impacts of driftnets; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENROLLMENT OF H.R. 3674

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical and conforming changes in the enrollment of the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RAIL SAFETY IMPROVEMENT ACT OF 1987

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 3743) to improve the safety of rail transportation and for other purposes and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. WALKER. Mr. Speaker, reserving the right to object, as I understand it, the way in which this bill is being brought up would be with an amendment that will then reduce the funding within the bill to a level which meets the original administration request, is that correct?

Mr. THOMAS A. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio [Mr. LUKEN].

Mr. THOMAS A. LUKEN. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from Pennsylvania is correct.

Mr. WALKER. So that we will have no budget problems of any kind with the bill as it finally emerges from this process?

Mr. THOMAS A. LUKEN. The gentleman is correct. I will introduce an amendment in the nature of a substitute to that effect.

Mrs. SLAUGHTER of New York. Mr. Speaker, I rise in strong support of H.R. 3743, the Rail Safety Improvement Act of 1987. This legislation will improve the safety of Americans who travel on our railroads. I am pleased that the Committee on Energy and Commerce, under the vigorous leadership of Chairman DINGELL, Subcommittee Chairman LUKEN, and the ranking minority members, has acted with diligence and speed to bring this well-crafted measure to the floor today. I am particularly gratified that this bill incorporates several provisions of legislation which I sponsored earlier this year, H.R. 3179.

One of these provisions will mandate installation of automatic train control [ATC] on all trains operating in the heavily traveled Northeast corridor [NEC] which runs from Boston to Washington, DC. The NEC is a high speed corridor serving more than 28,000 intercity railroad passengers daily on 97 trains moving at speeds of up to 125 miles per hour. Approximately 40 freight trains per day also operate on the NEC at speeds up to 50 miles per hour; a significant portion of the freight carried is hazardous material. In addition, commuter rail lines carry over 220,000 passengers every day on more than 750 trains.

The Department of Transportation has concluded that public safety can be enhanced by ensuring that trains obey rail signals and has stated, "The only system now capable of ensuring that a train is operated in conformity with signal indications is the automatic train control system."

The automatic train control system features two hardware elements—a signal transmission system located in the rail, and a receiver unit built into each locomotive. The Northeast corridor already has the transmission system installed in the track. Establishing automatic train control in the Northeast corridor therefore, would only require that each railroad operating on the NEC equip each locomotive with automatic train control receivers.

Automatic train control, or ATC, works when an electrical impluse in the rail is decoded by a receiver in the locomotive, establishing a signal in the cab. If the cab signal is changed to require a reduction in speed, the engineer must act within a certain timeframe—usually 8 seconds—to slow the train down. If the engi-

neer does not respond properly, the brakes will automatically be applied and the train brought safely to a stop. Mr. Speaker, it is widely acknowledged that automatic train control would have prevented the Chase, MD accident.

Mr. Speaker, this is not a controversial proposal. ATC is a technology that has long been used in railroad operations and has been proven to be reliable, as well as reasonable to maintain. It is widely recognized that ATC will make significant safety improvements in rail travel on the Northeast corridor. Yet the potential for a tragic accident similar to that which occurred in Chase, MD, exists in all rail corridors in the Nation which carry passengers, especially those that mix both passengers and freight. It is important that we do all we can to explore methods by which we might reduce the potential for accidents on rail corridors nationwide.

Toward this end, this legislation contains another provision from my original bill which requires DOT to conduct a study to determine the advisability and feasibility of requiring ATC on each rail corridor on which passengers are carried. The DOT would consult with Amtrak, frieight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers in its conduct of the study. The study includes an assessment of the risks of not requiring ATC on each corridor, cost-benefit analyses of requiring ATC on the corridors, as well as an investigation of alternative means of accomplishing the safety objectives envisioned by automatic train control.

Additionally, the legislation provides an additional tool for rail safety enforcement. The maximum penalty for safety violations is increased to $25,000. This would grant the Federal Railroad Administrator, as he has requested, additional discretion to levy a heavy punitive assessment in the case of a flagrant safety violation, or in the case of repeated noncompliance. The intent is that this authority would rarely be used. It would, however, be available for use in exceptional cases where conventional remedies fail to realize their intended effect.

Mr. Speaker, I believe this bill will make travel by rail safer for citizens who travel, not only in the Northeast corridor, but throughout the country. I urge my colleagues to join me in a resounding "yes" vote for passage of H.R. 3743 in the House.

Mr. LENT. Mr. Speaker, I am pleased to support H.R. 3743, the Rail Safety Improvement Act of 1987, a bill prepared through strong bipartisan cooperation and unanimously approved by the Energy and Commerce Committee. Because of this gratifying degree of bipartisan support and the recent passage of similar legislation by the Senate, I am hopeful that we can provide a full reauthorization of Federal rail safety activities for the first time in 4 years.

Early in 1987, 16 passengers traveling our Northeast corridor rail route lost their lives because our safety system failed. A freight locomotive, with its other safety devices disabled, and not equipped with the automatic train control that could have prevented the collision, moved directly into the path of an Amtrak passenger train, with tragic results. Today, we can take an important step to prevent such accidents in the future. The Rail Safety Improvement Act of 1987 requires the installation of automatic train control on all locomotives used on the Northeast corridor within the next 2½ years.

This bill will also cure a serious deficiency in the present safety laws—the complete absence of Federal safety enforcement authority over railroad personnel. Under this legislation, the Department of Transportation will have such jurisdiction, and will be able to impose sanctions on proven safety violators and remove them from safety-sensitive positions.

When we consider rail safety, we need to bear in mind who are the principal victims of safety lapses, including unsafe conduct, on the railroads. In 1985, railroad employees suffered 15 times the number of fatalities among rail passengers. A major part of the hazard to rail workers comes from reckless conduct by a few of their fellow workers, such as the disabling of potentially lifesaving safety devices. H.R. 3743 makes such tampering a specific safety violation. At the same time, it protects workers who diligently report safety violations by giving them specific legal remedies against management retaliation. The bill also maintains the confidentiality of employee safety reports and requires Federal authorities to evaluate in a rulemaking proceeding the need for safety standards to protect employees who maintain railroads' right-of-way. In sum, this bill strikes a fair and reasonable balance between the legitimate concerns of the employee and the public need to protect workers, travelers, and others against the unsafe actions of a few.

This bill also brings up to date the system of fines that the Department of Transportation may impose for safety violations. While the Department would have the usual discretion in seeking to impose fines as under present law, the limit of possible fines would be increased from $2,500 to $10,000, with an exceptional fine of up to $25,000 for grossly negligent or repeated serious violations. These changes will give Federal authorities the sanctions needed to deter safety violations if possible and to punish violators where appropriate.

This bill also strikes the proper balance between broad legislative policy directives and detailed administrative implementation through agency action. In several instances, notably the possible inspection standards for grade crossing equipment, safety standards for maintenance-of-way employees, and fencing standards for railroad yards, the Secretary of Transportation is directed to take action through administrative rulemaking to issue standards "as may be necessary." This scheme properly recognizes that legislators are not omniscient, and that safety measures should be tailored to the specific facts, as brought out in a full and fair hearing. The Secretary will then have the usual broad discretion in deciding whether to adopt rules or standards to address any need that has been demonstrated in the factual record. In this way, we can be confident that any rules and standards ultimately adopted are neither too weak to address a genuine need nor overly restrictive of prudent and efficient railroad operations.

H.R. 3743 also assures adequate qualification of persons in positions vitally affecting rail safety. It directs the establishment of a program of Federal approval of rail carriers' qualification standards for persons operating locomotives. Driving-record data stored in the National Driver Register would be included as a vital factor in this qualification process. The bill also requires an inquiry into the possible need for Federal standards governing the training of dispatchers.

In closing, I wish to commend the distinguished chairman of the Energy and Commerce Committee, the chairman of the Transportation Subcommittee, and the ranking Republican member of the subcommittee for their diligent and constructive efforts to fashion a strong bipartisan safety bill.

Mrs. COLLINS. Mr. Speaker, I want to commend my distinguished colleague from Ohio [Mr. LUKEN] for his leadership in bringing this critical legislation to improve safety procedures on our Nation's railroads to the House floor.

If there is one issue that deeply disturbs those who travel by train, it is the thought that engineers may be "highballing" down the track.

At the beginning of this year, we witnessed the tragic consequences when engineers operate trains under the influence of drugs or alcohol, 16 people were killed, and 170 were injured when an Amtrak train collided with a Conrail locomotive in Maryland.

As chairwoman of the Government Activities and Transportation Subcommittee, I conducted a hearing into the causes of this accident. My hearing confirmed many of the initial theories about the cause of this crash, including the fact that the Conrail engineer and breakman were apparently both under the influence of drugs at the time. Also, it appears certain safety equipment had been disabled on their locomotive.

Perhaps most important, the hearing brought out the need to improve certain railroad operating procedures. Thus, I introduced a bill, H.R. 718, to achieve this objective. First, the bill would require the Federal Railroad Administration to license all engineers. They would be required to demonstrate their knowledge of safety, right-of-way, equipment, and other operational information. The bill also would give the FRA access to the National Driver's Register. The register is maintained by the Department of Transportation and lists all drivers who have had their license suspended or revoked for committing serious driving offenses.

I am pleased that the bill offered by my distinguished colleague "tracks" many of these provisions. The bill establishes a program for licensing engineers and gives the FRA access to the driver's register.

The need for the former requirement is self-evident. Motorists, truckers, airline pilots, and commercial maritimers are all currently subject to licensing procedures. Indeed, rail engineers are the only operators of a mode of public transportation whose skills and knowledge are not tested by a governmental body.

With respect to the latter issue, common sense suggests that a train engineer who drives a car while impaired may be prone to

similar irresponsible behavior when he or she is at the throttle of a train, posing a direct threat to the safety of hundreds or thousands of people.

To illustrate this proposition, consider the driving record of the Conrail engineer in the Amtrak crash. He had a longstanding history of committing serious driving offenses and had been arrested shortly before the accident for drunk driving. I question whether Conrail would have hired this individual if they had been aware of his driving record. H.R. 3743 will correct this problem by giving the FRA the authority to look at certain aspects of a person's driving record to determine if they should be licensed as an engineer.

Finally, this bill gives those who have a serious drug or alcohol problem a "second chance." As I learned at another hearing by my subcommittee in February, two of the Nation's largest railroads, with the cooperation of their unions, have established "red block" programs. These programs are used to monitor whether railroad employees are violating company rules on the use of drugs or alcohol. If one employee believes another may be impaired on the job, they are supposed to confront such individuals about their problem. In turn, if this individual wants assistance, the railroad offers drug and alcohol abuse counseling. Where these programs have been implemented, they have provided invaluable services to those with substance abuse problems and improved the company's safety record considerably. H.R. 3743, again, will encourage the development of such programs.

As I have learned in my subcommittee, the Amtrak crash this past January was not an isolated episode. On the contrary, a number of serious railroad accidents over the past several years have involved engineers or other train personnel who were impaired on-the-job or not well versed in operating procedures.

The bill offered by our distinguished colleague is a strong step toward improving safety on our Nation's railroads and I urge my colleagues to support it.

Mr. MADIGAN. Mr. Speaker, the bill H.R. 3743, reported by the Energy and Commerce Committee on December 15, 1987, includes a provision which was subject to no hearings or testimony before the Congress. It would require the Department of Transportation:

To issue such rules, regulations, orders and standards as may be necessary to require the fencing of rail yards in heavily populated areas so as to prevent or deter injury of persons not employed by the rail carrier.

Since there has been no hearing record on this provision, members are being asked to require railroad yards to be fenced without the benefit of the facts.

While fencing may be an easy response to the problem of trespassers who are injured while on railroad property, the fact is that experience with fencing shows that it is an ineffective, impractical way to keep trespassers off railroad property and causes more serious problems than it purports to resolve. In an attempt to stop trespassing, the railroads have had a longstanding campaign to educate the public, especially school-age children, about its dangers. As an example, Conrail has worked with Ohio State University to prepare an educational film entitled "Trespass," and Association of American Railroads has produced a film on trespassing called David's Run. Since the Conrail film was produced in 1983, police officers have shown this film to 845,807 persons, mainly students at 10,255 locations. Union Pacific managers of safety services regularly speak to schoolchildren about the dangers of entering rail yards. They show the films "David's Run" and "Where did the Children Go," to illustrate these issues. Educating children is a more intelligent and cost-effective alternative to fencing, for several reasons.

First, in areas where fences have been erected, experience has shown that they have either been stolen, cut, dug under, or otherwise penetrated. This has been the experience in Philadelphia, New York, and Chicago, as well as in smaller cities and towns. There is no such thing as child-proofing a rail yard or any other private property.

Second, even if fences were required around railroad yards, there will still be gaps. For example, fences must have openings where public or private roadways cross the yard and where tracks, personnel, and vehicles enter and leave the premises. Rail yards need to be accessible, both in terms of entry and exit. If there were a serious incident in a yard, involving for example a chemical leak or explosion, railroad personnel would need to be able to quickly evacuate the yard area. A fence would trap them. Access is also necessary so that emergency and rescue personnel can reach the yard expeditiously. Fences would frustrate that objective. Thus, the perceived security of the fence is misleading because of the need to permit access. This fencing provision is the worst of both worlds. It could be dangerous to employees should the need arise to evacuate quickly, but at the same time, it will provide false security in a belief that trespassers are being kept out.

Perhaps the proponents of this provision are under the impression that the railroads have ignored injuries to trespassers. In fact, they have an ongoing educational campaign in the schools and in civic associations to educate the public about the danger of entering railroad property. In addition to its film "Trespass," one northeast railroad has prepared and contracted for a short television message to be shown throughout the region warning of the hazard of trespassing. In addition, the railroads post signs, and have their own police forces, some of which have trained dogs, that patrol yards to keep trespassers out. In addition, railroads have asked community police to rigorously enforce trespassing laws. Finally, recognizing that it isn't just unknowing children who trespass, the railroads have been persistent proponents of stiffer penalties for those apprehended for trespassing.

Finally, with regard to cost, the average price of 1 mile of 8-foot fencing is $200,000. Since Members are familiar with Conrail, it may be useful to use that railroad as an example. The cost of fencing Conrail would be several billion dollars—much more than the total value of Conrail itself. The cost of fencing only yards would represent a significant portion of that cost. If fences would stop or curtail trespassing accidents in selected areas, perhaps this cost could be justified. But this has not been demonstrated. Unfortunately, fences require continuous maintenance to repair breaks, cuts or places that have been dug under. In the absence of such maintenance, a railroad could be accused of negligence in a court of law, should a trespasser enter its property and be injured.

In short, the Congress is misleading itself and the public in legislating the fencing of railroad yards in heavily populated areas in the belief that trespassing incidents would be eliminated. It is not consistent with rational public policy to mandate such a large expense for a single industry, unless it can be proven to be cost-effective. The railroads have an excellent public education campaign aimed at youngsters who trespass. It sends the wrong signal when private industry, at its own expense and initiative, attempts to solve a problem only to be to be saddled with new legislated requirements. The provision should be deleted in conference. If Congress wants to deal with the problem of trespasser injuries, it should do so through the means of education and law enforcement.

Mr. RINALDO. Mr. Speaker, I want to associate myself with the remarks of the gentleman from Illinois [Mr. MADIGAN] and express my concerns about the fencing provision in this legislation.

It was included in the bill without the benefit of hearings, nor does it take into account the efforts made by Conrail and other railroads to prevent trespassing.

In 1983, in conjunction with Ohio State University, Conrail produced an educational film called "Trespass" which has been shown to nearly 1 million individuals in over 10,000 locations. Conrail is responding to this problem, but unfortunately the legislation before us mandates an effort which we are not at all certain will succeed.

This fencing provision is an expensive mandate that will significantly effect Conrail and other rail carriers.

The average cost of 8-foot fencing is $200,000 per mile. This means Conrail would have to spend several billion dollars to erect such barriers, even though they would not be permanent.

Again, I commend the gentlemen from Illinois for his work on this matter.

Mr. DINGELL. Mr. Speaker, the bill before the House, H.R. 3743, will reauthorize the Federal Railroad Safety Program for 3 years and enact a number of important improvements into law. This bill is a bipartisan, consensus measure supported by all members of the Energy and Commerce Committee.

Particular credit should be given to the chairman of the subcommittee, Mr. LUKEN, and the ranking Republican member, Mr. WHITTAKER. Their labors have produced a set of highly commendable improvements in the Federal rail safety law.

The substitute before us incorporates the work of the subcommittee and full committee on this matter. It reauthorizes the rail safety program at the level requested by the administration. It provides additional, specific authority to improve grade crossing safety, a leading cause of deaths and rail accidents. The bill gives the Secretary authority to create an en-

gineer licensing program and to penalize individuals for willful safety violations and for tampering with safety devices. It protects whistleblowers from discrimination, and it makes other important improvements.

The Senate passed its rail safety reauthorization bill earlier this fall. With the first anniversary of the tragic accident at Chase, MD, approaching on January 4, 1988, I am pleased that today we will be passing our own version of that measure. I look forward to an early and productive conference on these bills early in the second session.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1987".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, not to exceed $41,868,470 for the fiscal year ending September 30, 1989, and not to exceed $44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

SEC. 3. GRADE CROSSING DEMONSTRATION PROJECTS.

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

"SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS.

"(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

"(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

"(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

"(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

"(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1987, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a).

"(c) There is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety, $1,000,000, to remain available until expended.".

SEC. 4. LICENSING OF ENGINEERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, within 180 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing of any individual operating a train, including train engineers, after the expiration of 2 years following the establishment of such program. This requirement shall be implemented through a program of review and approval of each railroad's operator qualification standards.

"(2) The program established by the Secretary under paragraph (1) shall—

"(A) include minimum training requirements,

"(B) require comprehensive knowledge of railroad operating practices and operating rules;

"(C) prohibit from holding a license any individual who, within the previous 5 years, has been denied a motor vehicle operator's license by a State for cause or whose motor vehicle operator's license has been cancelled, revoked, or suspended by a State for cause; and

"(D) prohibit from holding a license any individual who has been reported to the National Driver Register because of a conviction described under section 205(a)(3) of the National Driver Register Act of 1982 within the past 5 years.

"(3) The Secretary shall, for purposes of implementing paragraph (2) (C) and (D), have access to information contained in the National Driver Register.

"(4) An individual denied a license on the basis of the inclusion of such individual's name on the National Driver Register shall be entitled to an administrative hearing to determine whether such license has been properly denied.

"(5) No individual shall be prohibited from holding a license because of a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, if such individual subsequent to such conviction has successfully completed a rehabilitation program established by a rail carrier or approved by the Secretary.".

SEC. 5. AUTOMATIC TRAIN CONTROL SYSTEMS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(m)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor between Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals.

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), is further amended by adding at the end the following new subsection:

"(n) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.".

SEC. 6. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 39)" and inserting in lieu thereof "in an amount of not less than $250 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $25,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations."; and

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(4) by adding at the end the following new subsection:

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be construed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

SEC. 7. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or dis-

abling of, specified railroad safety or operational monitoring devices.

"(2)(A) Any railroad company operating a train on which safety or operational monitoring devices are tampered with or disabled in viola tion of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

"(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the Secretary, which may include fines under section 209, suspension from work, or suspension or less of a license issued under subsection (1).".

SEC. 8. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following subsection:

"(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that rules, regulations, orders, or standards are necessary, the Secretary shall promptly initiate appropriate rulemaking proceedings.".

SEC. 9. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(q) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.".

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether to require that all trains be equipped with event recorders to enhance safety.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that event recorders should be required, the Secretary shall promptly initiate appropriate rulemaking proceedings.

"(3) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operation, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation; and

"(B) are designed to resist tampering.".

SEC. 11. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) EXPEDITED PROCEDURES.—Section 212(c)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(1)) is amended by inserting ", and any proceeding with respect to such dispute, grievance, or claim shall be expedited by the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act so that such dispute, grievance, or claim is resolved within 180 days after its filing with such Adjustment Board or other board of adjustment" before the period.

(b) COMPENSATION.—Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended by adding at the end the following new sentence: "If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee appropriate compensation up to the equivalent of 1 year's pay for such employee.".

(c) DISCLOSURE OF NAMES.—Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.

"(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.".

SEC. 12. ACCIDENT REPORTS.

If a railroad, in reporting an accident or incident under the Accident Reports Act (15 U.S.C. 38-43), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employe whose error is alleged a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

SEC. 13. AMTRAK SAFETY PROVISIONS.

(a) The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is further amended by adding at the end the following new section:

"SEC. 216. UNSAFE FACILITIES.

"(a) The National Railroad Passenger Corporation (hereafter in this section referred to as 'Amtrak'), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this section.

"(b) If the Secretary determines that—

"(1) a facility which is in danger of a petition under subsection (a) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

"(2) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger, the Secretary shall recommend to the Congress that the Congress, as a part of its periodic reauthorizations of this Act, authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

"(c) Petitions may be submitted under subsection (a) of this section with respect to any relocation or remedial measures undertaken on or after January 1, 1978.".

(b)(1) There is authorized to be appropriated to the Secretary of Transportation for the purposes of this subsection, $1,000,000, to remain available until expended.

(2) The National Railroad Passenger Corporation, or any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary of Transportation for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

SEC. 14. ENFORCEMENT OF THE SECRETARY'S ACTIONS.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking "enforce such orders" and inserting in lieu thereof "enforce any subpoena, order, or directive of the Secretary issued under this title".

SEC. 15. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(s) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including—

"(1) standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used; and

"(2) standards for motor vehicles used by such employees which provide that the employees shall ride in a separate compartment from tools and hazardous materials carried in the vehicle.".

(b) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(c) The Secretary of Transportation shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 16. FENCING OF RAIL YARDS.

The Secretary of Transportation shall, within one year after the date of the enact-

ment of this Act, issue such rules, regulations, orders, and standards as may be necessary to require the fencing of rail yards in heavily populated areas so as to prevent or deter injury of persons not employed by the rail carrier. In carrying out this section, the Secretary shall take into consideration such factors as the number of tracks, the frequency of trains, the proximity of residential areas, the direction and purpose of pedestrian traffic movement, and the local injury and fatality experience.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS A. LUKEN

Mr. THOMAS A. LUKEN. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. THOMAS A. LUKEN:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1987".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, not to exceed $41,868,470 for the fiscal year ending September 30, 1989, and not to exceed $44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

SEC. 3. GRADE CROSSING DEMONSTRATION PROJECTS

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

"SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS

"(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

"(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

"(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

"(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

"(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1987, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a).

"(c) From sums authorized under section 214, there is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety, $1,000,000, to remain available until expended.".

SEC. 4. LICENSING OF ENGINEERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, within 180 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing of any individual operating a train, including train engineers, after the expiration of 2 years following the establishment of such program. This requirement shall be implemented through a program of review and approval of each railroad's operator qualification standards.

"(2) The program established by the Secretary under paragraph (1) shall—

"(A) include minimum training requirements,

"(B) require comprehensive knowledge of railroad operating practices and operating rules;

"(C) prohibit from holding a license any individual who, withn the previous 5 years, has been denied a motor vehicle operator's license by a State for cause or whose motor vehicle operator's license has been cancelled, revoked, or suspended by a State for cause; and

"(D) prohibit from holding a license any individual who had been reported to the National Driver Register because of a conviction described under section 205(a)(3) of the National Driver Register Act of 1982 within the past 5 years.

"(3) The Secretary shall, for purposes of implementing paragraph (2) (C) and (D), have access to information contained in the National Driver Register.

"(4) An individual denied a license on the basis of the inclusion of such individual's name on the National Driver Register shall be entitled to an administrative hearing to determine whether such license has been properly denied.

"(5) No individual shall be prohibited from holding a license because of a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, if such individual subsequent to such conviction has successfully completed a rehabilitiation program established by a rail carrier or approved by the Secretary.".

SEC. 5. AUTOMATIC TRAIN CONTROL SYSTEMS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(m)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor between Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals.

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), is further amended by adding at the end the following new subsection:

"(n) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.".

SEC. 6. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 38)" and inserting in lieu thereof "in an amount of not less than $250 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $25,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations."; and

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(4) by adding at the end the following new subsection:

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be constructed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

SEC. 7. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or disabling of, specified railroad safety or operational monitoring devices.

"(2)(A) Any railroad company operating a train on which safety or operational moni-

toring devices are tampered with or disabled in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

"(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the Secretary, which may include fines under section 209, suspension from work, or suspension or loss of a license issued under subsection (1).".

SEC. 8. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that rules, regulations, orders, or standards are necessary, the Secretary shall promptly initiate appropriate rulemaking proceedings.".

SEC. 9. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(q) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.".

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1987, conduct and complete an inquiry into whether to require that all trains be equipped with event recorders to enhance safety.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that event recorders should be required, the Secretary shall promptly initiate appropriate rulemaking proceedings.

"(3) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operation, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation; and

"(B) are designed to resist tampering.".

SEC. 11. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) EXPEDITED PROCEDURES.—Section 212(c)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(1)) is amended by inserting ", and any proceeding with respect to such dispute, grievance, or claim shall be expedited by the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act so that such dispute, grievance, or claim is resolved within 180 days after its filing with such Adjustment Board or other board of adjustment" before the period.

(b) COMPENSATION.—Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended by adding at the end the following new sentence: "If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee appropriate compensation up to the equivalent of 1 year's pay for such employee.".

(c) DISCLOSURE OF NAMES.—Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.

"(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.".

SEC. 12. ACCIDENT REPORTS.

If a railroad, in reporting an accident or incident under the Accident Reports Act (15 U.S.C. 38-43), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

SEC. 13. AMTRAK SAFETY PROVISIONS.

(a) The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is further amended by adding at the end the following new section:

"SEC. 216. UNSAFE FACILITIES.

"(a) The National Railroad Passenger Corporation (hereafter in this section referred to as "Amtrak"), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this section.

"(b) If the Secretary determines that—

"(1) a facility which is the subject of a petition under subsection (a) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

"(2) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger, the Secretary shall recommend to the Congress that the Congress, as a part of its periodic reauthorizations of this Act, authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

"(c) Petitions may be submitted under subsection (a) of this section with respect to any relocation or remedial measures undertaken on or after January 1, 1978."

(b)(1) From sums authorized under section 214 of the Federal Railroad Safety Act of 1970, there is authorized to be appropriated to the Secretary of Transportation for the purposes of this subsection, $1,000,000, to remain available until expended.

(2) The National Railroad Passenger Corporation, or any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary of Transportation for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

(c) Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end the following new subsection:

"(h)(1) If a rail carrier or owner of a rail line which has a contractual obligation—

"(A) to permit the Corporation to operate rail service on its lines; and

"(B) to maintain such line in a condition suitable for such operation,

breaches such obligation, the Corporation may take the actions provided for in paragraph (2).

"(2) In the event of a breach under paragraph (1), the Corporation may take one or both of the following actions:

"(A) The Corporation may withhold from any payments due to such rail carrier or owner under the contract such sums as may be necessary to repair and maintain such line to the standards specified in the contract.

"(B) The Corporation may apply to the Commission for an order under subsection (d) establishing the need of the Corporation for the property at issue and requiring the conveyance thereof.

"(3) If the Corporation elects to withhold any sums under paragraph (2)(A), the Corporation shall apply such sums to the cost of performing the repair and maintenance work necessary to bring the condition of the line into conformity with the standards specified in the contract.

"(4) In ordering a conveyance under paragraph (2)(B), the Commission shall reduce the compensation due to the rail carrier or owner by the amount required to bring the condition of the line into conformity with the standards specified in the contract. The amount of such reduction shall be determined under the dispute resolution provisions of the contract, if any.

"(5) If a line to which a contractual obligation described in paragraph (1) applies is sold to a party other than the Corporation, such sale shall be made subject to the requirement that the acquiring party—

"(4) permit the Corporation to operate rail service on such line; and

"(B) maintain such line in a condition suitable for such operation,

in accordance with the terms of the contract between the Corporation and the original rail carrier or owner, unless the Corporation and the acquiring party otherwise agree.

"(6) The rights and remedies available to the Corporation under this subsection are in addition to any rights and remedies conferred by any other law or by contract.".

SEC. 14. ENFORCEMENT OF THE SECRETARY'S ACTIONS.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking "enforce such orders" and inserting in lieu thereof "enforce any subpoena, order, or directive of the Secretary issued under this title".

SEC. 15. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(s) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including—

"(1) standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used; and

"(2) standards for motor vehicles used by such employees which provide that the employees shall ride in a separate compartment from tools and hazardous materials carried in the vehicle.".

(b) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employee' shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

(c) The Secretary of Transportation shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 16. FENCING OF RAIL YARDS.

The Secretary of Transportation shall, within one year after the date of the enactment of this Act, issue such rules, regulations, orders, and standards as may be necessary to require the fencing of rail yards in heavily populated areas so as to prevent or deter injury of persons not employed by the rail carrier. In carrying out this section, the Secretary shall take into consideration such factors as the number of tracks, the frequency of trains, the proximity of residential areas, the direction and purpose of pedestrian traffic movement, and the local injury and fatality experience.

SEC. 17. LOCAL ENFORCEMENT OF SPEED REGULATIONS.

Section 206 of the Federal Railroad Safety Act of 1970 is amended by adding at the end of the following new subsection:

"(h) The Secretary may enforce regulations with respect to any carrier issued under this Act in regard to the speed of trains on the basis of information supplied by duly authorized agents of local governments, as if such information were supplied by Federal agents.".

Mr. THOMAS A. LUKEN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. THOMAS A. LUKEN].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RAIL SAFETY IMPROVEMENT ACT OF 1987

(Mr. THOMAS A. LUKEN asked and was given permission to address the House for 1 minute.)

Mr. THOMAS A. LUKEN. Mr. Speaker, the Rail Safety Improvement Act of 1987 is one of the most important pieces of legislation to come before the House. It represents a bipartisan effort.

I would like to thank the gentleman from Kansas for his participation.

Mr. WHITTAKER. Mr. Speaker, will the gentleman yield?

Mr. THOMAS A. LUKEN. I yield to the gentleman from Kansas.

Mr. WHITTAKER. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the cooperation of the gentleman from Ohio in deliberating on this bill and coming to a compromise. Three weeks ago we did not think we would have the rail safety bill this year. But I am glad to say that we were able to arrive at a consensus.

I would also like to thank the staff who have worked so hard on this bill.

I also add that we will ask unanimous consent that statements may be entered into the RECORD of those colleagues who participated in the negotiation and who are not on the floor at this time.

Mr. Speaker, the improvement and modernization of our Federal rail safety laws is long overdue. Unfortunately, disagreements over safety policies have prevented the reauthorization of Federal railroad safety activities for 4 years. Now, because of a most encouraging degree of bipartisan cooperation among the leadership of our Transportation Subcommittee and the Energy and Commerce Committee, we have before us a rail safety bill that will reauthorize these important safety efforts for the next 3 years and make needed substantive changes in our railroad safety laws. In light of the recent passage of similar legislation in the Senate, we face the best prospects for enactment of new rail safety legislation in several years.

Our rail system is one of the world's safest means of travel. For example, in 1985, our rail system provided some 12 billion revenue passenger-miles of service, with only 3 passenger fatalities. But when there is even a single lapse in the system, as there was last January 4, at Chase, MD, the cost is tragically high. In that case, 16 people died and some 170 were injured. Today's legislation will help to insure the margin of safety in our railroad industry is improved, for passengers, for railroad employees, and for all who come into contact with the railroad industry.

This bill will eliminate the single most serious gap in our rail safety laws—the lack of any direct legal authority by the Department of Transportation over railroad personnel. By curing this deficiency and by modernizing the scale of fines that may be imposed for safety violations, we will be giving our transportation officials the tools they need to deter, detect, and where necessary punish safety violations. As under present law, there must be wide discretion for Federal officials. But this bill will make sure that the available sanctions can actually reach those responsible for reckless or unsafe conduct. Even after last year's Amtrak crash, for example, where safety warning devices had been rendered inoperative, there have been over 50 confirmed instances of such tampering. Today's bill will make such conduct a specific violation of the Federal Railroad Safety Act. It will also give the Department of Transportation the power to remove proven safety violators from safety-sensitive positions on the railroads.

Besides addressing the human factor in accidents, the railroad safety improvement act also makes use of technical means to prevent accidents. Automatic train control is mandated for all trains operating on the northeast corridor by mid-1990. Looking farther ahead, the Department of Transportation is required to evaluate more advanced train-control and collision-avoidance systems for other routes where passengers or hazardous materials are transported.

While railroad transportation is very safe for passengers, the fate of people traversing grade crossings is a different matter. In 1985, for example, over 55 percent of all railroad fatalities resulted from grade-crossing collisions; 537 people were killed at crossings in that year. The Railroad Safety Improvement Act will address this pressing safety problem in two important ways. First, it requires the evaluation of better, cost-effective accident-prevention measures for our uncontrolled and predominantly rural grade cross-

ings. Second, it requires the Department of Transportation to determine in a rulemaking proceeding whether there should be Federal standards for the inspection and maintenance of grade-crossing safety equipment.

This bill will also promote the prompt reporting of safety violations by railroad employees. It provides specific legal protections to "whistleblowers" who may be subjected to retaliation for bringing unsafe conditions to the attention of Federal authorities. At the same time, the bill protects the confidentiality of employee accidents reports. It also directs the Department of Transportation to evaluate in a rulemaking proceeding the possible need for standards of protection for the employees who maintain our railroads' right-of-way. Finally, the bill helps to improve the margin of safety in railroad operations by requiring a program of Federal approval of the engineer qualifications standards used by rail carriers, as well as a study of the possible need for a program of training standards for dispatchers.

I again commend all members of the Energy and Commerce Committee for their constructive efforts in fashioning a bipartisan bill. Because this measure embodies a sound and carefully targeted series of improvements to our safety laws, I urge all Members on this body to support this passage.

Thank you, Mr. Speaker.

GENERAL LEAVE

Mr. THOMAS A. LUKEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

L. RICHARDSON PREYER FEDERAL BUILDING

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3327) to designate the Federal building located at 324 West Market St. in Greensboro, NC, as the "L. Richardson Preyer Federal Building."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina.

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I shall not object but I do so in order to permit the gentleman from North Carolina to explain the bill.

Mr. LANCASTER. Mr. Speaker, H.R. 3327 would designate the Federal building located at 324 West Market St. in Greensboro, NC, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse."

Many of the Members of the House will certainly remember Rich from his 12 years of service in the House. He was the archetype of the thoughtful and conscientious legislator during this service, from 1969 to 1981. Rich took the lead on issues involving health care and a clean environment. Equally important, Congressman Preyer championed the cause of ethics and good government.

Congressman Preyer had a reputation while serving in Congress for great integrity and sound judgment, and the House leadership called on him to serve in some difficult and unpleasant assignments. He served, for example, as the number two Democrat on the Committee Investigating Assassinations, and he headed the subcommittee investigating the assassination of John Kennedy.

He also served on the House Ethics Committee. This was a particularly difficult assignment. At a time when there was reluctance to investigate the Koreagate scandal, Mr. Preyer worked with the House leadership and committee counsel Leon Jaworski to insure a wider investigation. Mr. Preyer was also one of the chief advocates of tough financial disclosure for Congressmen. In the process of handling all these matters, he remained active on Paul Rogers' Health Subcommittee, notably in backing clear air legislation against challenges from the automobile companies.

He is a native of Greensboro, who served his city, State, and country for many years before coming to Congress. After graduation from Princeton University and Harvard Law School, he served as State superior court judge and then on the Federal district court bench.

Rich's contributions to the society in which he lives surpass even this political and judicial service. His civic enterprises and contributions cover education, health care, children, and the arts.

As this demonstrates, and as many of you know from personal experience with Rich, his dedication to the highest ideals of political and civic service are an example to all citizens, most especially to contemporary and future legislators. The naming of the Federal Building in Greensboro would be a fitting tribute to such a man.

Mr. MOLINARI. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, as I understand it, we are waiting on the farm credit bill and we are using time by bringing these unanimous-consent requests to the floor. What I would like to know is are these unanimous-consent requests slowing down the process so that we cannot get to the farm credit bill, or is the farm credit bill just not ready for floor action?

Mr. HOWARD. Mr. Speaker, will the gentleman from New York yield to me?

Mr. MOLINARI. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, we do believe these unanimous-consent requests which at the present time are not slowing down the work of the House, but would be about 2 or 3 minutes each, at the present time as I understand it, the other bill we are waiting for is not here yet.

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Mr. BURTON of Indiana. Mr. Speaker, if the gentleman will yield further and I may continue, as long as this does not slow down the action on the farm credit bill so we can get out of here, I will not object, but I would like to urge the House to bring the farm credit bill to the floor as quickly as possible so we can go home and visit our families.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, the understanding of the leadership is that when the papers on the farm credit bill are ready, they will be brought to the House and it will not wait for any unanimous-consent request.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman.

Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to express my support for H.R. 3327, which would recognize our former colleague, L. Richardson Preyer, Jr., by naming a Federal building in Greensboro, NC, in his honor.

Rich Preyer has dedicated his life to public service, having served as city judge, State superior court judge and finally U.S. district court judge. With his election to the 91st Congress, Rich began a 12-year tenure in the House where he devoted his efforts to such causes as health care and the environment.

In light of his service to his hometown of Greensboro, the State of North Carolina, and the country, I believe it is truly appropriate to name the Federal building on Market Street in Greensboro, NC, the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse."

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 3327, a bill to designate the Federal building located at 324 West Market Street in Greensboro, NC., as the "L. Richardson Preyer Federal Building," amended.

Congressman Preyer was elected to the 91st Congress in 1968 where he served with distinction the people of the Sixth District of North Carolina for 12 years. He was a member of the House Committees on Government Operations, Interstate and Foreign Com-

merce, and Standards of Official Conduct. While in Congress, he was an advocate of health care, the environment, and the cause of ethics and good government.

In view of Congressman Preyer's contributions to his hometown of Greensboro, NC, and the country, it is appropriate to honor him by naming the Federal building at 324 West Market Street in Greensboro, NC, the "L. Richardson Preyer Federal Building," amended.

Mr. SUNIA. Mr. Speaker, I rise in support of H.R. 3327, a bill to name a public building in New York after John W. Wydler. Mr. Wydler was elected to this body in 1962 where he served for nine terms representing the Fifth District of New York to the U.S. House of Representatives. During that time, he served as the ranking Republican on the Committee on Science and Technology and the Committee on Government Operations. He was an adamant supporter of legislations that dealt with Federal revenue sharing and he was an active proponent of our national space exploration programs. His legislative efforts include the Stevenson-Wydler Technology Innovation Act which shaped national policy regarding our space programs.

Congressman John W. Wydler is a native of Brooklyn, NY. He went to Brown University and received his law degree from Harvard Law School. He was an assistant U.S. attorney in New York for 6 years. He was also a valuable member of the New York State Commission responsible for investigations on State school construction irregularities.

In tribute to his numerous contributions to the U.S. Congress and the Long Island community, it is appropriate to name the U.S. Post Office at 600 Franklin Avenue, Garden City, NY, as the "John W. Wydler United States Post Office."

Mr. MOLINARI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill as follows:

H.R. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 324 West Market Street in Greensboro, North Carolina, shall hereafter be known as the "L. Richardson Preyer Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "L. Richardson Preyer Federal Building".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

H.R. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 324 West Market Street in Greensboro, North Carolina, shall be known and designated as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the 'L. Richardson Preyer, Jr. Federal Building and United States Courthouse'."

A motion to reconsider was laid on the table.

THOMAS D. LAMBROS FEDERAL COURTHOUSE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 2927) to designate the Federal courthouse being constructed at 129 Market Street, Youngstown, OH, as the "Thomas D. Lambros Federal Courthouse."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I do so only to give the gentleman from North Carolina an opportunity to explain the bill.

Mr. LANCASTER. Mr. Speaker, H.R. 2927, would designate the Federal courthouse being constructed at 129 Market Street in Youngstown, OH, as the "Thomas D. Lambros United States Courthouse."

Mr. Speaker, Hon. Thomas D. Lambros was nominated as a U.S. district judge for the northern district of Ohio by President Lyndon B. Johnson on June 3, 1967, where he continues to serve today.

He is the founder of the judicial process known as the "summary jury trial," which is a method of resolving cases by settlement rather than court trials. In 1984, the process was endorsed by the Judicial Conference of the United States.

In view of Judge Lambros' distinguished judicial career and dedication to public service, it is most fitting and appropriate to honor him by naming the U.S. courthouse being constructed at the intersection of Front and Market Streets in Youngstown, OH, as the "Thomas D. Lambros United States Courthouse."

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 2927, a bill to designate the Federal courthouse being constructed in Youngstown, OH, as the "Thomas D. Lambros Federal Building and United States Courthouse."

Mr. Speaker, Hon. Thomas D. Lambros has served the northern district of Ohio with distinction as a U.S. district judge for over 20 years. He continues to serve in this capacity today and deserves much credit for the U.S. courthouse which is under construction in Youngstown, OH, today.

In view of his outstanding career and dedication to the judicial process, it is most fitting to name this facility under construction in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 2927, a bill to name the courthouse to be constructed in Youngstown, OH, the "Thomas D. Lambros United States Courthouse."

Judge Lambros was admitted to the bar in 1952 and just 8 years later, at the age of 30, was elected judge of the Ashtabula County Court of Common Pleas.

He served in that capacity until nominated and confirmed as a U.S. district judge for the northern district of Ohio in 1967. Judge Lambros is the founder of the "summary jury trial," a method of resolving cases by settlement which was endorsed by the Judicial Conference of the United States, and for which he has been commended by Chief Justice Warren Burger.

Judge Lambros' activities extend beyond the courtroom, as he has been active in civic affairs as well. In recognition of his contributions to our judicial process and the State of Ohio, it is appropriate that this courthouse be named in his honor.

Mr. MOLINARI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal courthouse being constructed at 129 Market Street, Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros Federal Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros Federal Courthouse".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION.

The Federal courthouse being constructed at the intersection of Front and Market Streets, Youngstown, Ohio, shall be known and designated as the "Thomas D. Lambros United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal courthouse referred to in section 1 shall be deemed to be a reference to the "Thomas D. Lambros United States Courthouse".

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the Federal courthouse at the intersection of Front and Market Streets, Youngstown, Ohio, as the Thomas D. Lambros United States Courthouse."

A motion to reconsider was laid on the table.

JOHN W. WYDLER U.S. COURTHOUSE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1642) to designate the U.S. courthouse located at the intersection of Uniondale Avenue and Hampstead Turnpike in Uniondale, NY, as the "John W. Wydler United States Courthouse," amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, I shall not object, but I take this time to give the gentleman from North Carolina an opportunity to explain the bill.

Mr. LANCASTER. Mr. Speaker, S. 1642 would designate the U.S. Post Office at 600 Franklin Avenue in Garden City, NY, as the "John W. Wydler United States Post Office."

Mr. Speaker, the Honorable John Wydler was elected to the 88th Congress in 1962, and served for nine terms representing the Fifth District of New York.

Congressman Wydler was known for his advocacy of Federal revenue sharing and his support for the Nation's space exploration programs.

Following his resignation from the House in 1980, John Wydler remained active in matters affecting Long Island, NY, until his death on August 4, 1987.

In tribute to John Wydler's numerous contributions to the U.S. Congress and the Long Island community, it is fitting and appropriate to name the U.S. Post Office in Garden City, NY, as the "John W. Wydler United States Post Office."

Mr. MOLINARI. Mr. Speaker, further reserving the right to object, I do so in order to give the gentleman from New York [Mr. MCGRATH] an opportunity to speak on the bill.

Mr. McGRATH. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from New York.

Mr. McGRATH. Mr. Speaker, I rise in support of S. 1642, a bill to name the U.S. Post Office after our late colleague and my predecessor in the House, Jack W. Wydler.

Most of Jack's adult life was spent in Federal service. From his service in the U.S. Air Force during World War II to his nine terms in the House, Jack has exemplified the true meaning of the word public servant.

Jack is probably best known for his advocacy of Federal revenue sharing and his unwavering support of our Nation's space exploration programs.

After his retirement from the House in 1981, Jack continued his dedication and commitment to the Long Island community. He involved himself in numerous community and economic development projects which served to better the quality of life of his neighbors in Long Island and the surrounding communities.

The designation of this post office is a fitting tribute to Congressman Wydler's distinguished career of public service. Garden City was Jack's home for over three decades, and members of his family continue active participation in community affairs there. Hundreds of his friends and neighbors use the post office daily, and by preserving his memory, I know that they will recall the fine tradition of public service that Jack upheld.

I urge my colleagues to support this legislation and the honor it bestows upon our former colleague.

Mr. SUNIA. Mr. Speaker, chairman of the Subcommittee on Public Buildings and Grounds, I rise in support of S. 1642, a bill to name a public building in Greensboro, NC, in honor of a former colleague of this distinguished body, the U.S. House of Representatives, Mr. L. Richardson Preyer, Jr.

Mr. Preyer was elected to the 91st Congress in 1968 where he served with distinction the people of the Sixth District of North Carolina for 12 years. He was a member of the House Committees on Government Operations, Interstate and Foreign Commerce, and standards of Official Conduct. While in Congress, he was an advocate of health care, the environment and the cause of ethics and good government.

Mr. Preyer was born in Greensboro, NC, on January 11, 1919. He received his A.B. from Princeton University and an LL.B. from Harvard University in 1949 after serving the Navy in the North Atlantic and the Pacific during World War II.

To honor this fine gentleman, it is fitting and appropriate to name a Federal building and courthouse in his hometown after L. Richardson Preyer.

Mr. HOWARD. Mr. Speaker, I rise in support of S. 1642, a bill to designate the U.S. Post Office at 600 Franklin Avenue in Garden City, NY, as the "John W. Wydler United States Post Office."

It is fitting and proper that a building which is an essential part of that every day life of the constituents of the Fifth District of New York, a district Congressman Wydler represented ably for 18 years, be named in his honor. During his tenure in the House, he was held in high regard by his colleagues on both sides of the aisle. His knowledge and advocacy of the Nation's space program was most effective with respect to our national policy regarding our space programs today. This Nation lost a great leader when John Wydler passed away in August of this year.

Accordingly, it is most appropriate that the U.S. Post Office in Garden City, NY, be named the "John W. Wydler United States Post Office.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for S. 1642, a bill to name the U.S. Post Office in Garden City, NY, in honor of our former colleague, Jack Wydler.

Jack Wydler had a long and distinguished career in the House of Representatives. First elected to the House in 1962, he continued to serve for nine terms until his retirement in 1980. At that time, he was dean of the Long Island congressional delegation and was a senior member of the Committee on Science and Technology and the Government Operations Committee.

After leaving Congress, he remained active in matters affecting his community. Congressman Wydler visited Washington frequently in order to keep well informed on issues concerning Long Island.

Mr. Speaker, it is truly appropriate that we name the U.S. Post Office in Garden City, NY, in honor of our friend and former colleague, Jack Wydler, in recognition of his many years of service to Long Island and the country.

Mr. MOLINARI. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Courthouse located at the intersection of Uniondale Avenue and Hempstead Turnpike in Uniondale, New York, shall be known and designated as the "John W. Wydler United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Courthouse".

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

SECTION 1. DESIGNATION OF BUILDING.

The United States Post Office located at 600 Franklin Avenue in Garden City, New York, shall be known and designated as the "John W. Wydler United State Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference to the building referred to in section 1 in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "John W. Wydler United States Post Office".

The committee amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of Senate bill was amended so as to read: "A bill to designate the United States Post Office at 600 Franklin Avenue in Garden City, New York, as the 'John W. Wydler United States Post Office'."

A motion to reconsider was laid on the table

GENERAL LEAVE

Mr. LANCASTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NTL-5 GAS ROYALTY ACT OF 1987

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3479) to provide for adjustments of royalty payments under certain Federal onshore and Indian oil and gas leases, and for other purposes, with Senate amendments thereto, concur in the Senate amendment to the text of the bill with an amendment, and disagree to the Senate amendment to the title.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendment to the Senate amendments, as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

That this Act may be referred to as the "NTL-5 Gas Royalty Act of 1987".

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(2) NT5-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22610).

(3) OTHER TERMS.—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5, and for which the lessee or royalty payor provides written documentation, determined to be adequate by the Secretary and existing at or near the time the gas was sold, of receipt of less than the highest applicable price under the Natural Gas Policy Act.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—If the gas referred to in subsection (a) of this section was produced from a Federal onshore lease, the value shall be determined in accordance with the lease terms and the regulations codified at part 206 of title 30 of the Code of Federal Regulations as in effect at the time of production.

(c) ROYALTY CALCULATION FOR CERTAIN INDIAN LEASES.—If the gas referred to in subsection (a) of this section was produced from an Indian lease, the value shall be determined in accordance with the lease terms and the regulations codified at part 206 of title 30 of the Code of Federal Regulations and sections 211.13 and 212.16 of title 25 of the Code of Federal Regulations as applicable and as in effect at the time of production.

(d) WRITTEN DOCUMENTATION.—The written documentation required under subsection (a) of this section may include, but is not limited to, a gas sales contract, purchase statement, receipt, or other written documentation deemed appropriate by the Secretary existing at or near the time of sale showing the actual price received.

(e) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) REFUND FOR FEDERAL ONSHORE OIL AND GAS LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore oil and gas lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any natural gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of such refund from any State.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(c) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(c) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed $2,000,000.

SEC. 5. PROCEDURES.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record as of July 31, 1986, for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act and the terms and conditions for receiving refunds or royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease or leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which the Secretary may select for examination under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due the lessee.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary, and any tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due the lessee.

(c) MMS NOTICE.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(c) REPORT TO INDIAN TRIBES.—The Secretary shall provide a report to each Indian tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through

July 31, 1986, which is within the coverage of section I.A.2 or section II.A.2 of NTL-5. The report to each tribe shall contain information for each such lease held by the tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(c) of this Act.

SEC. 6. RECORD KEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982, through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

Amend the title so as to read: "An Act to provide clarification regarding the royalty payments owed under certain Federal Onshore and Indian oil and gas leases, and for other purposes.".

House amendment to Senate amendments:

In lieu of the Senate amendment, strike all after the enacting clause and insert the following in lieu thereof:

(a) That this Act may be referred to as the "Notice to Lessees No. 5 Gas Royalty Act of 1987".

(b) FINDINGS.—The Congress finds that—

(1) effective on June 1, 1977, in Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases Numbered 5 (NTL-5) (42 Fed. Reg. 22,610), the Secretary of the Interior established the method of calculating the amount of royalties to be paid to the United States on natural gas production from Federal and Indian oil and gas leases.

(2) NTL-5 was a duly promulgated rule of the Department of the Interior within the meaning of the Administrative Procedure Act;

(3) under the NTL-5 method of calculation, the base value for royalty purposes of certain gas production was the greater of the price received under the gas sales contract or the highest applicable ceiling rate than established by the Federal Power Commission. The applicable ceiling rate was subsequently interpreted to be the maximum lawful price established under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.);

(4) although between 1982 and 1986 gas prices in many areas declined below the maximum lawful prices established under the Natural Gas Policy Act of 1978, the continued application of NTL-5 required some royalties to be paid on the basis of a ceiling rate higher than the market value for the gas;

(5) effective August 1, 1986, the Secretary of the Interior modified the method of calculating certain future Federal and Indian gas royalty payments. This modification, published in the Federal Register on July 25, 1986, (51 Fed. Reg. 26,759) was a duly promulgated regulation of the Department of the Interior. The modification left the original provisions of NTL-5 in effect for gas sales prior to August 1, 1986, since the Secretary found that retroactive modification of NTL-5 would have resulted in inconsistent royalty enforcement and would have undermined the policy of strict compliance with lawful Federal royalty valuation rules and the need to ensure that Federal lessees and other payors rely upon rules until such time as the rules are lawfully changed (51 Fed. Reg. 26,759);

(6) in January 1987, the Department of the Interior proposed to reconsider its position and proposed to modify NTL-5 retroactively;

(7) there is a trust responsibility of the United States for the administration of Indian oil and gas resources as reaffirmed in sections 2 (a)(4) and (b)(4) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 (a)(4) and (b)(4)); and

(8) the failure to adjust the method of calculating royalty payments resulting from changes in the gas market created various problems in valuation, produced inequitable situations for many lessees and payors whose gas market price was well below the NGPA ceiling prices, and created uncertainty associated with the collection of royalty revenues. Uniform application of BGPA ceiling prices was inequitable given market conditions during this period. For these reasons, it is necessary and appropriate for the Congress to provide for certain adjustments through legislation.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(a) SECRETARY.—The term "Secretary" means the Secretary of the Interior or his designee.

(b) NTL-5.—The term "NTL-5" means the Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases published May 4, 1977 (42 Fed. Reg. 22,610).

(c) OTHER TERMS—All other terms carry the same meanings as provided in section 3 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1702).

SEC. 3. VALUATION FOR ROYALTY PURPOSES OF CERTAIN GAS PRODUCTION FROM FEDERAL AND INDIAN LANDS.

(a) APPLICABILITY.—The provisions of this section shall be used in determining the value for royalty purposes of any gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2 or section VI of NTL-5.

(b) ROYALTY CALCULATION FOR CERTAIN FEDERAL ONSHORE AND INDIAN OIL AND GAS LEASES—If the gas referred to in subsection (a) of this section was produced from a Federal onshore or Indian lease, the value of production, for the purpose of computing royalty, shall be the reasonable value of the product as determined consistent with the lease terms and the regulations codified at part 206 of title 30, Code of Federal Regulations, in effect at the time of production. In establishing the reasonable value, due consideration shall be given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price per thousand cubic feet or gallon paid or offered at the time of production in a fair and open market for the major portion of like-quality gas, or other products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value. In addition, if the gas was produced from an Indian lease, the reasonable value shall be determined consistent with the Secretary's trust responsibility, the lease terms, and the regulations codified at section 211.13 or section 212.16 of title 25, Code of Federal Regulations, as applicable, in effect at the time of production.

(c) WRITTEN DOCUMENTATION.—In order for the Secretary to make royalty value determinations under this section, there must be written documentation which (1) has been determined to be adequate by the Secretary, (2) was in existence at or near the time of sale, (3) shows the actual price received, and (4) may include, but is not limited to, a gas sales contract, purchase statement, receipt, minerals management service oil and gas records, or other written documentation.

(d) EXCEPTION.—This section shall not apply to any gas for which, in the Secretary's judgment, the lessee or royalty payor received less than the highest applicable price under the Natural Gas Policy Act due to a failure by the lessee or payor to collect amounts which the purchaser would have been required to pay under a gas sales contract providing for that price and not as a result of market conditions or considerations.

SEC. 4. PROCEDURES.

(a) CASE-BY-CASE AUDIT FOR CERTAIN FEDERAL ONSHORE OIL AND GAS LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Federal onshore oil and gas lease a notice of enactment of this Act informing such lessees royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Federal onshore oil and gas lease of leases involved. The Secretary, and any State in accordance with delegations of authority under section 205 or cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732, 1735), shall conduct a case-by-case audit of royalties for such leases and any other Federal onshore lease which is examined under existing law to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(b) CASE-BY-CASE AUDIT ON INDIAN LEASES.—The Secretary shall publish in the Federal Register and send to each lessee or royalty payor of record for any Indian oil and gas lease a notice of enactment of this Act informing such lessees and royalty payors of the provisions of this Act. Such notice shall include a description of the process whereby underpayments, if any, by lessees will be sought and the terms and conditions for lessees to obtain refunds, if any, based on royalty calculations under this Act. Any lessee that has reason to believe that it is entitled to a refund under this Act shall provide written notice to the Secretary in a form prescribed by the Secretary specifying the Indian oil and gas lease or leases involved. The Secretary, and any

Tribe in accordance with cooperative agreements under section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1732), shall conduct a case-by-case audit of royalties for such leases and other Indian oil and gas leases on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5 to determine the amount of royalties due and payable under this Act and other applicable law and the amount of any refund due a lessee. In addition to those leases for which the lessee has provided written notice to the Secretary pursuant to this subsection, priority shall be given to auditing those leases for which there is the greatest likelihood of underpayment of royalties.

(c) The Secretary shall demand payment of any underpayment which is determined to be owed to the Federal or Indian lessor as a result of the case-by-case review required in this section.

(d) MMS NOTICE.—The Secretary shall provide a notice under this section to each lessee under a Federal onshore or Indian oil and gas lease on which an audit was performed in accordance with this section. The notice shall contain each of the following:

(1) A statement of the amount of the royalty payments made in accordance with the provisions of NTL-5.

(2) A statement of additional royalty payment, if any, to be made by a lessee or the amount of refund, if any, to which the lessee is entitled under this Act and a description of the means by which such refund will be provided.

(e) REPORT TO INDIAN TRIBES.—The Secretary shall provide a report to each Indian Tribe holding an Indian oil and gas lease on which gas was produced at any time during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2, section II.A.2, or section VI of NTL-5. The report to each Tribe shall contain information for each such lease held by the Tribe stating the difference between royalties computed in accordance with NTL-5 and royalties computed in accordance with subsection 3(b) of this Act.

SEC. 5. REFUND OF ROYALTIES PREVIOUSLY PAID.

(a) REFUND FOR FEDERAL ONSHORE OIL AND GAS LEASES.—

(1) If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor on a Federal onshore lease has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act, the Secretary shall refund the Federal share of such overpayment from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts in the Treasury, in accordance with procedures established by the Secretary.

(2) The portion of any excess amount, as determined under paragraph (1), previously paid to a State under applicable law from royalties paid under a Federal onshore oil and gas lease or group of leases subject to a unit agreement shall be recouped from the next subsequent disbursements to that State. If the total amount of such recoupments for any month exceeds ten per centum of the total disbursement to that State for that month from mineral lease revenues, the Secretary shall recoup amounts in excess of that level from disbursements to the State in the next month subject to the same limitation. The Secretary shall pay any difference between the amounts required to be paid to a State as a result of this paragraph and the amounts available to be paid to the State from current royalty revenues from moneys received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 191), which would otherwise be deposited to miscellaneous receipts.

(b) REFUND FOR INDIAN LEASES.—If the Secretary or a court of competent jurisdiction determines that a lessee or royalty payor has paid, prior to October 1, 1987, more than the value determined under subsection 3(b) of this Act for any gas within the coverage of subsection 3(a) of this Act and produced from an Indian lease, the Secretary shall refund the amount paid in excess of the value determined under subsection 3(b) from monies received under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191) which would otherwise be deposited to miscellaneous receipts in the Treasury. The Secretary shall not recoup any portion of any such refund from the Indian lessor.

(c) The total amount of refunds made under this section shall not exceed two million dollars ($2,000,000).

SEC. 6. RECORDKEEPING REQUIREMENTS.

Notwithstanding the requirements of section 103 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. Sec. 1713), and any regulations promulgated pursuant thereto, lessees and other payors are required to maintain records related to the value of gas production to which this Act applies for the period January 1, 1982 through July 31, 1986, until the Secretary gives notice that maintenance of such records no longer is required.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall be construed to affect the right of any Indian, Indian Tribe, or lessee to bring any action in a court of competent jurisdiction.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the committee to briefly explain the matter before the House.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the amendment which I am offering today to the Senate amendment to H.R. 3479 has bipartisan support within the Committee on Interior and Insular Affairs and represents a compromise that has been worked out with the Senate regarding the differences between the Senate's version of the NTL-5 gas royalty bill and the House bill.

I believe that the compromise is a fair one and one which will straighten out to a large extent an administrative mess that was created over a period of years with respect to Notice to Lessees Number 5 which was a rule promulgated by the Department of the Interior dealing with valuations of various categories of natural gas.

The end product of the House and Senate compromise is, I believe, a fair approach to the various parties at interest and I urge my colleagues to support this amendment.

Regarding the "savings clause" which the House bill had in it, the bill as amended and resubmitted to both Houses of Congress contains a savings clause which differs from that contained in H.R. 3479 as it originally passed the House and as explained in the Interior and Insular Affairs Committee report, with which the Senate was not in accord. The savings clause agreed to emphasizes that Indian lessors and Federal or Indian lessees will have every opportunity to adjudicate claims which they may wish to assert regarding their royalty rights concerning production occurring during the period covered by the bill, but it also does not operate to create any additional rights which Indian lessors as well as Federal or Indian lessees did not otherwise possess.

Regarding the case-by-case review, section 5 of the amendment requires the Secretary of the Interior to conduct a case-by-case review of royalty payments to determine the amount of royalties payable under this act and other applicable laws. We recognize, however, that the volume of production varies by lease. To make sure that audit resources are efficiently used and not applied to unproductive audits, we have included language that priority should be given to auditing those leases for which there is the greatest likelihood of detecting underpayment of royalties. We expect that the Secretary will audit those Federal and Indian leases which produced the majority of gas during the period 1982 to 1986 using normal audit standards including sampling techniques. We understand that as few as 25 percent of the highest paying onshore Federal and Indian lessees account for approximately 90 percent of oil and gas production volume. We do not expect that every monthly payment on every Federal or Indian lease will be reviewed. We do expect that the MMS over its normal audit cycle will audit these highest paying lessees. We further understand from the Department of the Interior that it directs lessees to recalculate and pay royalties when underpayment problems are discovered during audits of royalty payments. This approach will discover most underpayments without spending money auditing payments than will be collected as a result of those audits.

Mr. Speaker, I would like to also insert in the RECORD a letter which my colleague Chairman NICK RAHALL and

I sent to Secretary Hodel earlier this week regarding the subject of oil and gas product value and the oil and gas product value regulations which are currently undergoing review and change. They are relevant to the discussion of NTL-5 in the respect that NTL-5 seeks to grapple with troublesome gas product valuation problems and relies to a great extent on the existing product value regulations and case law surrounding those regulations to guide valuation for NTL-5 purposes.

The proposed regulations would represent a departure from the existing product value approach and this has been cause for concern to Chairman RAHALL and myself and other Members of Congress. A central concern is that if the proposed regulations, however they are eventually changed prior to publishing in final form, result directly in a revenue shortfall for Indian lessors as well as the Federal taxpayer (and the various Western oil and gas producing States indirectly through the mineral leasing laws), then all of this effort to consolidate regulations and perhaps simplify them and make them more workable will have been for naught. Our committee and other interested committees of Congress will be following closely the results of the new proposed regulations at whatever point they are finalized and put into effect. It is our hope that the concerns which we have expressed to Secretary Hodel will be incorporated into the new regulations thereby enhancing to a much greater degree the likelihood that the regulations will operate in a fair and workable manner without jeopardizing the current income which the Indian people and the taxpayers of the Nation have a right to expect from their resources.

At this point I include the following:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, December 9, 1987.

Hon. DONALD P. HODEL,
Secretary of the Interior, Washington, DC.

DEAR MR. SECRETARY: This is in follow-up to the comments we transmitted to the Department of the Interior recently regarding the proposed October 23, 1987 oil and gas product value regulations developed by the Minerals Management Service (MMS).

We have been concerned that the proposed shift in direction from the existing regulations could result in substantial revenue losses to Federal and Indian royalty owners. Specifically, deviating very far from the valuation approach in the existing regulations, carries with it a substantial risk for the taxpayers of the United States and the Indian royalty owners, as well as the State governments who share in these revenues under the mineral leasing laws. If the final regulations result in significant Federal and Indian revenue losses, then they will need to be amended in order to ensure that the public and the Indian people of the U.S. receive a fair and reasonable return for their resources.

Our concern with the MMS's previous version of these regulations as addressed in our comments has been based primarily on the following major weaknesses:

1. The regulations proposed an overly broad and insufficient definition of arms-length contract which included only the "own or control" concept and excluded the requirement that the parties also have opposing economic interests. The definition as proposed would have allowed companies with extensive mutual economic interests to be treated as dealing at arms-length for royalty purposes.

2. The regulations provided no flexibility to reject the "arms-length gross proceeds" price as the measure of value for royalty purposes even though there may be a large, unreasonable difference between the contract price and other field prices. Such a difference could indicate among other things collusion, rigged or monopolistic prices, and use of other consideration.

3. The regulations opened the door to potential abuse of transportation and processing allowances as a means to reduce royalty payments.

The October 23, 1987, proposed rules contained some changes based on discussions with staff members of the Interior Committee to remedy these weaknesses. However, the regulations still appear to go too far in reducing judgment and flexibility from the valuation process in favor of a more mechanical valuation approach. That approach seems to be based on assumptions about competition which do not recognize adequately the imperfections in oil and gas markets. Our comments on the proposed regulations sought to obtain more certainty in the proposed regulations while still maintaining an appropriate degree of reliance on the judgment of the MMS Director in product valuation.

For example, we recognize that market prices as reflected in an arms-length contract price will generally represent the "value of production" for royalty purposes. But, there are numerous situations involving millions of dollars where an "arms-length" contract should not be automatically accepted as evidence of the value of production. To contend with such situations, there must be a workable way for auditors to opt of the arms-length gross proceeds approach when the situation warrants it.

Given the administrative and information limitations under which the MMS must operate, it is clear that the MMS needs flexibility to exercise judgment and to place the burden on the payor to justify unreasonable disparities between a contract price and comparable field prices and other benchmarks. The major thrust of the changes proposed in our comments was to provide this flexibility and assure a "regulatory escape" from the gross proceeds straitjacket.

It should be underscored that even though these regulations may change, the statute on which the existing regulations are based, has not changed. Therefore, the body of case law which has developed around the statute should continue to apply.

To aid the Committee on Interior and Insular Affairs in monitoring the effect of the new regulations once they have been implemented, we request that the Department provide the Committee with bi-annual reports on the revenue impacts of the new regulations for two years following the implementation of these regulations.

Finally, we would like to express our appreciation to you for the cooperative way in which the Department of the Interior has worked with the staff of this Committee to modify the earlier proposed regulations and meet some of our concerns. While progress was made through this effort, we believe the few additional steps discussed here and in our comments will do much toward providing greater certainty for all concerned while assuring protection of royalty owners' interests.

Sincerely,

NICK JOE RAHALL III,
Chairman, Subcommittee on Mining and Natural Resources.
MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs.

ADDITIONAL COMMENTS BY THE HONORABLE MORRIS K. UDALL, CHAIRMAN, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND THE HONORABLE NICK JOE RAHALL, CHAIRMAN, SUBCOMMITTEE ON MINING AND NATURAL RESOURCES ON PROPOSED DEPARTMENT OF THE INTERIOR PRODUCT VALUE REGULATIONS, NOVEMBER 23, 1987

1. Sec. 206.101 Definitions (oil) and Sec. 206.151 Definitions (gas) Arm's-length contract. The changes made in the definition have addressed the major weakness contained in earlier versions of the regulations. However, we recommend 2 additional changes:

A. Reduce the 20 percent limit to 10 percent. This would make the MMS rule consistent with OSMRE's "own or control" rules, as well as, some producing states such as Texas. A 10 percent figure would also be more appropriate for large corporations where ownership of 10 percent of outstanding common stock could very easily represent control. Most importantly this change would reduce the regulatory burden on MMS since it shifts to the lessee the burden of proving non-control for cases of ownership between 10 and 20 percent.

B. Place information burden on lessee. Include the following sentence after section 206.101(c): "The burden of proving non-affiliation shall rest with the lessee." This would clarify who has the information burden when ownership is between 10 and 50 percent. However, it should be MMS's duty to establish guidelines on how the burden may be met.

2. Section 206.101 Definitions (oil) and Section 206.151 Definitions (gas) "Net-back method". The proposed definition does not clearly provide that the net-back calculation must begin from either the point of the first arms-length transaction or from the point of the first comparable sale. After the word "received" in the second sentence of the definition add "at the point of the first arms-length transaction."

3. Sec. 206.102(b)(1)(iii) and 206.152(b)(1)(iii) and Sec. 206.153(b)(1)(iii) Valuations standards. We are still concerned that the "breach of duty" standard, which allows valuation to be based on criteria other than the lessee's gross proceeds, may be interpreted too narrowly and thus not provide the flexibility necessary to protect Federal and Indian royalty interests. We, therefore, strongly recommend that languge be added to the regulations in order to clarify the meaning of the "breach of duty" standard.

At the end of each paragraph listed above add the following: "The lessee's duty to the lessor to market production for their

mutual benefit may be breached by a number of actions including but not limited to the following: collusion between producer/seller and buyer, reliance on prices found by a court or regulatory authority to be fraudulently manipulated, patently imprudent contracts, or unreasonably disparities between the arms-length contract price and other comparable arms-length and other benchmark prices."

We believe this clarification should be added to the regulations and not just to the preamble in order to provide guidance to lessees about the kinds of situations which may constitute a "breach of duty".

4. Sec. 206.102(b)(2) and Sec. 206.152(b)(3) and Sec. 206.153(b)(3) Valuation standards. The proposed regulations do not clearly place the burden on the lessee to explain a large and unreasonable difference between an arms-length contract price and comparable field or area prices. This burden should not be placed on MMS as the preamble currently implies.

It should be a simple matter for lessees to explain and justify differences. Therefore, we recommend that the following be inserted as the first sentence in paragraph 206.102(b)(2) in the oil regulations and paragraphs 206.152(b)(3) and 206.153(b)(3) in the gas regulations: "When MMS determines that a price may be unreasonable, for example by comparing it with comparable contracts and sales, MMS will notify and give the lessee an opportunity to provide written information justifying the contract price."

5. Section 206.104(b)(2) and Section 206.156(c)(3) Transportation allowances-general. In the preamble, MMS rejects the suggestion that allowances in excess of 50 percent of the product's value be permitted only when they are in the "best interests of the lessor." The reason given for rejection is that this standard would be "too objective" when compared with the proposed rule that such costs be "reasonable, actual, and necessary." We believe the opposite conclusion is more correct. In defending the use of the word "reasonable," MMS argues that it will use the dictionary's definition—"moderate and fair". It does not seem logical to us that allowances which are "moderate and fair" would not be too objective to judge, but those which are in the "best interests of the lessor" would be.

We believe that the "best interests of the lessor" standard should be included in these regulations. A producer who chooses to transport the product to a distant refinery, should not be allowed to take an allowance in excess of 50 percent (thereby reducing the price relative to an adjacent producer who sells to a nearby pipeline) unless the price after the allowance reduction is higher and, therefore, in the best interests of the lessor.

There are only two conditions which a lessee would have to meet under the "best interest test." First, the net post-transportation value would have to be increased or, second, there would have to be increased resource recovery (either form processing or production). The terms "reasonable actual, and necessary" are new and undefined and are arguably more subjective than a "best interests of the lessor" standard. The combination of these tests would better protect the lessor's interests.

6. Section 206.105(a)(5) and Section 206.157(a)(5) Determination of transportation allowances. The MMS proposes to eliminate any requirement for reporting transportation-reduced contract prices. Under the proposed regulations "transportation factors" are considered to be "reductions in value" rather than transportation allowances and, as such, would not have to be reported on form MMS-4110. The MMS proposed change appears to be based on a false distinction which would create a loophole and result in potential abuse of the allowance process.

Unless it conducts an audit MMS would not know when a contract price has been reduced by a "transportation factor." The MMS should not treat "transportation factors" and "transportation allowances" differently. It should also require that transportation reduced prices be reported, either on MMS-4110 or some other form.

7. Section 206(b)(3)—Processing allowance-gas. For the reasons already stated in 5 above, we recommend adopting the "best interests of the lessor" as part of the standard for approving processing allowance exceptions above 66⅔ percent. Such a requirement is more precise than the "reasonable, actual and necessary" standard in the proposed regulation.

Mr. Speaker, hopefully with the enactment of H.R. 3479 we will have taken a rather large step in trying to straighten out a very difficult problem which called out for a congressional solution. I believe we have achieved that in the amendment we are offering today and I urge my colleagues to join me in support of the amendment.

Mr. RHODES. Mr. Speaker, further under my reservation of objection, I yield to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I thank the gentleman from Arizona for yielding.

Mr. Speaker, the long nightmare is over. The complex, controversial, and confusing issue known as NTL-5 can now be put to rest. H.R. 3479 finally resolves the gas royalty inequities caused by a Department of Interior regulation, NTL-5, and I wish to comment briefly on two very important provisions of this bill: the reasonableness test and the audit cycle.

First, this bill delineates in no uncertain terms that the value of the gas is to be the reasonable value of the product. In order to establish this reasonable value, due consideration shall be given to the highest price paid for the gas as determined by various methods, such as majority portion analysis or posted prices.

For the purpose of establishing some additional legislative intent behind this bill, it should be noted that although the language in section 3(b) states that the value shall be determined consistent with the lease terms and the regulations covered under part 206 of title 30 of the Code of Federal Regulations, let me make it perfectly clear that this reference is not intended to include section 206.103. Section 206.103 is reiterated with modification in section 3 of the bill, and as such, sets forth a slightly different standard.

These modifications include deleting the word "estimated," and tightening the language referring to methods of valuation. This is to ensure that the Department, in doing the case-by-case audits on leases affected by NTL-5, will actually apply these differing criteria so as to definitely determine the most reasonable value for the gas in question, not just estimate the value, as has been past practice.

Second, I also wish to emphasize that this bill ensures that those gas leases most in need of an audit are, in fact, audited first. Applicable to both Federal and Indian leases, priority for a case-by-case review is given to those leases for which there is the greatest likelihood of underpayment of royalties. This language ensures that MMS is instructed to prioritize audits, so that a fair and equitable resolution of this issue, taking into account the public interest, will be attained for the Indians, States, lessees, and the Federal Government.

Mr. Speaker, this bill is a good salve for a wound that has been festering for about 6 years. In H.R. 3479, Congress has provided the prescription to heal the royalty disease caused by the Department of the Interior.

□ 1730

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman Arizona, for yielding this time.

First of all, I would like to thank the chairman of the full committee, Chairman UDALL, and the chairman of the Subcommittee on Mining and Natural Resources, Chairman RAHALL, for their cooperation, their work and their effort to bring about this final compromise.

Mr. Speaker, it was at times somewhat contentious. We had differences of opinion as to how this process would ultimately work, but that has been arrived at and I think well spoken to by the chairman of the subcommittee.

Mr. Speaker, H.R. 3479, as amended would provide clarification regarding the royalty payments owed under Federal onshore and Indian oil and gas leases for certain gas production. The bill:

First, applies to that gas production from Federal onshore or Indian oil and gas leases during the period from January 1, 1982, through July 31, 1986, which is within the coverage of section I.A.2 or II.A. 2 of Notice to Lessees and Operators of Federal and Indian Onshore Oil and Gas Leases No. 5 (NTL-5) and for which the lessee provides certain documentation of price received;

Second, provides that royalties for such gas production shall be deter-

mined in accordance with lease terms and applicable regulations;

Third, provides for refunds not to exceed a set dollar amount from future Federal mineral receipts for royalties previously overpaid;

Fourth, requires a case-by-case determination of royalties payable; and

Fifth, provides for certain procedures to facilitate implementation.

As a result of the controversy associated with the Minerals Management Service [MMS] proposed retroactive modification of MTL-5 the House and Senate passed bills to correct the current problem. The bill before the House is intended to clarify legislatively the royalties due on the natural gas production covered by the bill so as to avoid the inequities resulting from the required application of the Natural Gas Policy Act [NGPA] ceiling prices. required application of NGPA ceiling prices would not have been reasonable given market conditions during the period in question.

Mr. RHODES. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WALKER. Reserving the right to object, Mr. Speaker, this particular bill comes as somewhat of a surprise to this gentleman that we have it on the floor.

Now, I understand there was some information given to floor staff a while back, maybe earlier today, about the bill coming up, but this gentleman is somewhat concerned about the fact that, as I understand the process that we are going through here on this unanimous-consent request, I think I just heard the gentleman from West Virginia say that this particular bill is something that has been festering for 6 years. We have a bill before us that came out of the committee on October 15 and now is being brought to the floor at the very last minute as a compromise on which everything is supposed to be worked out.

I am a little concerned about this process and just why we have to have it out here under a unanimous-consent request, if it has been a reasonably contentious issue for the better part of three Congresses.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the gentleman is operating under a misapprehension. This bill has passed the House a long time ago, passed the Senate, we are seeking to resolve some minor differences, all with the consent of the minority and the minority staff.

Mr. WALKER. Well, I was under the impression, and again, that is part of the problem of operating out here without any information and having these things comes up at the last minute.

In other words, the bill that we have before us is now coming back to us as essentially a conference report?

Mr. UDALL. Essentially.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from West Virginia.

Mr. RAHALL. The House has passed their version of the bill on November 3 of this year. It went over to the Senate. They passed their version of the bill with another number attached to it.

Mr. UDALL. We informally resolved the differences and sent it back.

Mr. WALKER. So we are resolving the differences between the two bills?

Mr. UDALL. Yes.

Mr. WALKER. How much cost is involved in this particular bill?

Mr. RAHALL. Mr. Speaker, if the gentleman will yield, under the worst case scenario, we would hope that the bill would be revenue neutral—or I am sorry, at the worst it would be revenue neutral. We would hope that there would be revenue generated to the Treasury under this bill; but that, of course, will rely on a case-by-case audit procedure, so we cannot say precisely, but as I said, under the worst case scenario, it would be revenue netural.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I appreciate the gentleman yielding.

What we have heard from the two chairmen is correct. It has passed both the House and the Senate.

I will tell the gentleman that this is a compromise that has been worked out with the full cooperation of the administration and their participation in arriving at this solution. We would hope that it would be a revenue generator, and as the chairman of the subcommittee said, in the worst case a neutral proposition.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the report I have here is for the House-passed bill?

Mr. CRAIG. That is correct.

Mr. WALKER. It does not reflect the bill that we now have before us, but this is a bill that has fully cleared the processes required by the House?

Mr. CRAIG. That is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

REPEALING BROWN-STEVENS ACT CONCERNING CERTAIN INDIAN TRIBES IN NEBRASKA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2639) to repeal the Brown-Stevens Act concerning certain Indian tribes in the State of Nebraska, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: At the end of the bill add the following: Section 7(c) of the White Earth Reservation Land Settlement Act of 1985 (P.L. 99-264; 100 Stat. 61; 25 U.S.C. 331 note) is amended by (1) deleting "not later than five hundred and forty days of the date of publication of the Secretary's first list in the Federal Register" and inserting in lieu thereof "not later than March 12, 1989", and (2) deleting "should be added to" and inserting in lieu thereof "should be corrected or added to".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, will the chairman please explain what is involved in this legislation.

I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, H.R. 2639 would repeal a 1916 act of Congress authorizing local taxation of Indian allotments on the Omaha and Winnebago Reservations of Nebraska with Indian consent. This bill passed the House in November with support from all affected parties. This bill would resolve a problem the State of Nebraska is experiencing with the Department of Education over the adverse effect of the 1916 act to the Federal impact aid funding assistance.

This bill, when taken up and passed in the Senate, was further amended to correct an additional problem concerning the White Earth Chippewa Tribe of Minnesota. The Senate's new provision would amend the White Earth Reservation Land Settlement Act of 1985—Public Law 99-264. This act was the result of 6 years of negotiations and deliberations between the State of Minnesota, the tribe, the administration and the Congress. It is a very complex settlement act.

Unfortunately, a key requirement to the full implementation of this act has not yet been accomplished. This act required that the Bureau of Indian Affairs [BIA] compile two lists of individuals who have claims to the settlement agreement. Specific deadlines were also placed into the law for the publishing of these lists. The first list was filed by the date required. The

second list of claimants has not been completed and is important since the filing of this list would trigger the final claims' resolution process.

The Senate's amendment would provide a 1-year's extension for the filing of the list of these claimants. I am advised that this would not affect other, ongoing efforts to clear titles for affected non-Indian landowners. I also understand that the administration is in support of this amendment.

Mr. Speaker, I urge the House to support and concur in the Senate-passed version of H.R. 2639.

Mr. RHODES. Mr. Speaker, further reserving the right to object, I will note that H.R. 2639 has already passed the House on the Consent Calendar and the Senate amendment has been requested by the administration.

There is little or no Federal cost associated with the bill, and I urge the House to concur in the Senate amendment to H.R. 2639.

Mr. Speaker, I withdraw my reservation of objection,

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

SEMINOLE INDIAN LAND CLAIMS SETTLEMENT ACT OF 1987

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1684) to settle Seminole Indian land claims within the State of Florida, and for other purposes and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, will the chairman please explain what is involved in this legislation.

I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, S. 1684 provides for the congressional ratification of an agreement between the Seminole Tribe of Florida and the State of Florida settling certain land and water rights claims of the tribe. The Committee on Interior and Insular Affairs has already reported H.R. 3290, an almost identical bill.

This settlement arises out of a 1975 dispute between the tribe and the trustee of the Internal Improvement Trust Fund when the fund conveyed a water flowage easement over Seminole lands to the South Florida Water Management District. The easement was conveyed without compensation to the tribe and without the tribe's consent. The tribe sued the State and the water management district in 1978 and the case has continued through years of litigation. In 1985, negotiations for a settlement began among the parties culminating in a final agreement.

This agreement not only settles the pending litigation but also settles and resolves the water rights claims of the tribe and other potential land claims based upon aboriginal use and occupation.

The agreement while very complex may be summarized as follows:

First, the tribe would convey about 14,470 acres within the water conservation area to the State.

Second, the tribe will sell to the State at fair market value the part of the East Big Cypress Reservation which is in Palm Beach County.

Third, the tribe will waive its asserted but never filed claim to a 5 million acre reservation and with the exception of one, any other claims resulting from unextinguished aboriginal title.

Fourth, the tribe would receive about $7 million from the State and another $500,000 from the water management district.

Fifth, the remainder of the East Big Cypress Reservation would be transferred to the United States to be held in trust for the tribe as a part of its reservation.

Finally, as an integral part of the settlement, a separate water rights compact is included. This compact would settle the water rights of the tribe and thereby avoid large-scale litigation involving tribal water rights.

This bill is supported by all concerned parties including the State of Florida, the Seminole Tribe and the United States. It does not call for the authorization of additional appropriation of Federal funds. It represents the conclusion of years of litigation and negotiations and will benefit everyone involved in this dispute. I therefore urge passage of this bill.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I would like to note that S. 1684 would settle longstanding claims in the State of Florida and assist the tribe in the use of its land and water.

The administration supports the bill. The State and the tribe are in agreement.

The bill has little or no Federal cost, and I urge my colleagues to support the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Seminole Indian Land Claims Settlement Act of 1987".

FINDINGS AND POLICY

SEC. 2. Congress finds and declares that—

(1) there is pending before the United States District Court for the southern district of Florida a lawsuit by the Seminole Tribe which involves certain lands within the State and there are also claims by the tribe to other areas of Florida by virtue of an 1839 Executive order of the President and by right of nonextinguishment of aboriginal possession which has been asserted but not filed in court;

(2) the pendency of this lawsuit and these claims may result in economic hardships for residents of the State by clouding the titles to lands in the State, including lands not now involved in the lawsuit;

(3) the pendency of this lawsuit and these claims also have clouded the easement rights of the South Florida Water Management District in lands necessary for use as a water flowage and storage area, which is part of a federally authorized project for flood control and water management in central and southern Florida, and which is being used to provide and regulate a water supply for the residents of south Florida;

(4) the State, the district, and the tribe have executed agreements for the purposes of resolving tribal land claims and settling the lawsuit—

(A) which include conveyance of land and payment of consideration to the tribe; and

(B) which require implementing legislation by the Congress of the United States and the Legislature of the State of Florida;

(5) Congress shares with the parties to such agreements a desire to settle these Indian claims in the State of Florida without additional cost to the United States;

(6) there is considerable uncertainty as to the nature and extent of the water rights of the tribe, and that continued controversy over this should be settled by agreement; and

(7) the State, the district, and the tribe have entered into a compact which, if approved by Congress and the Florida Legislature, creates specifically defined water rights in lieu of the undefined water rights claimed by the tribe.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "tribe" means the Seminole Tribe of Indians of Florida or Seminole Tribe of Florida, a tribe of American Indians recognized by the United States and organized under section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476) and recognized by the State of Florida pursuant to chapter 285, Florida Statutes, and its successors.

(2) The term "State" means the State of Florida and its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions and their successors.

(3) The term "district" means the South Florida Water Management District, the agency of the State of Florida created by chapter 25270, laws of Florida (1949) to operate pursuant to chapter 373 Florida Statutes, and its successors.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving

any real property or natural resources, including minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(6) The term "Settlement Agreement" means the instrument—

(A) executed by the Seminole Tribe, the State of Florida, and the South Florida Water Management District; and

(B) which will be presented for approval by all three parties to the United States District Court for the southern district of Florida for the purpose of terminating the lawsuit entitled Seiinole Tribe of Indians of Florida v. State of Florida, et al., (Docket No. 78-6116-CIV), and for the extinguishment of rights to all potential or unsettled claims which the tribe may have to lands or natural resources in the State and the purchase of certain tribal interests in real property.

(7) The term "settlement funds" means those funds which the State of Florida and the South Florida Water Management District have agreed to pay to the tribe under the Settlement Agreement.

(8) The term "compact" means the Compact incorporated in the Settlement Agreement between the tribe, the State, and the district, which specifically defines the nature and extent of Seminole water rights and the manner of their use within the confines of the area of the district.

FINDINGS BY THE SECRETARY

SEC. (a) Section 5 shall not take effect until 180 days after the effective date of this Act, or the date the last of the events described in subsection (b) have occurred and the Secretary so finds, whichever date occurs later.

(b) The events referred to in subsection (a) are—

(1) the State and district pay settlement funds pursuant to the terms of the Settlement Agreement for the case captioned Seminole Tribe of Indians of Florida v. State of Florida et al., or equivalent consideration by land exchange to the tribe; and

(2) the State enacts appropriate legislation to carry out the commitments under the Settlement Agreement including the compact between the State, the district and the tribe, and the State and the district have given the waiver specified in paragraph 5c of such agreement.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING FLORIDA INDIANS

SEC. 5. (a)(1) Effective on the date of enactment of this Act, the Congress does hereby approve the Settlement Agreement, including the compact, and any exhibits attached thereto.

(2) Subject to the provisions of section 4, the Secretary shall publish findings required by section 4 and the Settlement Agreement in the Federal Register, and upon such publication—

(A) the transfers, waivers, releases, relinquishments and other commitments made by the tribe in the Settlement Agreement with the State and the district, including the compact provided for in the Settlement Agreement, shall be in full force and effect on the terms and conditions stated in such settlement, and

(B) the transfers, waivers, releases, relinquishments and other commitments validated by subparagraph (A) and the transfers and extinguishments approved and validated by paragraphs (1) and (2) of subsection (b) shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians including but not limited to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (25 U.S.C. 177, ch. 33, sec. 4, 1 Stat. 137).

(b)(1)(A) Subject to subparagraph (B), all claims to lands within the State based upon aboriginal title by the tribe or any predecessor or successor in interest, are hereby extinguished. Any transfer of lands or natural resources located anywhere within the State, including transfers pursuant to a statute or treaty with any State or the United States, by, from, or on behalf of the tribe or any predecessor or successor in interest, shall be deemed to be in full force and effect, as provided in subsection (a)(2).

(B) Nothing in this paragraph shall be construed as extinguishing any aboriginal right, title, interest, or claim to lands or natural resources solely to the extent of the rights or interests defined as "excepted interests" in paragraph 4a of the Settlement Agreement between the tribe, State and the district.

(2)(A) By virtue of the approval of a transfer of lands or natural resources effected by this section, or an extinguishment of aboriginal title effected thereby, all claims against the United States, the State or subdivision thereof, or any other person or entity, by the tribe or any predecessor or successor in interest, arising subsequent to the transfer and based upon any interest in or right involving such lands or natural resources, including claims for trespass damages or claims for use and occupancy, shall be extinguished as of the date of the transfer.

(B) The United States shall not be liable directly or indirectly for any claim or cause of action arising from the approval of the Settlement Agreement and compact or exhibits attached thereto.

(3) Nothing in this Act shall be construed as extinguishing any right, title, interest, or claim to lands or natural resources in the State based on use and occupancy or acquired under Federal or State law by any individual Indian which is not derived from or through the tribe, its predecessor or predecessors in interest, or some other American Indian tribe.

(4) Any Indian, Indian nation, or tribe of Indians, other than the Seminole Tribe as defined in section 3(1), or any predecessor or successor in interest, or any member thereof, whose transfer of lands or natural resources is approved or whose aboriginal title or claims is extinguished by paragraph (1) or (2) of this subsection may, within a period of one year after publication of the Secretary's finding pursuant to subsection (a) of this section, bring an action against the State and the United States in the United States District Court for the southern district of Florida. Such action shall be in lieu of a suit against any other person, agency, or political subdivision on a cause of action which may have existed in the absence of this subsection.

(c) Neither subsection (a) of this section nor section 7 of this Act—

(1) enacts present or future laws of the State as Federal law,

(2) grants consent to any future changes in the Settlement Agreement or compact that could impose any obligation or liability on the United States, or

(3) commits the United States to finance any project or activity not otherwise authorized by Federal law.

SPECIAL PROVISIONS FOR SEMINOLE TRIBE

SEC. 6. (a) Notwithstanding any clouds on title, the Secretary is authorized and directed, as soon as practicable after the date of enactment of this Act, to accept the transfer to the United States, to be held in trust and as a reservation for the use and benefit of the Seminole Tribe of Florida, the approximate 15 sections of land being described as follows:

Beginning at the southwest corner of section 31, township 48 south, Range 35 east; thence easterly along the south border of sections 31, 32 and 33, township 48 south, Range 35 east, to the westernmost boundary of the levee 28 works in section 33, township 48 south, Range 35 east; thence continuing north along the westernmost boundary of the levee 28 works to the point at which the westernmost boundary of the levee 28 works intersects the southernmost boundary of the levee 4 works in section 9, township 48 south, Range 35 east; thence continuing westerly along the southernmost boundary of the levee 4 works to the point at which the southernmost boundary of the levee 4 works intersects the dividing line between township 48 south, Range 35 east and township 48 south, Range 34 east at the Broward County and Hendry County line; and thence continuing south along said line to the point of beginning; said lands situate, lying and being in Broward County, Florida.

(b) Before the expiration of the 3-year period beginning on the date of enactment of this Act, the Secretary shall—

(1) conduct a cadastral survey of those portions of the Seminole Federal Reservations in Florida not previously surveyed by the Department of the Interior, including all lands taken into trust as reservations under the authority of this Act;

(2) publish the correct legal descriptions of the Seminole Reservations in the Federal Register within 180 days after the survey is completed.

(c) If, pursuant to paragraph 6 of the Settlement Agreement, there is a subsequent agreement between the tribe, the State, and the district providing that lands exchanged with the tribe or acquired by the tribe may be taken into Federal trust as a reservation for the tribe, the Secretary shall accept the transfer of such lands to the United States, to be held in trust for the use and benefit of the tribe pursuant to the terms and conditions of the subsequent agreement unless—

(1) the total amount of land previously taken in trust under this subsection exceeds the amount of land transferred to the State and Water District by the tribe under the Settlement Agreement;

(2) the Secretary determines in writing that either the size, location, or condition of the land, or the terms and conditions under which it is transferred would place an unreasonable burden on the United States as trustee;

(3) the land is not in Florida; or

(4) the land is not agricultural in nature.

(d)(1) Notwithstanding the acquisition of any land under subsection (a) or (c) of this section by the United States in trust for the tribe, the assumption of jurisdiction in favor of the State contained in section 285.16. Florida Statutes, pursuant to section 7 of the Act of August 15, 1953, (67 Stat. 588; Public Law 280), shall continue in full force and effect on such lands unless the United States accepts a retrocession by the State of such civil or criminal jurisdiction in whole or in part under section 403 of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323).

The laws of Florida relating to alcoholic beverages, gambling, sale of cigarettes, and their successor laws, shall have the same force and effect within said transferred lands as they have elsewhere within the State. The State, with respect to the transferred lands, shall also have jurisdiction over offenses committed by or against Indians under said laws to the same extent the State has jurisdiction over said offenses committed elsewhere within the State.

(2) Nothing in this subsection shall be construed as permitting the exercise of the above jurisdiction by the State regarding matters to which section 1162(b) of title 18, United States Code, and section 1360(b) of title 28, United States Code, apply.

(3) The scope of tribal sovereignty over transferred lands, with the specific exceptions of law relating to cigarettes, gambling and alcohol described in this subsection, shall be as required by applicable law with regard to existing tribal lands held in reservation or Federal trust status. Such transfer shall not confer upon the tribe, or upon the lands within the reservation, any additional water rights. Tribal water rights shall be deemed to be defined in the compact.

WATER RIGHTS COMPACT

SEC. 7. The compact defining the scope of Seminole water rights and their utilization by the tribe shall have the force and effect of Federal law for the purposes of enforcement of the rights and obligations of the tribe.

JUDICIAL REVIEW

SEC. 8. (a) Notwithstanding any other provision of law, any action to contest the constitutionality of this Act shall be barred unless the complaint is filed within 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the southern district of Florida.

(b) Notwithstanding any present immunity from suit enjoyed by any of the parties, jurisdiction regarding any controversy arising under the Settlement Agreement or compact or private agreement between the tribe and any third party entered into under authority of the compact is hereby vested in the United States District Court for the southern district of Florida. Such jurisdiction shall be exclusive except that the court shall not have jurisdiction to award money damages against the State, the district or the tribe. Proceedings in the district court under this section shall be expedited consistent with sound judicial discretion.

REVOCATION OF SETTLEMENT

SEC. 9. In the event the Settlement Agreement or any part thereof is ever invalidated—

(1) the transfers, waivers, releases, relinquishments and any other commitments made by the State, the tribe, or the district in the Settlement Agreement shall no longer be of any force or effect;

(2) section 5 shall be inapplicable as if such section was never enacted with respect to the lands, interests in lands, or natural resources of the tribe and its members; and

(3) the approvals of prior transfers and the extinguishment of claims and aboriginal title of the tribe otherwise effected by section 5 shall be void ab initio.

EFFECTIVE DATE

SEC. 10. This Act shall take effect upon the date of its enactment.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EL MALPAIS NATIONAL MONUMENT AND MASAU TRAIL

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 403) to establish the El Malpais National Monument and the El Malpais National Conservation Area in the State of New Mexico, to authorize the Masau Trail, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I—EL MALPAIS NATIONAL MONUMENT

ESTABLISHMENT OF MONUMENT

SEC. 101. (a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in western New Mexico containing the nationally significant Grants Lava Flow, the Las Ventanas Chacoan Archeological Site, and other significant natural and cultural resources, there is hereby established the El Malpais National Monument (hereinafter referred to as the "monument"). The monument shall consist of approximately 114,000 acres as generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA-80,001-B and dated May 1987. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(b) As soon as practicable after the enactment of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall file a legal description of the monument with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

TRANSFER

SEC. 102. Lands and waters and interests therein within the boundaries of the monument, which as of the day prior to the date of enactment of this Act were administered by the Forest Service, United States Department of Agriculture, are hereby transferred to the administrative jurisdiction of the Secretary to be managed as part of the monument in accordance with this Act. The boundaries of the Cibola National Forest shall be adjusted accordingly.

MANAGEMENT

SEC. 103. The Secretary, acting through the Director of the National Park Service, shall manage the monument in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and other provisions of law applicable to units of the National Park System. The Secretary shall protect, manage, and administer the monument for the purposes of preserving the scenery and the natural, historic, and cultural resources of the monument and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these qualities for future generations.

PERMITS

SEC. 104. Where any lands included within the boundary of the monument on the map referred to in subsection 101(a) are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(a) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(b) scheduled for termination before December 31, 1997,

the Secretary, notwithstanding any other provision of law, shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1997, subject to such limitations, conditions, or regulations as the Secretary may prescribe to insure proper range management. No grazing shall be permitted on lands within the boundaries of the monument on or after January 1, 1998.

TITLE II—MASAU TRAIL

DESIGNATION OF TRAIL

SEC. 201. In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally significant sites of antiquity in New Mexico and eastern Arizona which are accessible by public road, the Secretary, acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking prehistoric and historic cultural sites in New Mexico and eastern Arizona. Such a route shall be known as the Masau Trail (hereinafter referred to as the "trail").

AREAS INCLUDED

SEC. 202. The trail shall include public roads linking El Malpais National Monument as established pursuant to title I of this Act, El Morro National Monument, Chaco Cultural National Historical Park, Aztec Ruins National Monument, Canyon De Chelly National Monument, Pecos National Monument, and Gila Cliff Dwellings National Monument. The Secretary may, in the manner set forth in section 201, designate additional segments of the trail from time to time as appropriate to link the foregoing sites with other cultural sites or sites of national significance when such sites are designated and protected by Federal, State, or local governments, Indian tribes, or nonprofit entities.

INFORMATION AND INTERPRETATION

SEC. 203. With respect to sites linked by segments of the trail which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the natural and cultural resources of the sites along the trail. The Secretary, in cooperation with State and local governments, Indian tribes, and nonprofit entities, shall prepare and distribute informational

material for the public appreciation of sites along the trail.

MARKERS

SEC. 204. The trail shall be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the trail, the Secretary may erect thereon and maintain signs and other informational devices displaying the Masau Trail Marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

TITLE III—EL MALPAIS NATIONAL CONSERVATION AREA

ESTABLISHMENT OF AREA

SEC. 301. (a) In order to protect for the benefit and enjoyment of future generations that area in western New Mexico containing the La Ventana Natural Arch and the other unique and nationally important geological, archeological, ecological, cultural, scenic, scientific, and wilderness resources of the public lands surrounding the Grants Lava Flows, there is hereby established the El Malpais National Conservation Area (hereinafter referred to as the "conservation area"). The conservation area shall consist of approximately 262,690 acres of federally owned land as generally depicted on a map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA 80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management of the Department of the Interior.

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area designated under this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

SEC. 302. (a) The Secretary, acting through the Director of the Bureau of Land Management, shall manage the conservation area to protect the resources specified in section 301 and in accordance with this Act, the Federal Land Management and Policy Act of 1976 and other applicable provisions of law, including those provisions relating to grazing on public lands.

(b) The Secretary shall permit hunting and trapping within the conservation area in accordance with applicable laws and regulations of the United States and the State of New Mexico; except that the Secretary, after consultation with the New Mexico Department of Game and Fish, may issue regulations designating zones where and establishing periods when no hunting or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) Collection of green or dead wood for sale or other commercial purposes shall not be permitted in the conservation area.

(d) Except as otherwise provided in section 402(b), within the conservation area the grazing of livestock shall be permitted to continue, pursuant to applicable Federal law, including this Act, and subject to such reasonable regulations, policies, and practices as the Secretary deems necessary.

TITLE IV—WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 401. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 131), there are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System, the Cebolla Wilderness of approximately 60,450 acres, and the West Malpais Wilderness of approximately 22,426 acres, as each is generally depicted on the map entitled "El Malpais National Monument and National Conservation Area" numbered NM-ELMA 80,001-B and dated May 1987. The map shall be on file and available for inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(b) As soon as practicable after the date of the enactment of this Act, the Secretary shall file a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

MANAGEMENT

SEC. 402. (a) Subject to valid existing rights, each wilderness area designated under this Act shall be administered by the Secretary, through the Director of the Bureau of Land Management, in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 1133 note).

TITLE V—GENERAL PROVISIONS

MANAGEMENT PLANS

SEC. 501. (a) Within three full fiscal years following the fiscal year of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, separate general management plans for the monument and the conservation areas which shall describe the appropriate uses and development of the monument and the conservation area consistent with the purposes of this Act. The plans shall include but not be limited to each of the following:

(1) implementation plans for a continuing program of interpretation and public education about the resources and values of the monument and the conservation area;

(2) proposals for public facilities to be developed for the conservation area or the monument, including a visitors center in the vicinity of Bandera Crater and a multiagency orientation center, to be located in or near Grants, New Mexico, and adjacent to Interstate 40, to accommodate visitors to western New Mexico;

(3) natural and cultural resources management plans for the monument and the conservation area, with a particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 and the National Historic Preservation Act within the monument and the conservation area. The natural and cultural resources management plans shall be prepared in close consultation with the Advisory Council on Historic Preservation, the New Mexico State Historic Preservation Office, and the local Indian people and their traditional cultural and religious authorities; and such plans shall provide for long-term scientific use of archaeological resources in the monument and the conservation area, including the wilderness areas designated by this Act; and

(4) wildlife resources management plans for the monument and the conservation area prepared in close consultation with appropriate departments of the State of New Mexico and using previous studies of the area.

(b)(1) The general management plan for the conservation area shall review and recommend the suitability or non-suitability for preservation as wilderness of those lands comprising approximately 17,468 acres, identified as "Wilderness Study Area" (hereafter in this title referred to as the "WSA") on the map referenced in section 101.

(2) Pending submission of a recommendation and until otherwise directed by an Act of Congress, the Secretary, acting through the Director of the Bureau of Land Management, shall manage the lands within the WSA so as to maintain their potential for inclusion within the National Wilderness Preservation System.

(c)(1) The general management plan for the monument shall review and recommend the suitability or non-suitability for preservation as wilderness of all roadless lands within the boundaries of the monument as established by this Act except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

(2) Pending the submission of a recommendation and until otherwise directed by Act of Congress, the Secretary, through the Director of the National Park Service, shall manage all roadless lands within the boundaries of the monument so as to maintain their potential for inclusion in the National Wilderness Preservation System, except those lands within the areas identified as "potential development areas" on the map referenced in section 101.

ACQUISITIONS

SEC. 502. Within the monument and the conservation area, the Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that such lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by exchange. It is the sense of Congress that the Secretary is to complete the acquisition of non-Federal

subsurface interests underlying the monument and the conservation area no later than three full fiscal years after the fiscal year of enactment of this Act.

STATE EXCHANGES

SEC. 503. (a) Upon the request of the State of New Mexico (hereinafter referred to as the "State") and pursuant to the provisions of this section, the Secretary shall exchange public lands or interests in lands elsewhere in the State of New Mexico, of approximately equal value and selected by the State, acting through its Commissioner of Public Lands, for any lands or interests therein owned by the State (hereinafter referred to as "State lands") located within the boundaries of the monument or the conservation area which the State wishes to exchange with the United States.

(b) Within six months after the date of enactment of this Act, the Secretary shall notify the New Mexico Commissioner of Public Lands what State lands are within the monument or the conservation area. The notice shall contain a listing of all public lands or interest therein within the boundaries of the State of New Mexico which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of sections 202 and 206 of the Federal Land Policy and Management Act of 1976, has identified as appropriate for transfer to the State in exchange for State lands. Such listing shall be updated at least annually. If the New Mexico Commissioner of Public Lands gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Commissioner in writing as to whether the Department of the Interior considers the State lands within the monument or conservation area to be of approximately equal value to the listed lands or interests in lands the Commissioner has indicated the State desires to obtain. It is the sense of the Congress that the exchange of lands and interests therein with the State pursuant to this section should be completed within two years after the date of enactment of this Act.

MINERAL EXCHANGES

SEC. 504. (a) The Secretary is authorized and directed to exchange the Federal mineral interests in the lands described in subsection (b) for the private mineral interests in the lands described in subsection (c), if—

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976; and

(B) that the exchange is in the public interest.

(b) The Federal mineral interests to be exchanged under this section underlie the lands, comprising approximately 15,008 acres, depicted as "Proposed for transfer to Santa Fe Pacific" on the map referenced in subsection (d).

(c) The private mineral interests to be exchanged pursuant to this section underlie the lands, comprising approximately 15,141 acres, depicted as "Proposed for transfer to U.S." on the map referenced in subsection (d).

(d)(1) The mineral interests identified in this section underlie those lands depicted as "Proposed for transfer to Santa Fe Pacific" and as "Proposed for transfer to U.S." on a map entitled "El Malpais Leg. Boundary, HR3684/S56", revised 5-8-87.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the mineral interest areas designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(e) It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after the date of enactment of this Act.

ACOMA PUEBLO EXCHANGES

SEC. 505. (a)(1) Upon the request of the Pueblo of Acoma, the Secretary shall acquire by exchange any lands held in trust for the Pueblo of Acoma (hereinafter referred to as "trust lands") located within the boundary of the conservation area which the Pueblo wishes to exchange pursuant to this section. Such trust lands shall be exchanged either for—

(A) lands described in subsection (c) (with respect to trust lands west of New Mexico Highway 117); or

(B) public lands of approximately equal value located outside the monument and outside the conservation area but within the boundaries of the State of New Mexico which are selected by the Pueblo of Acoma, so long as such exchange is consistent with applicable law and Bureau of Land Management resource management plans developed pursuant to the Federal Land Policy and Management Act of 1976.

(2) All lands selected by and transferred to the Pueblo of Acoma at its request pursuant to this section shall thereafter be held in trust by the Secretary for the Pueblo of Acoma in the same manner as the lands for which they were exchanged.

(3) Any lands west of New Mexico Highway 117 which are acquired by the Secretary pursuant to this section shall be incorporated into the monument and managed accordingly, and section 104 and all other provisions of this Act and other law applicable to lands designated by this Act as part of the monument shall apply to such incorporated lands.

(b) For purposes of acquiring lands pursuant to subsection (a) of this section, the Secretary, consistent with applicable law and Bureau of Land Management resource management plans described in subsection (a), shall make public lands within the boundaries of the State of New Mexico available for exchange. Nothing in this Act shall be construed as authorizing or requiring revocation of any existing withdrawal or classification of public land except in a manner consistent with applicable law.

(c)(1) The Secretary shall make the lands within the areas identified as "Acoma Potential Exchange Areas" on the map referenced in section 301 available for transfer to the Pueblo of Acoma pursuant to this subsection.

(2) Upon a request of the Pueblo of Acoma submitted to the Secretary no later than one year after the date of enactment of this Act, lands within the areas described in paragraph (1) shall be transferred to the Pueblo of Acoma in exchange for trust lands of approximately equal value within that portion of the conservation area west of New Mexico Highway 117. The Secretary may require exchanges of land under this subsection to be on the basis of compact and contiguous parcels.

(3) Any lands within the areas described in paragraph (1) not proposed for exchange by a request submitted to the Secretary by the Pueblo of Acoma within the period specified in paragraph (2), and any lands in such areas not ultimately transferred pursuant to this subsection, shall be incorporated within the conservation area and managed accordingly. In addition, any lands in that portion of the areas described in paragraph (1) lying in section 1, township 7N, range 9W, New Mexico Principal Meridian, not transferred to the Pueblo of Acoma pursuant to this subsection shall be added to and incorporated within the Cebolla Wilderness and managed accordingly.

EXCHANGES AND ACQUISITIONS GENERALLY; WITHDRAWAL

SEC. 506. (a) All exchanges pursuant to this Act shall be made in a manner consistent with applicable provisions of law, including this Act, and unless otherwise specified in this Act shall be on the basis of equal value; either party to an exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

(b) For purposes of this Act, the term "public lands" shall have the same meaning as such term has when used in the Federal Land Policy and Management Act of 1976.

(c) Except as otherwise provided in section 505, any lands or interests therein within the boundaries of the monument or conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the monument or conservation area, as the case may be, and managed accordingly, and all provisions of this Act and other laws applicable to the monument or the conservation area, as the case may be, shall apply to such incorporated lands.

(d)(1) Except as otherwise provided in this Act, no federally-owned lands located within the boundaries of the monument or the conservation area shall be transferred out of Federal ownership, or be placed in trust for any Indian tribe or group, by exchange or otherwise.

(2) Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands within the monument and the conservation area and all lands and interests therein which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws and from location, entry and patent under the mining laws, and from operation of the mineral leasing and geothermal leasing laws and all amendments thereto.

(e) The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the lands depicted on referenced maps, the maps shall control.

(f) The Secretary is authorized to accept any lands contiguous to the boundaries of the Pecos National Monument (as such boundaries were established on the date of enactment of this Act) which may be proposed for donation to the United States. If acceptance of such lands proposed for donation would be in furtherance of the purposes for which the Pecos National Monument was established, the Secretary shall accept such lands, and upon such acceptance such lands shall be incorporated into such monument and managed accordingly.

(g)(1) Capulin Mountain National Monument is hereby redesignated as Capulin Volcano National Monument.

(2) Any reference in any record, map, or other document of the United States of America to Capulin Mountain National Monument shall hereafter be deemed to be a reference to Capulin Volcano National Monument.

(3) Section 1 of the Act of September 5, 1962 (76 Stat. 436) is hereby amended by striking the remaining portion of section 1 after "boundaries of the monument" and inserting "shall include the lands and interests in lands as generally depicted on the map entitled 'Capulin Volcano National Monument Boundary Map' which is numbered 125-80,014 and dated January 1987.".

(4) Jurisdiction over federally-owned lands within the revised boundaries of the monument is hereby transferred to the National Park Service, without monetary consideration, for administration as part of the monument.

ACCESS

SEC. 507. In recognition of the past use of the monument and the conservation area by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument and the conservation area by Indian people for such traditional cultural and religious purposes, including the harvest of pine nuts. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996). As a part of the plans prepared pursuant to section 501, the Secretary, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, shall define the past cultural and religious uses of the monument and the conservation area by Indian people.

COOPERATION

SEC. 508. In order to encourage unified and cost effective interpretation of prehistoric and historic civilizations in western New Mexico, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of prehistoric and historic civilizations in New Mexico and eastern Arizona. The Secretary may, pursuant to such agreements, cooperate in the development and operation of a multiagency orientation center and programs on lands and interests in lands inside and outside of the boundaries of the monument and the conservation area generally, with the concurrence of the owner or administrator thereof, and specifically in or near Grants, New Mexico, adjacent to Interstate 40 in accordance with the plan required pursuant to section 501.

WATER RIGHTS

SEC. 509. (a) Congress expressly reserves to the United States the minimum amount of water required to carry out the purposes for which the national monument, the conservation area, and the wilderness areas are designated under this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

(b) Nothing in this section shall affect any existing valid or vested water right, or applications for water rights which are pending as of the date of enactment of this Act and which are subsequently granted: Provided, That nothing in this subsection shall be construed to require the National Park Service to allow the drilling of ground water wells within the boundaries of the national monument.

(c) Nothing in this section shall be construed as establishing a precedent with regard to any future designations, nor shall it affect the interpretation of any other Act or any designation made pursuant thereto.

AUTHORIZATION

SEC. 510. There is authorized to be appropriated $16,500,000 for the purposes of this Act, of which $10,000,000 shall be available for land acquisition in the national monument; $1 million shall be available for development within the national monument; $4 million shall be available for land acquisition within the conservation area; $1 million shall be available for development within the conservation area; and $500,000 shall be available for planning and development of the Masau Trail.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RHODES. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Arizona to explain the matter before the House.

Mr. UDALL. Mr. Speaker, on June 1, the House passed H.R. 403, a bill which would designate certain public lands in New Mexico as the El Malpais National Monument and El Malpais National Conservation area and would also provide for designating as the Masau Trail existing roads that provide a link among a number of national monuments and other important Anasazi Pueblo sites in New Mexico and Arizona.

On the same day, the House also passed H.R. 401, a bill to slightly enlarge the existing Capulin Mountain National Monument near Raton, NM, and to change its name to Capulin Volcano National Monument.

Now the Senate has passed H.R. 403 with certain amendments. I believe that the amendments deserve acceptance by the House, which will clear the El Malpais bill for signature by the President.

Let me briefly explain some of the main features of the Senate amendments.

First, the Senate combined the two House bills, by including the text of H.R. 401 in the amended El Malpais bill, H.R. 403. Obviously, this is acceptable.

Second, the Senate revised the boundaries and increased the total acreage specified for the two areas which would be designated as wilderness.

The Senate bill includes a specific authorization of $16.5 million for implementation of the bill, with language specifying how that total is to be used. The House bill included a general authorization of necessary amounts. We can accept this.

Also, while the House bill was silent concerning water rights, the Senate bill includes language expressly reserving to the United States the minimum amount of water required to carry out the purposes for which the national monument, the national conservation area, and the wilderness areas are designated. While not really necessary, but as regards the El Malpais lands this is not objectionable.

The House bill included a sentence stating that exercise of valid existing mineral rights would be governed by applicable State and Federal laws. While this is not in the Senate bill, its omission is acceptable, since of course such laws will continue to apply in full.

Finally, the Senate has revised somewhat the language of the House bill dealing with access by Indian people to the El Malpais lands for religious purposes, consistent with the purposes of the American Indian Religious Freedom Act. I believe that these revisions are helpful and deserve the support of the House.

Mr. Speaker, I am glad that the Senate has joined us in acting on this important legislation, and I urge the House to concur in the Senate amendments.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Speaker, I want to thank the Speaker for the prompt consideration of H.R. 403. This bill is the product of years of work by New Mexico Senators BINGAMAN, DOMENICI, Congressman LUJAN and myself to develop a comprehensive El Malpais proposal that balances community needs and national interests.

The El Malpais bill is designed to protect and interpret the El Malpais volcanic area near Grants, NM, in my congressional district. The El Malpais bill has the support of a broad coalition of citizens, local and State governments, and local and national environmental organizations. For the past 23 years, study after study has supported protection for the El Malpais area. El Malpais has been described as a geological wonder, complete with volcanic craters, lava flows and tubes, ice caves, sandstone bluffs, and natural arches. The area is also rich in prehistoric resources and is believed to contain more than 3,500 archeological sites.

Mr. Speaker, H.R. 403 will establish the El Malpais National Monument of 114,000 acres and an adjacent El Malpais National Conservation Area of 263,000 acres. The bill designates two wilderness areas, the Cebolla Wilderness and the West Malpais Wilderness, totaling 98,000 acres, within the conservation area. It also establishes the Masau Trail—an auto touring route linking Indian historical and cultural sites in New Mexico and Arizona.

In addition, H.R. 403 is sensitive to the cultural and religious traditions of the local Indian people. Section 507 of the bill specifically protects access to the monument and conservation area by Indian people for traditional cultural and religious purposes. It mandates that the Pueblo of Acoma and other Indian tribes be closely consulted during preparation of management plans for these areas. It permits the Secretary to close portions of the monument and conservation area from public access upon the request of appropriate Indian tribes to protect the privacy of religious activities in such areas. Finally, the bill authorizes establishment of an advisory commission, including representatives of the Pueblos of Acoma and Zuni, to advise the Secretary concerning the implementation of this section.

Mr. Speaker, when most everything else in New Mexico's economy seems to be waning—the decline of our domestic mining and oil and natural gas industries—our tourism industry is on the rise. The El Malpais National Monument bill will give a badly needed economic boost to Grants—once the uranium capital of the world—and all of Cibola County by making it a tourist center. The Masau Trail component will help other New Mexico communities by linking together major tourist attractions throughout the State.

Mr. Speaker, the Senate has made some small changes in the House-passed bill and I join with the distinguished chairmen of the Interior Committee and the Water and Power Resources Subcommittee in consenting to the Senate amendments. I am very happy to see that the Senate has incorporated into H.R. 403 the text of H.R. 401, the Capulin Mountain National Monument bill. The House passed H.R. 401 along with H.R. 403 last June. H.R. 401 transfers 17.5 acres of public land to the Capulin Mountain National Monument and changes the name of the monument to Capulin Volcano National Monument to more accurately describe the true nature of the monument which is an extinct volcanic cinder cone.

Mr. Speaker, I support passage of H.R. 403, a bill that will benefit New Mexico and the whole country by adding a unique area to our National Park system.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I would like to confirm with the chairman of the full committee, the gentleman from Arizona [Mr. UDALL] that this legislation is substantially different from the House-passed version in that this version contains a new section on federally reserved water rights.

Mr. UDALL. The gentleman is correct.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I yield to my colleague and member of the Interior and Insular Affairs Committee, the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman from Arizona, for yielding.

I would like to join my colleague in noting that the water section of this bill finally breaks the congressional silence on this issue. I too believe that Congress, and not the courts, should decide whether various land designations create a federally reserved water right. I believe it is important to note that in this specific instance the New Mexico delegation, through a bipartisan agreement, has explicitly claimed a federally reserved water right for the primary purpose of the land withdrawal. This in no way creates any kind of generic BLM wilderness water language for future statewide BLM wilderness legislation. It does, however, show that in each and every instance Congress will decide whether a federally reserved water right is necessary for the particular land withdrawal. But as my colleague has pointed out, S. 1675, the Hagerman Fossil Beds National Monument, and S. 1335, the City of Rocks National Reserve, each explicitly specify that there is no Federal water right for the specific land withdrawal from the public domain. Under these bills, if the United States wishes to acquire a water right, it may do so under the substantive and procedural requirements of the laws of the State of Idaho.

And so we begin down the road of reviewing on a case-by-case basis whether each particular land designation requires a Federal water right. Although review will be tedious, it will be no more tedious than drawing boundary lines, reviewing individual timber sales and making other detailed land use decisions. But this is the body to make such decisions.

I thank the gentleman for yielding.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, I would like to address a question to my distinguished colleague, the gentleman from New Mexico, whether it is not correct that it is the intent of the Congress in adopting this language that the Congress expressly reserve the minimum amount of water required to carry out the primary purpose for which this national monument and the two areas are designated under the act.

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Mr. RICHARDSON. The gentleman is entirely correct.

Mr. KYL. Mr. Speaker, with that understanding and in concurrence with the gentleman from Utah that this does not establish a precedent with respect to reserve water rights, I have no objection.

Mr. RHODES. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I'd like to speak for just a moment about an issue we are considering right now. I'm not going to object to it, but I do want to say that I am very concerned as my colleagues from Arizona and Idaho have stated about any measure that creates any type of a reserved water right for the Federal Government under any circumstance.

In the West, water is the lifeblood of communities. Without State regulation and control over water, you lose control of your State. I cannot stress enough that the Federal Government, along with every other individual or entity must apply for water rights and go through the same process as any other individual or entity before receiving rights to water.

I strongly urge this body to keep in mind that this is a specific, unique instance and support of it should not at all be construed as setting a precedent—a precedent I believe would be extremely detrimental to Western water law.

Mr. RHODES. Mr. Speaker, further reserving the right to object, notwithstanding subsection (c), I note that this marks a dramatic departure from previous wilderness legislation in that Congress is for the first time explicitly stating that in this particular case there is a Federal reservation of water, and the amount of the right is the minimum amount necessary for the primary purpose of the act. This is an approach with which I do not necessarily agree. However, the Senate has determined in this one specific instance a need for a Federal water right for a particular reservation or withdrawal, and explicitly authorizes that need through a legislative directive for the reservation of a Federal water right rather than allowing the courts to imply a water right by the mere designation of a wilderness area, conservation area, or national monument.

Further reserving the right to object, I would also note that if Congress believes there is no need for a Federal water right, Congress will so state explicitly. Our colleagues in the other body have recently sent us two

other land classification bills, S. 1335 and S. 1675, which explicitly state that no express or implied reservation of water exists for the particular lands designated by the legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Arizona?

Mr. MILLER of California. Reser ving the right to object, Mr. Speaker, under my reservation I yield to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL. Mr. Speaker, I appreciate the gentleman from California [Mr. MILLER] yielding me this time. I would like to engage in a brief colloquy with the gentleman from California [Mr. MILLER], who is the chairman of the Subcommittee on Water and Power Resources.

Mr. MILLER of California. Mr. Speaker, I would be happy to yield to the gentleman from Colorado [Mr. CAMPBELL] for that purpose.

Mr. CAMPBELL. I have a question concerning section 509 of the Senate-passed version of H.R. 403. My question is the following: Is the water rights language included by the Senate applicable to the State of Colorado or any other State?

The gentleman from Arizona addressed a couple of my problems but I would like to make it a little more Western-State specific and ask this question for clarification.

Mr. MILLER of California. I would say to the gentleman from Colorado [Mr. CAMPBELL] that section 509 does not affect in any way the water laws of the State of Colorado or any other State.

Section 509 only impacts water rights questions in the State of New Mexico. Section 509 simply states that there is reserved to the El Malpais Monument such water as may be needed to carry out the purposes of the monument. The National Park Service will have to work with the State of New Mexico to determine how much water that may require.

Mr. CAMPBELL. I would also like to know if the gentleman believes this language sets a precedent for the solution to Federal reserved water rights problems in other Western States?

Mr. MILLER of California. I would reply to my good friend that this legislation does not set a precedent. As I stated earlier, I don't believe section 509 is needed. It is unnecessary.

I am pleased the New Mexico delegation was able to resolve this issue. I further understand similar negotiations are taking place in Colorado. I would like to urge those involved to reach an equitable agreement. However, I want to make it clear that section 509 should not be interpreted by anyone as setting a precedent for solving the water rights problems of any State, including Colorado.

Mr. CAMPBELL. If my colleague would further yield, as he knows, there is a very controversial water rights case currently pending in the Federal courts of Colorado. I have previously stated my opposition to any wilderness legislation until that case is resolved. We recently had the Montana wilderness bill and I could not support that because in a proposed amendment in the committee that would have deleted Federal reserve water rights, that language was not included. So I could not support that* I think that one of the problems we face is that we have to protect the interests of thousands of water users within boundaries of our Western States. Approving more wilderness areas will only compound the problem. We have to try to protect the position of the people that brought judgment in Judge Kane's court. If we introduce more legislation without addressing that, it only compounds the problem. Recently our two Senators in the State of Colorado joined together in forming a bipartisan group of many water users to try to get to the diverse opinions and find some common bipartisan approach to an answer to this problem. So far they have not gotten a consensus, and I worry that further wilderness designation without dealing with the water rights problem is going to compound it and maybe make their consensus moot.

So I cannot support this legislation, but I would not object.

Mr. MILLER of California. Reclaiming my time, I would say that I appreciate the concern of the gentleman from Colorado [Mr. CAMPBELL] over these matters.

Mr. Speaker, I rise in support of the conference report on H.R. 403.

Mr. Speaker, it is with deep reservation that I support approval of the El Malpais Wilderness bill, H.R. 403. I do support the basic purposes of the legislation which include establishment of the El Malpais National Monument and Conservation Area, authorization of the Masau Trail, and designation of wilderness.

I do not support, however, language added to the bill by the Senate concerning water rights. I would like to take this opportunity to discuss the language added by the Senate and the purpose for including it.

The water rights language included in section 509 of H.R. 403 is superfluous. It only preserves the status quo with regard to the availability of water for the area. Because it is superfluous and has no impact, I can reluctantly support approval of the bill as sent back over by the Senate. I would point out, however, that this language cannot and should not be construed as establishing a precedent on affecting water rights—implied or otherwise—for other reservations of Federal land.

In setting aside these new areas in New Mexico, Congress has agreed to explicitly state that it is reserving the water needed to carry out the purposes for which the areas are designated. It should be made quite clear that it is unusual for Congress to make such an explicit statement. Special importance, therefore, should be given to the language of section 509(c). This section states that this method of recognizing the need for water to fulfill the original reservation purposes is not intended to be a statement by Congress that this is the only method for reserving needed water either for future reservations or in interpreting past designations. This is simply the method Congress chose to use with this particular bill.

Specifically, it is important to note that by enacting this legislation Congress does not intend that this legislation should have any impact or relationship to existing litigation on the issue of Federal reserved rights. In addition, it shouldn't be construed as impacting any other legislation which is currently pending, or may be introduced, that would reserve public lands for special Federal purposes.

Congress does not intend that this bill have any effect on lands previously reserved for special Federal purposes. It has been widely understood that when Congress has acted to protect wild areas from activities that would destroy their natural character, it was also protecting the water for the obvious reason that water is an essential part of the wilderness ecosystem.

A long line of judicial decisions—known as the Winters doctrine after the 1908 Supreme Court decision first announcing it—holds that when the United States set aside parcels of land for Indian reservations, national parks, wildlife refuges and the like, it also set aside enough water to carry out those purposes for which the land was reserved. This well-established judicial concept is fully applicable to congressional decisions designating wilderness areas. It is not an extension of or departure from these judicial decisions. On the contrary, it is simply a straightforward application of the Winters doctrine.

In the past, Congress normally has not explicitly spoken to the water rights issue when reserving lands for special purposes. We have implied, and it is assumed, as common sense would dictate, that when we reserve lands for specific purposes the water necessary to fulfill those purposes is reserved as well. The water rights language in H.R. 403 does not undercut the rights associated with previous reservations nor the long line of judicial decisions protecting these rights.

Existence of Federal reserved water rights does not exclude the rights of the States to manage their waters, as some fear. In fact and in practice, Federal reserved rights are important supplements to State law in that Federal purposes for Federal lands can be and often are recognized and protected under the procedures of State water laws.

By enacting H.R. 403, we intend that the relationship that now exists between Federal and State water law, which incorporates the well-settled reserved water doctrine, be continued. This relationship includes, among other things, the opportunity for State courts to qualify Federal reserved water rights in general stream adjudications. Once adjudicated, the Federal water right is on a par with all other

water rights adjudicated in the State system with the same priority date.

There seems to be a growing concern in some quarters in Congress about Federal reserved water rights. I would submit that this is an overstated concern. No existing users of water are threatened by water rights for wilderness because of their relatively late priority date and the fact that by definition they involve no diversion or consumption of water.

I recognize that attempts to add water rights language or to quantify water rights for wilderness and other Federal reservations may well continue. I note, for example, the House Interior Committee recently rejected a water rights amendment, similar to the language in this bill, to the Montana Wilderness legislation.

Because of this concern and because of the need to debunk the fears some seem to have about Federal reserved water rights, my Subcommittee on Water and Power Resources will carefully and thoroughly examine the issue. I intend to hold hearings on this matter. Until we have had the opportunity to deal with this issue in the appropriate forum, it is premature for Congress to apply water rights language to other wilderness bills.

Mr. VENTO. Mr. Speaker, on June 1, the House passed H.R. 403, a bill which would designate certain public lands in New Mexico as the El Malpais National Monument and El Malpais National Conservation Area and would also provide for designating as the Masau Trail existing roads that provide a link among a number of national monuments and other important Anasazi pueblo sites in New Mexico and Arizona.

On the same day, the House also passed H.R. 401, a bill to slightly enlarge the existing Capulin Mountain National Monument near Raton, NM, and to change its name to Capulin Volcano National Monument. These measures were sponsored by Representative BILL RICHARDSON, an able member of our Subcommittee on National Parks and Public Lands. He has continued to work on these measures diligently and now successfully as the Senate has finally acted! My commendation and congratulations to my friend and colleague from New Mexico.

Now the Senate has passed H.R. 403 with certain amendments. I believe that the amendments deserve acceptance by the House which will clear the El Malpais bill for signature by the President.

Let me briefly explain some of the main features of the Senate amendments.

First, the Senate combined the two House bills, by including the text of H.R. 401 in the amended El Malpais bill, H.R. 403. Obviously, this is acceptable.

Second, the Senate revised the boundaries and increased the total acreage specified for the two areas which would be designated as wilderness.

The Senate bill includes a specific authorization of $16.5 million for implementation of the bill, with language specifying how that total is to be used. The House bill included a general authorization of necessary amounts. We can accept this.

Also, while the House bill was silent concerning water rights, the Senate bill includes language expressly reserving to the United States the minimum amount of water required to carry out the purposes for which the national monument, the national conservation area, and the wilderness areas are designated. I believe that this language is not really necessary, but as regards the El Malpais lands it is not objectionable.

The House bill included a sentence stating that exercise of valid existing mineral rights would be governed by applicable State and Federal laws. While this is not in the Senate bill, its omission is acceptable, since of course such laws will continue to apply in full.

Finally, the Senate has revised somewhat the language of the House bill dealing with access by Indian people to the El Malpais lands for religious purposes, consistent with the purposes of the American Indian Religious Freedom Act. I believe that these revisions are helpful and deserve the support of the House.

Mr. Speaker, this is the second consecutive Congress in which the House has passed legislation to provide a new level of recognition and sound management for the El Malpais lands. This area has been long recognized as possessing unique and nationally significant natural and cultural values which deserve legislative action of this sort. I am glad that the Senate has joined us in acting on this important legislation, and I urge the House to concur in the Senate amendments.

Mr. MILLER of California. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 519. An act to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-8 5-38-000.

ADJOURNMENT OF THE HOUSE FROM SATURDAY, DECEMBER 19, 1987, TO SUNDAY, DECEMBER 20, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns from any session on Saturday, December 19, 1987, that it adjourn to meet at 1 p.m. on Sunday, December 20, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT ON H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. DE LA GARZA submitted the following conference report and statement on the bill (H.R. 3030) to provide credit assistance to farmers to strengthen the farm credit system, to facilitate the establishment of secondary markets for agricultural loans and for other purposes:

CONFERENCE REPORT (H. REPT. 100-490)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3030), to provide credit assistance to farmers, to strengthen the Farm Credit System, to facilitate the establishment of secondary markets for agricultural loans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Act of 1987".

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

TABLE OF CONTENTS

SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Except as otherwise specifically provided, whenever in this Act (other than in title VI) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

TITLE I—ASSISTANCE TO FARM CREDIT SYSTEM BORROWERS

SEC. 101. PROTECTION OF BORROWER STOCK.

Part A of title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.9A. PROTECTION OF BORROWER STOCK.

"(a) RETIREMENT OF STOCK.—Notwithstanding any other section of this Act, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this Act, shall retire such stock at par value. Any such institution whose capital stock is impaired (as determined in accordance with generally accepted accounting principles) shall coordinate such retirement of stock under this section with the activities of the Assistance Board and the Financial Assistance Corporation.

"(b) CERTAIN POWERS NOT AFFECTED.—This section does not affect the authority of any institution of the Farm Credit System—

"(1) to retire or cancel borrower stock at par value for application against a loan in default;

"(2) to cancel borrower stock at par value under section 4.14B; or

"(3) to apply, against any outstanding indebtedness to a System association arising out of or in connection with a liquidation referred to in subsection (d)(2), the par value of borrower stock frozen in such liquidation.

"(c) INABILITY TO RETIRE AT PAR VALUE.—If an institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution and the Financial Assistance Corporation, on request of the Assistance Board, shall provide the receiver with sufficient funds to enable the receiver to carry out this subsection.

"(d) DEFINITIONS.—For purposes of this section:

"(1) BORROWER STOCK.—The term 'borrower stock' means voting and nonvoting stock, equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other similar equities that are subject to retirement under a revolving cycle issued by any System institution and held by any person other than any System institution.

"(2) ELIGIBLE BORROWER STOCK.—The term 'eligible borrower stock' means borrower stock that—

"(A) is outstanding on the date of the enactment of this section; against any outstanding indebtedness.

"(B) is required to be purchased, and is purchased, as a condition of obtaining a loan made after the date of the enactment of this section, but prior to the earlier of—

"(i) in the case of each bank and association, the date of approval, by the stockholders of such bank or association, of the capitalization requirements of the institution in accordance with section 4.9B; or

"(ii) the date that is 9 months after the date of the enactment of this section;

"(C) was, after January 1, 1983, but before the date of the enactment of this section, frozen by an institution that was placed in liquidation; or

"(D) was retired at less than par value by an institution that was placed in liquidation after January 1, 1983, but before the date of the enactment of this section.

"(3) INSTITUTION.—The term 'institution' means a bank or association chartered under this Act.

"(4) PAR VALUE.—The term 'par value' means—

"(A) in the case of stock, par value;

"(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

"(C) in the case of participation certificates and allocated equities subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this Act, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement.".

SEC. 102. RESTRUCTURING DISTRESSED LOANS.

(a) IN GENERAL.—Part C of title IV is amended by inserting after section 4.14 (12 U.S.C. 2202) the following new sections:

"SEC. 4.14A. RESTRUCTURING DISTRESSED LOANS.

"(a) DEFINITIONS.—As used in this part (other than in sections 4.17 and 4.18):

"(1) APPLICATION FOR RESTRUCTURING.—The term 'application for restructuring' means a written request—

"(A) from a borrower for the restructuring of a distressed loan in accordance with a preliminary restructuring plan proposed by the borrower as a part of the application;

"(B) submitted on the appropriate forms prescribed by the qualified lender; and

"(C) accompanied by sufficient financial information and repayment projections, where appropriate, as required by the qualified lender to support a sound credit decision.

"(2) COST OF FORECLOSURE.—The term 'cost of foreclosure' includes—

"(A) the difference between the outstanding balance due on a loan made by a qualified lender and the liquidation value of the loan, taking into consideration the borrower's repayment capacity and the liquidation value of the collateral used to secure the loan;

"(B) the estimated cost of maintaining a loan as a nonperforming asset;

"(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure, including attorneys' fees and court costs;

"(D) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

"(E) all other costs incurred as the result of the foreclosure or liquidation of a loan.

"(3) DISTRESSED LOAN.—The term 'distressed loan' means a loan that the borrower does not have the financial capacity to pay according to its terms and that exhibits one or more of the following characteristics:

"(A) The borrower is demonstrating adverse financial and repayment trends.

"(B) The loan is delinquent or past due under the terms of the loan contract.

"(C) One or both of the factors listed in subparagraphs (A) and (B), together with in-

adequate collateralization, present a high probability of loss to the lender.

"(4) FORECLOSURE PROCEEDING.—The term 'foreclosure proceeding' means—

"(A) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

"(B) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under title I or II, to effect collection of a nonaccrual or distressed loan.

"(5) LOAN.—The term 'loan' means a loan made to a farmer, rancher, or producer or harvester of aquatic products, for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

"(6) QUALIFIED LENDER.—The term 'qualified lender' means—

"(A) a System institution that makes loans (as defined in paragraph (5)) except a bank for cooperatives; and

"(B) each bank, institution, corporation, company, union, and association described in section 2.3(a)(2) but only with respect to loans discounted or pledged under section 2.3(a).

"(7) RESTRUCTURE AND RESTRUCTURING.—The terms 'restructure' and 'restructuring' include rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable.

"(b) NOTICE.—

"(1) IN GENERAL.—On a determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide written notice to the borrower that the loan may be suitable for restructuring, and include with such notice—

"(A) a copy of the policy of the lender established under subsection (g) that governs the treatment of distressed loans; and

"(B) all materials necessary to enable the borrower to submit an application for restructuring on the loan.

"(2) NOTICE BEFORE FORECLOSURE.—Not later than 45 days before any qualified lender begins foreclosure proceedings with respect to a loan outstanding to any borrower, the lender shall notify the borrower that the loan may be suitable for restructuring and that the lender will review any such suitable loan for restructuring, and shall include with such notice a copy of the policy and the materials described in paragraph (1).

"(3) LIMITATION ON FORECLOSURE.—No qualified lender may foreclose or continue any foreclosure proceeding with respect to any distressed loan before the lender has completed any pending consideration of the loan for restructuring under this section.

"(c) MEETINGS.—On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide a reasonable opportunity for the borrower thereof to personally meet with a representative of the lender—

"(1) to review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring; and

"(2) with respect to a loan that is in nonaccrual status, to develop a plan for restructuring the loan if the loan is suitable for restructuring.

"(d) CONSIDERATION OF APPLICATIONS.—

"(1) IN GENERAL.—When a qualified lender receives an application for restructuring from a borrower, the qualified lender shall determine whether or not to restructure the loan, taking into consideration—

"(A) whether the cost to the lender of restructuring the loan is equal to or less than the cost of foreclosure;

"(B) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

"(C) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration;

"(D) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis; and

"(E) in the case of a distressed loan that is not delinquent, whether restructuring consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status.

"(2) APPLICATIONS NOT REQUIRED FOR RESTRUCTURING PLANS.—This section shall not prevent a qualified lender from proposing a restructuring plan for an individual borrower in the absence of an application for restructuring from the borrower.

"(e) RESTRUCTURING.—

"(1) IN GENERAL.—If a qualified lender determines that the potential cost to a qualified lender of restructuring the loan in accordance with a proposed restructuring plan is less than or equal to the potential cost of foreclosure, the qualified lender shall restructure the loan in accordance with the plan.

"(2) COMPUTATION OF COST OF RESTRUCTURING.—In determining whether the potential cost to the qualified lender of restructuring a distressed loan is less than or equal to the potential cost of foreclosure, a qualified lender shall consider all relevant factors, including—

"(A) the present value of interest income and principal forgone by the lender in carrying out the restructuring plan;

"(B) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

"(C) whether the borrower has presented a preliminary restructuring plan and cash-flow analysis taking into account income from all sources to be applied to the debt and all assets to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed restructuring; and

"(D) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution.

"(f) LEAST COST ALTERNATIVE.—If two or more restructuring alternatives are available to a qualified lender under this section with respect to a distressed loan, the lender shall restructure the loan in conformity with the alternative that results in the least cost to the lender.

"(g) RESTRUCTURING POLICY.—

"(1) ESTABLISHMENT.—Each farm credit district board of directors shall develop a policy within 60 days after the date of the enactment of this section, that is consistent with this section, to govern the restructuring of distressed loans. Such policy shall constitute the restructuring policy of each qualified lender within the district.

"(2) CONTENTS OF POLICY.—The policy established under paragraph (1) shall include an explanation of—

"(A) the procedure for submitting an application for restructuring; and

"(B) the right of borrowers with distressed loans to seek review by a credit review committee in accordance with section 4.14 of a denial of an application for restructuring.

"(3) SUBMISSION OF POLICY TO FCA.—Each district board shall submit the policy of the district governing the treatment of distressed loans under this section to the Farm Credit Administration. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on the date of the enactment of this section.

"(h) REPORTS.—During the 5-year period beginning on the date of the enactment of this section, each qualified lender shall submit semiannual reports to the Farm Credit Administration containing—

"(1) the results of the review of distressed loans of the lender; and

"(2) the financial effect of loan restructurings and liquidations on the lender.

"(i) COMPLIANCE.—The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply with such provision.

"(j) PERMITTED FORECLOSURES.—This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

"(k) APPLICATION OF SECTION.—The time limitation prescribed in subsection (b)(2), and the requirements of subsection (c), shall not apply to a loan that became a distressed loan before the date of the enactment of this section if the borrower and lender of the loan are in the process of negotiating loan restructuring with respect to the loan.

"(l) ASSISTANCE IN RESTRUCTURING.—Each Federal intermediate credit bank, on request of any production credit association, may assist the association in restructuring loans under this section.

"SEC. 4.14B. EFFECT OF RESTRUCTURING ON BORROWER STOCK.

"(a) FEDERAL LAND BANK.—If a Federal land bank forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock, and the Federal land bank shall retire an equal amount of stock owned by the Federal land bank association.

"(b) PRODUCTION CREDIT ASSOCIATION.—If a production credit association forgives and writes off, under section 4.14A, any of the principal outstanding on a loan made to any borrower, the association shall cancel the same dollar amount of borrower stock held by the borrower in respect of the loan, up to the total amount of such stock.

"(c) RETENTION OF STOCK.—Notwithstanding subsections (a) and (b), the borrower shall be entitled to retain at least one share of stock to maintain the borrower's membership and voting interest in the association.

"SEC. 4.14C. REVIEW OF RESTRUCTURING DENIALS.

"(a) REQUIREMENTS FOR RESTRUCTURING BY SYSTEM INSTITUTIONS.—

"(1) EXISTING NONACCRUAL LOANS.—Within 9 months after a qualified lender is certified under section 6.4, such lender shall review each loan that has not been previously restructured and that is in nonaccrual status on the date the lender is certified, and determine whether to restructure the loan.

"(2) NEW NONACCRUAL LOANS.—Within 6 months after a loan made by a certified lender is placed in nonaccrual status, the lender shall determine whether to restructure the loan.

"(b) SPECIAL ASSET GROUPS.—

"(1) ESTABLISHMENT.—Within 30 days after a qualified lender in a district is certified to issue preferred stock under section 6.27, the district board of such district shall establish a special asset group that shall review each determination by the lender not to restructure a loan.

"(2) RESTRUCTURING PLAN.—If a special asset group determines under paragraph (1) that a loan under review should be restructured, the group shall prescribe a restructuring plan for the loan that the qualified lender shall implement.

"(c) NATIONAL SPECIAL ASSET COUNCIL.—

"(1) ESTABLISHMENT.—A National Special Asset Council shall be established by the Assistance Board to—

"(A) monitor compliance with the restructuring requirements of this section by qualified lenders certified to issue preferred stock under section 6.27, and by special asset groups established under subsection (b); and

"(B) review a sample of determinations made by each special asset group that a loan will not be restructured.

"(2) REVIEW OF DETERMINATION.—The National Special Asset Council shall review a sufficient number of determinations made by each special asset group to foreclose on any loan to assure the Council that such group is complying with this section. With regard to each determination reviewed, the Council shall make an independent judgment on the merits of the decision to foreclose rather than restructure the loan.

"(3) NONCOMPLIANCE.—If the National Special Asset Council determines that any special asset group is not in substantial compliance with this section, the Council shall notify the group of the determination, and may take such other action as the Council considers necessary to ensure that such group complies with this section.

"(d) REPORT.—With respect to determinations by a special asset group that a loan will not be restructured, the special asset group shall submit to the National Special Asset Council a report evaluating the loan and the basis for the determination that the loan should not be restructured.

"(e) RESTRUCTURING FACTORS.—In determining whether a loan is to be restructured, the National Special Asset Council, each special asset group, and each qualified lender certified under section 6.4 shall take into consideration the factors specified in section 4.14A(d)(1).".

(b) SENSE OF CONGRESS.—It is the sense of Congress that the banks and associations (except banks for cooperatives) operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) should administer distressed loans to farmers with the objective of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are Federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis.

SEC. 103. DISCLOSURE BY BANKS AND ASSOCIATIONS.

Section 4.13 (12 U.S.C. 2199) is amended to read as follows:

"SEC. 4.13. DISCLOSURE.

"In accordance with regulations of the Farm Credit Administration, qualified lenders shall provide to borrowers, for all loans that are not subject to the Truth in Lending Act (15 U.S.C. 1601 et seq.), meaningful and timely disclosure not later than the time of the loan closing, of—

"(1) the current rate of interest on the loan;

"(2) in the case of an adjustable or variable rate loan, the amount and frequency by which the interest rate can be increased during the term of the loan or, if there are no such limitations, a statement to that effect, and the factors (including the cost of funds, operating expenses, and provision for loan losses) that will be taken into account by the qualified lender in determining adjustments to the interest rate;

"(3) the effect, as shown by a representative example or examples, of any loan origination charges or purchases of stock or participation certificates on the effective rate of interest;

"(4) any change in the interest rate applicable to the borrower's loan;

"(5) except with respect to stock guaranteed under section 4.9A, a statement indicating that stock that is purchased is at risk; and

"(6) a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and borrowers' rights that apply to each type of loan.".

SEC. 104. ACCESS TO DOCUMENTS AND INFORMATION.

Section 4.13A (12 U.S.C. 2200) is amended—

(1) by striking out "System institutions" and inserting in lieu thereof "qualified lenders"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof: "and copies of each appraisal of the borrower's assets made or used by the qualified lender.".

SEC. 105. NOTICE OF ACTION ON APPLICATION FOR LOANS OR RESTRUCTURING.

Section 4.13B (12 U.S.C. 2201) is amended to read as follows:

"SEC. 4.13B. NOTICE OF ACTION ON APPLICATION.

"(a) LOAN APPLICATIONS.—Each qualified lender to which a person has applied for a loan shall provide the person with prompt written notice of—

"(1) the action on the application;

"(2) if the loan applied for is reduced or denied, the reasons for such action; and

"(3) the applicant's right to review under section 4.14.

"(b) DISTRESSED LOANS.—Each qualified lender that has a distressed loan outstanding that is subject to restructuring requirements under this Act shall provide, in accordance with regulations prescribed by the Farm Credit Administration, the borrower with prompt written notice of—

"(1) any action taken with respect to restructuring the loan under section 4.14A;

"(2) if restructuring is denied, the reasons for such action; and

"(3) the borrower's right to review under section 4.14.".

SEC. 106. RECONSIDERATION OF ACTIONS.

Section 4.14 (12 U.S.C. 2202) is amended to read as follows:

"SEC. 4.14. RECONSIDERATION OF ACTIONS.

"(a) CREDIT REVIEW COMMITTEES.—

"(1) IN GENERAL.—The board of directors of each qualified lender shall establish one or more credit review committees, which shall include farmer board representation.

"(2) MEMBERSHIP.—In no case shall a loan officer involved in the initial decision on a loan serve on the credit review committee when the committee reviews such loan.

"(b) REVIEW OF DECISIONS.—

"(1) DENIALS OR REDUCTIONS.—Any applicant for a loan from a qualified lender that has received a written notice issued under section 4.13B of a decision to deny or reduce the loan applied for may submit a written request, not later than 30 days after receiving a notice denying or reducing the amount of the loan application, to obtain a review of the decision by a credit review committee.

"(2) DENIALS OF RESTRUCTURING.—A borrower of a loan from a qualified lender that has received notice, under section 4.13B, of a decision to deny loan restructuring with respect to a loan made to the borrower, if the borrower so requests in writing within 7 days after receiving such notice, may obtain a review of such decision in person before the credit review committee.

"(c) PERSONAL APPEARANCE.—An applicant for a loan or for restructuring, who is entitled to and has requested a review under this section, may appear in person before the credit review committee, and may be accompanied by counsel or by any other representative of such person's choice, to seek a reversal of the decision on the application under review.

"(d) INDEPENDENT APPRAISAL.—

"(1) IN GENERAL.—An appeal filed with a credit review committee under this section may include, as a part of the request for a review of the decision filed under subsection (b)(1), a request for an independent appraisal, by an accredited appraiser, of any interests in property securing the loan (other than the stock or participation certificates of the qualified lender held by the borrower).

"(2) ARRANGEMENT AND COST.—Within 30 days after a request for an appraisal under paragraph (1), the credit review committee shall present the borrower with a list of three appraisers approved by the appropriate qualified lender from which the borrower shall select an appraiser to conduct the appraisal the cost of which shall be borne by the borrower, and shall consider the results of such appraisal in any final determination with respect to the loan.

"(3) COPY TO BORROWER.—A copy of any appraisal made under this subsection shall be provided to the borrower.

"(4) ADDITIONAL COLLATERAL.—An independent appraisal shall be permitted if additional collateral for a loan is demanded by the qualified lender when determining whether to restructure the loan.

"(e) NOTIFICATION OF APPLICANT.—Promptly after a review by the credit review committee, the committee shall notify the applicant or borrower, as the case may be, in writing of the decision of the committee and the reasons for the decision.".

SEC. 107. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

Part C of title IV is amended by inserting after the sections added by section 102(a) of this Act the following new section:

"SEC. 4.11D. PROTECTION OF BORROWERS WHO MEET ALL LOAN OBLIGATIONS.

"(a) FORECLOSURE PROHIBITED.—A qualified lender may not foreclose on any loan because of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan.

"(b) PROHIBITION AGAINST REQUIRED PRINCIPAL REDUCTION.—A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), unless—

"(1) the borrower sells or otherwise disposes of part or all of the collateral; or

"(2) the parties agree otherwise in a written agreement entered into by the parties.

"(c) NONENFORCEMENT.—After a borrower has made all accrued payments of principal, interest, and penalties with respect to a loan made by a qualified lender, the lender shall not enforce acceleration of the borrower's repayment schedule due to the borrower having not timely made one or more principal or interest payments.

"(d) PLACING LOANS IN NONACCRUAL STATUS.—

"(1) NOTIFICATION.—If a qualified lender places any loan in nonaccrual status, the lender shall document such change of status and promptly notify the borrower thereof in writing of such action and the reasons therefor.

"(2) REVIEW OF DENIAL.—If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee under section 4.14.

"(3) APPLICATION.—This subsection shall only apply if a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.".

SEC. 108. RIGHT OF FIRST REFUSAL.

Section 4.36 (12 U.S.C. 2219a) is amended to read as follows:

"SEC. 4.36. RIGHT OF FIRST REFUSAL.

"(a) GENERAL RULE.—Agricultural real estate that is acquired by an institution of the System as a result of a loan foreclosure or a voluntary conveyance by a borrower (hereinafter in this section referred to as the 'previous owner') who, as determined by the institution, does not have the financial resources to avoid foreclosure (hereinafter in this section referred to as 'acquired real estate') shall be subject to the right of first refusal of the previous owner to repurchase or lease the property, as provided in this section.

"(b) APPLICATION OF RIGHT OF FIRST REFUSAL TO SALE OF PROPERTY.—

"(1) ELECTION TO SELL AND NOTIFICATION.—Within 15 days after an institution of the System first elects to sell acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to purchase the property at the appraised fair market value of the property, as established by an accredited appraiser; or

"(B) to offer to purchase the property at a price less than the appraised value.

"(2) ELIGIBILITY TO PURCHASE.—To be eligible to purchase the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to purchase the property.

"(3) MANDATORY SALE.—An institution of the System receiving an offer from the previous owner to purchase the property at the appraised value shall, within 30 days after the receipt of such offer, accept such offer and sell the property to the previous owner.

"(4) PERMISSIVE SALE.—An institution of the System receiving an offer from the previous owner to purchase the property at a price less than the appraised value may accept such offer and sell the property to the previous owner. Notice shall be provided to the previous owner of the acceptance or rejection of such offer within 15 days after the receipt of such offer.

"(5) REJECTION OF OFFER OF PREVIOUS OWNER.—

"(A) DUTIES OF INSTITUTION.—An institution of the System that rejects an offer from the previous owner to purchase the property at a price less than the appraised value may not sell the property to any other person—

"(i) at a price equal to, or less than, that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to purchase the property at such price or under such terms and conditions.

"(B) NOTICE.—Notice of the opportunity in subparagraph (A) shall be provided to the previous owner by certified mail, and the previous owner shall have 15 days in which to submit an offer to purchase the property at such price or under such terms and conditions.

"(c) APPLICATION OF RIGHT OF FIRST REFUSAL TO LEASING OF PROPERTY.—

"(1) ELECTION TO LEASE AND NOTIFICATION.—Within 15 days after an institution of the System first elects to lease acquired real estate, or any portion of such real estate, the institution shall notify the previous owner by certified mail of the owner's right—

"(A) to lease the property at a rate equivalent to the appraised rental value of the property, as established by an accredited appraiser; or

"(B) to offer to lease the property at a rate that is less than the appraised rental value of the property.

"(2) ELIGIBILITY TO LEASE.—To be eligible to lease the property under paragraph (1), the previous owner must, within 15 days after receiving the notice required by such paragraph, submit an offer to lease the property.

"(3) MANDATORY LEASE.—An institution of the System receiving an offer from the previous owner to lease the property at a rate equivalent to the appraised rental value of the property shall, within 15 days after the receipt of such offer, accept such offer and lease the property to the previous owner unless the institution determines that the previous owner—

"(A) does not have the resources available to conduct a successful farming or ranching operation; or

"(B) cannot meet all of the payments, terms, and conditions of such lease.

"(4) PERMISSIVE LEASE.—An institution of the System receiving an offer from the previous owner to lease the property at a rate that is less than the appraised rental value of the property may accept such offer and lease the property to the previous owner.

"(5) NOTICE TO PREVIOUS OWNER.—An institution of the System receiving an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property shall notify the previous owner of its acceptance or rejection of the offer within 15 days after the receipt of such offer.

"(6) REJECTION OF OFFER OF PREVIOUS OWNER.—

"(A) DUTIES OF INSTITUTION.—An institution of the System rejecting an offer from the previous owner to lease the property at a rate less than the appraised rental value of the property may not lease the property to any other person—

"(i) at a rate equal to or less than that offered by the previous owner; or

"(ii) on different terms and conditions than those that were extended to the previous owner,

without first affording the previous owner an opportunity to lease the property at such rate or under such terms and conditions.

"(B) NOTICE.—Notice of the opportunity described in subparagraph (A) shall be given to the previous owner by certified mail, and the pr evious owner shall have 15 days after the receipt of such notice in which to agree to lease the property at such rate or under such terms and conditions.

"(d) PUBLIC OFFERINGS.—

"(1) NOTIFICATION OF PREVIOUS OWNER.—If an institution of the System elects to sell or lease acquired property or a portion thereof through a public auction, competitive bidding process, or other similar public offering, the institution shall notify the previous owner, by certified mail, of the availability of the property. Such notice shall contain the minimum amount, if any, required to qualify a bid as acceptable to the institution and any terms and conditions to which such sale or lease will be subject.

"(2) PRIORITY.—If two or more qualified bids in the same amount are received by the institution under paragraph (1), such bids are the highest received, and one of the qualified bids is offered by the previous owner, the institution shall accept the offer by the previous owner.

"(3) NONDISCRIMINATION.—No institution of the System may discriminate against a previous owner in any public auction, competitive bidding process, or other similar public offering of property acquired by the institution from such person.

"(e) TERM OR CONDITION.—For the purposes of this section, financing by a System institution shall not be considered to be a term or condition of a sale of acquired real estate.

"(f) FINANCING.—Notwithstanding any other provision of this section, a System institution shall not be required to provide financing to the previous owner in connection with the sale of acquired real estate.

"(g) MAILING OF NOTICE.—Notwithstanding any other provision of this section, each certified mail notice requirement in this section shall be fully satisfied by mailing one certified mail notice to the last known address of the former borrower.

"(h) STATE LAWS.—The rights provided in this section shall not diminish any such right of first refusal under the law of the State in which the property is located.

"(i) APPLICABILITY.—This section shall not apply to a bank for cooperatives.".

SEC. 109. DIFFERENTIAL INTEREST RATES.

Section 4.13 (12 U.S.C. 2201) (as amended by section 103(a) of this Act) is further amended—

(1) by striking out "In" and inserting in lieu thereof "(a) IN GENERAL.—In"; and

(2) by adding at the end thereof the following new subsection:

"(b) DIFFERENTIAL INTEREST RATES.—A qualified lender offering more than one rate of interest to borrowers shall, at the request of a borrower of a loan—

"(1) provide a review of the loan to determine if the proper interest rate has been established;

"(2) explain to the borrower in writing the basis for the interest rate charged; and

"(3) explain to the borrower in writing how the credit status of the borrower may be improved to receive a lower interest rate on the loan.".

SEC. 110. APPLICATION OF UNINSURED ACCOUNTS.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. APPLICATION OF UNINSURED ACCOUNTS.

"(a) IN GENERAL.—Money of a borrower held by a Farm Credit System institution in an uninsured voluntary or involuntary account as authorized under regulations issued by the Farm Credit Administration (as in effect immediately before the date of the enactment of this section), including all such other accounts known as 'advanced payment accounts' or 'future prepayment accounts' shall, in the event the institution is placed in liquidation, be immediately applied as payment against the indebtedness of any outstanding loans of such borrower.

"(b) REGULATIONS.—The Farm Credit Administration shall promulgate regulations—

"(1) that define the term 'uninsured voluntary or involuntary account'; and

"(2) to otherwise effectively carry out this section.".

TITLE II—ASSISTANCE TO FARM CREDIT SYSTEM

SEC. 201. ASSISTANCE TO FARM CREDIT SYSTEM.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VI—ASSISTANCE TO FARM CREDIT SYSTEM

"Subtitle A—Assistance Board

"SEC. 6.0. ESTABLISHMENT OF BOARD.

"(a) CHARTERS.—On the date which is 15 days after the date of the enactment of this title, the Farm Credit Administration shall revoke the charter of the Farm Credit System Capital Corporation (hereinafter referred to in this title as the 'Capital Corporation') and shall charter the Farm Credit System Assistance Board (hereinafter referred to in this Act as the 'Assistance Board') that, subject to this subtitle, shall be a Federally chartered instrumentality of the United States.

"(b) USE OF CAPITAL CORPORATION STAFF.—During the 90-day period beginning on the date of the revocation of the charter of the Capital Corporation, the Assistance Board may temporarily employ, by contract or otherwise under reasonable and necessary terms and conditions, such staff of the Capital Corporation as is necessary to facilitate and effectuate an orderly transition to, and commencement of, the Assistance Board, and the termination of the affairs of the Capital Corporation.

"SEC. 6.1. PURPOSES.

"The purposes of the Assistance Board shall be to carry out a program to provide assistance to, and protect the stock of borrowers of, the institutions of the Farm Credit System, and to assist in restoring System institutions to economic viability and permitting such institutions to continue to provide credit to farmers, ranchers, and the cooperatives of such, at reasonable and competitive rates.

"SEC. 6.2. BOARD OF DIRECTORS.

"(a) MEMBERSHIP.—The Board of Directors of the Assistance Board (hereinafter referred to in this subtitle as the 'Board of Directors') shall consist of three members—

"(1) one of which shall be the Secretary of the Treasury;

"(2) one of which shall be the Secretary of Agriculture; and

"(3) one of which shall be an agricultural producer experienced in financial matters, and appointed by the President, by and with the advice and consent of the Senate.

"(b) CHAIRMAN.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(c) TERMS OF OFFICE, SUCCESSION, AND VACANCIES.—

"(1) TERMS OF OFFICE AND SUCCESSION.—The term of each member of the Board of Directors shall expire when the Assistance Board is terminated.

"(2) VACANCIES.—Vacancies on the Board of Directors shall be filled in the same manner as the vacant position was previously filled.

"(d) COMPENSATION OF BOARD MEMBERS.—Members of the Board of Directors—

"(1) appointed under paragraphs (1) and (2) of subsection (a) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

"(2) appointed under paragraph (3) of subsection (a) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

"(e) RULES AND RECORDS.—The Board of Directors of the Assistance Board shall adopt such rules as it may deem appropriate for the transaction of the business of the Assistance Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(f) QUORUM REQUIRED.—A quorum shall consist of two members of the Board of Directors. All decisions of the Board shall require an affirmative vote of at least a majority of the members voting.

"(g) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Assistance Board shall be selected by the Board of Directors of the Assistance Board and shall serve at the pleasure of the Board.

"SEC. 6.3. CORPORATE POWERS.

"(a) IN GENERAL.—The Assistance Board shall be a body corporate that shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Assistance Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for Level III of the Executive Schedule under section 5314 of title 5, United States Code;

"(5) prescribe by its Board of Directors its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this title;

"(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

"(10) obtain insurance against loss;

"(11) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this title;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise other powers as set forth in this title, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this title.

"(b) POWER TO REMOVE; JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Assistance Board is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Assistance Board may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.4. CERTIFICATION OF ELIGIBILITY TO ISSUE PREFERRED STOCK.

"(a) BOOK VALUE LESS THAN PAR VALUE OF STOCK AND EQUITIES.—If the book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than the par value of the stock or the face value of the certificates or equities—

"(1) the Farm Credit Administration shall notify the Assistance Board of such impairment;

"(2) the Assistance Board shall monitor the financial condition, business plans, and operations of the institution; and

"(3) the institution may request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(b) BOOK VALUE LESS THAN 75 PERCENT OF PAR VALUE OF STOCK AND EQUITIES.—If the

book value of the stock, participation certificates, and other similar equities of a System institution, based on generally accepted accounting principles, is less than 75 percent of the par value of the stock or the face value of the certificates or equities, the institution shall request the Assistance Board to grant certification to issue preferred stock under section 6.27(a).

"(c) MANDATORY DETERMINATION OF ELIGIBILITY.—

"(1) IN GENERAL.—The Assistance Board shall determine whether to certify a System institution as eligible to issue preferred stock under section 6.27, if—

"(A) the institution requests such certification;

"(B) the book value of the stock, participation certificates, and other similar equities of the institution, based on generally accepted accounting principles, has declined to 75 percent of the par value of the stock or the face value of the certificates or equities; and

"(C) the institution agrees to meet the terms and conditions specified by the Assistance Board pursuant to section 6.6.

"(2) EFFECTIVE DATE OF CERTIFICATION.—If the determination of the Assistance Board is to certify the institution under paragraph (1), such certification shall be effective at the time of such determination.

"(c) IMPLEMENTATION.—As soon as practicable after the date of the enactment of this title, the Assistance Board shall take such actions as are necessary to carry out this section.

"(d) DEFINITION.—Except where otherwise provided in this Act, the term 'other similar equities' includes allocated equities.

"SEC. 6.5. ASSISTANCE.

"(a) IN GENERAL.—The Assistance Board shall assist an institution that has been certified under section 6.4 by—

"(1) authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in amounts necessary to maintain the book value of stock, participation certificates, and other similar equities of the institution, at the level provided for in subsection (c);

"(2) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution to issue preferred stock under the appropriate provision of section 6.27, in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at the then current market value;

"(3) on a request by the institution, authorizing the issuance of preferred stock under the appropriate provision of section 6.27 to facilitate the merger of the requesting institution with one or more other System institutions; or

"(4) providing assistance by such other methods as the Assistance Board determines appropriate.

"(b) DEFINITION OF HIGH-COST DEBT.—For purposes of subsection (a)(2), the term 'high-cost debt' means securities or similar obligations issued before January 1, 1986, that mature on or after December 31, 1987, and bear a rate of interest in excess of the then current market rate for similar securities or obligations.

"(c) MINIMUM EQUITY VALUE.—The Assistance Board shall authorize a certified institution to issue amounts of preferred stock under the appropriate provision of section 6.27 sufficient to—

"(1) maintain the value of stock, participation certificates and other similar equities at no less than 75 percent of the par value of the stock or the face value of the certificates or equities, as determined under generally accepted accounting principles; and

"(2) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates.

"(d) LIMITATION.—No assistance shall be provided in connection with a merger until the stockholders and the institutions involved have approved the merger and the Farm Credit Administration has given final approval to the merger plan.

"SEC. 6.6. SPECIAL POWERS.

"(a) IN GENERAL.—In the case of a System institution that requests certification under section 6.4, the Assistance Board may—

"(1) require the institution to obtain approval from the Assistance Board before implementing business, operating, and investment plans and policies;

"(2) if one or more of the conditions described in section 4.12(b) are met, as determined by the Farm Credit Administration, direct the Farm Credit Administration Board to appoint a conservator for the institution, in accordance with such section, and to instruct the conservator to evaluate the operations of the institution and report to the Farm Credit Administration Board and the Assistance Board on the possibility of restoring the institution to sound financial condition;

"(3) request that the Farm Credit Administration Board or the Farm Credit Administration, as appropriate—

"(A) approve or require a merger or consolidation of the institution to the extent authorized under this Act;

"(B) initiate action to appoint a receiver under section 4.12(b); or

"(C) exercise any enforcement power authorized under this Act;

"(4) require the institution to obtain approval from the Assistance Board before setting the terms and conditions of any debt issuances of the institution;

"(5) require the institution to obtain approval from the Assistance Board before setting the policy on credit standards to be used, and the policy on rates of interest to be charged on loans, by the institution, including requiring that—

"(A) the institution set interest rates at levels necessary to ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made; and

"(B) loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the then current market value of the real estate security, whichever is greater;

"(6) require the institution to obtain approval from the Assistance Board for the design of management information and accounting systems at the institution, and of the continued use by the institution of regulatory accounting practices in accordance with sections 4.8(b) and 5.19(b);

"(7) require that the plans and policies of the institution resulting from the merger of System banks reduce the overhead costs of such institution, to the maximum extent practicable, with respect to the delivery of services to, and performance of duties for, System associations in the district;

"(8) require the institution to obtain approval from the Assistance Board of—

"(A) the hiring policies of the institution;

"(B) the compensation and retirement benefits of the chief executive officer, other managers, and directors of the institution notwithstanding the authority of the Farm Credit Administration to approve such matters under sections 5.5 and 5.17(a)(15);

"(C) any change in the management of the institution; and

"(D) policy decisions regarding continued employment and promotion of the officials referred to in subparagraph (B);

"(9) may suspend for any period of time, or terminate, any certification granted to an institution under section 6.4 if the Farm Credit Administration notifies the Assistance Board that the institution has substantially deviated from the institution's business plan or has failed to comply with a term or condition governing the use of any financial assistance provided to the institution under this title; and

"(10) take such other action as the Assistance Board determines may be necessary to establish prudent operating practices at the institution and to return the institution to a sound financial condition.

"(b) SUSPENSION OF ASSISTANCE.—

"(1) NOTIFICATION.—The Assistance Board shall promptly notify the Farm Credit Administration of any action taken by the Assistance Board under subsection (a)(8).

"(2) ENFORCEMENT.—The Farm Credit Administration may use any of its enforcement powers, with respect to any institution to which the Assistance Board has provided assistance or has certified the institution to issue preferred stock under the appropriate provision of section 6.27, to obtain the compliance of the institution with the terms or conditions governing the use of financial assistance provided under this title.

"(c) UNDATED LETTERS OF RESIGNATION.—The Assistance Board shall not, for any reason, request or require any member of the board of directors of any System institution to submit to the Assistance Board an undated letter of resignation. Immediately after the date of the enactment of this title, the Assistance Board shall destroy all such letters over which it has control.

"(d) REPORTS.—During the 5-year period beginning on the date of the enactment of this title, the Assistance Board, in coordination with the Financial Assistance Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System institutions translate the savings in the cost of the operations of such institutions due to the Federal assistance provided to the System under this title into lower interest rates charged to System borrowers or enhanced financial solvency of such institutions.

"SEC. 6.7. ADMINISTRATION.

"(a) EXPENSES.—The Financial Assistance Corporation shall pay the necessary and reasonable administrative expenses of the Assistance Board from funds in the Assistance Fund established in section 6.25.

"(b) INTERIM FUNDING.—Before the availability of funding from the Assistance Fund, the Assistance Board may use the revolving fund established under section 4.0. Such amounts used shall be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that such funds were received by the Assistance Board.

"(c) ASSISTANCE OPERATIONS.—The Farm Credit Administration shall provide such personnel and facilities to the Assistance Board as the Farm Credit Administration considers are necessary to avoid unnecessary duplication and waste.

"(d) ACCESS TO FCA DOCUMENTS.—The Assistance Board shall have access to all reports of examination and supervisory documents of the Farm Credit Administration, and relevant supporting material for the purpose of carrying out the special powers of the Assistance Board under section 6.6, under terms and conditions that are acceptable to the Farm Credit Administration Board, as are necessary and appropriate to protect the confidentiality of the documents and materials.

"SEC. 6.8. LIMITATION OF POWERS.

"(a) PURPOSES.—The powers of the Assistance Board under this title shall be exercised only for the purposes specified in this title and shall not be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and the cooperatives of such.

"(b) PROHIBITION.—The powers of the Assistance Board under this title shall not include the management, administration, or disposition of any loans or other assets owned by other System institutions, or the providing of technical assistance or other related services to other System institutions in connection with the administration of loans owned by such other institutions.

"SEC. 6.9. SUCCESSION.

"(a) LIABILITIES.—On the issuance by the Farm Credit Administration of the charter for the Assistance Board under this subtitle, the Assistance Board shall succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the Capital Corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Capital Corporation.

"(b) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the Capital Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the Capital Corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Assistance Board chartered under this subtitle.

"(c) ADJUSTMENT OF ASSESSMENTS.—Not later than 15 days after the issuance of the charter of the Assistance Board, the Board shall retire all debt and equity obligations issued to any System institution under section 4.28G(a)(14) or 4.28H (as in effect immediately before the date of the enactment of this title) at the book value of such obligations (determined as of such date of enactment) and shall pay such amounts to the holders of such debt and equity obligations.

"(d) SURPLUS FUNDS.—To the extent that, on the extinguishing of liabilities assumed by the Assistance Board under this section, and on full performance or other final disposition of contract obligations of the Assistance Board, there remain surplus funds attributable to such obligations or contracts, the Assistance Board shall distribute such surplus funds among the System institutions that contributed funds to the Capital Corporation on the basis of the relative amount of funds so contributed by each institution.

"(e) PRESERVATION AGREEMENTS.—

"(1) TRANSFER OF OBLIGATIONS.—Notwithstanding any other provision of this Act or the terms and conditions of the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement—

"(A) at the time the receiving bank receives funds from the Financial Assistance Corporation in an equal and equivalent amount in accordance with this subsection, any amounts received by, or that remain accrued to, any System bank in accordance with the activation of any such agreement for the calendar quarter ending on September 30, 1986, shall be—

(i) repaid to the contributing bank by the bank that received such payments; or

(ii) cancelled;

"(B) on the date the Financial Assistance Corporation is chartered, the accounts payable of each contributing bank under such agreements for the calendar quarter ending on September 30, 1986, shall, by operation of law and without any further action by such contributing bank, any other bank, or any court, become and be converted into accounts payable of the Financial Assistance Corporation to each receiving bank under such agreement for such calendar quarter in the same amounts as previously carried on the books of each such receiving bank; and

"(C) on the date the Financial Assistance Corporation is chartered, the accounts receivable of each receiving bank under such agreements for the calendar quarter ending September 30, 1986, shall, by operation of law and without any further action by such receiving bank or any other bank, or any court, become and be converted into accounts receivable to such receiving bank from the Financial Assistance Corporation, in the same amount as previously carried on the books of such receiving bank and such receivables shall, for all financial reporting purposes, be accounted for as an asset on the books of such receiving bank in accordance with generally accepted accounting practices.

"(2)(A) Not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation in accordance with section 6.26, the Corporation shall pay to each receiving bank such sums as are necessary to permit each receiving bank to repay, in accordance with paragraph (1), the amounts each such receiving bank received under any such agreement.

"(B) The accruals shall be paid by the Corporation to each receiving bank for the actual net loan charge-offs recorded on the books of each such bank before January 1, 1993, not previously paid by the contributing banks.

"(3) DEBT OBLIGATIONS.—

"(A) ISSUANCE.—For the purpose of obtaining funds to carry out this subsection, the Financial Assistance Corporation shall issue debt obligations under section 6.26. Such obligations shall be subject to the terms and conditions of such section, except as provided for in this paragraph.

"(B) PAYMENT OF INTEREST.—During each year of the 15-year period of such obligation issued pursuant to subparagraph (A), the banks operating under this Act shall pay to the Financial Assistance Corporation, at such times as the Corporation shall determine, an amount equal to the entire amount of interest due on such obligation. Each bank shall pay a proportion of such interest equal to—

"(i) the average accruing loan volume of the bank during the year preceding the year of such payment; divided by

"(ii) the average accruing loan volume of all of the banks of the System for the same period.

"(C) PAYMENT OF PRINCIPAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of such obligation. Each bank shall pay a proportion of such principal equal to—

"(i) the average accruing loan volume of the bank for the preceding 15 years; divided by

"(ii) the average accruing loan volume of all banks of the System for the same period.

"(D) Until each obligation issued in accordance with this subsection reaches maturity, for all financial reporting purposes, such obligation shall be considered to be the sole obligation of the Financial Assistance Corporation and shall not be considered a liability of any System bank.

"(4) FUNDS NOT CONSIDERED FINANCIAL ASSISTANCE.—The funds made available to each bank, whether through the issuance of stock or otherwise, by the Financial Assistance Corporation to meet obligations under any agreement referred to in paragraph (1) or to meet any obligations of the contributing banks under any such agreement, as required by this subsection, shall not be considered financial assistance under this Act.

"(5) SUSPENSION OF PRESERVATION AGREEMENTS.—During the 5-year period beginning on the date of enactment of this subsection and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended, in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.".

"SEC. 6.10. EFFECT OF REGULATIONS; AUDITS.

"(a) ISSUANCE.—The Assistance Board may issue such regulations, policies, procedures, guidelines, or statements as the Board considers necessary or appropriate to carry out this title, all of which shall be promulgated and enforced without regard to subchapter II of chapter 5 of title 5, United States Code.

"(b) REGULATION BY FARM CREDIT ADMINISTRATION.—The Assistance Board shall not be subject to regulation by the Farm Credit Administration.

"(c) AUDITS.—The Assistance Board shall not require an audit or examination of a System institution that would be duplicative of an audit or examination that is conducted under other provisions of law.

"SEC. 6.11. EXEMPTION FROM TAXATION.

"The Assistance Board, the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Assistance Board to the same extent, according to its value, as other similar property held by other persons is taxed.

"SEC. 6.12. TERMINATION.

"The Assistance Board and the authority provided by this subtitle shall terminate on December 31, 1992.

"SEC. 6.13. TRANSITIONAL PROVISIONS.

"(a) EXERCISE OF POWERS.—The powers of the Assistance Board under this title shall be exercised by the Farm Credit Administration Board until the issuance of the charter

of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board.

"(b) LIMITATION ON ASSISTANCE.—Any assistance provided to System institutions by the Farm Credit Administration in accordance with this section shall be provided from, and shall not exceed, the amounts contained in the revolving fund established under section 4.0.

"(c) ISSUANCE OF STOCK.—Each institution that receives assistance from the Farm Credit Administration during the interim period specified in subsection (a), in consideration thereof, shall issue preferred stock to the Financial Assistance Corporation in an amount equal to the amount of such assistance. Payments by the Financial Assistance Corporation under subsection (d) shall be considered to be payments to each such institution for such stock.

"(d) REPAYMENT.—The Financial Assistance Corporation shall pay to the Farm Credit Administration the full amount of all financial assistance provided by the Farm Credit Administration in accordance with this section, from the proceeds from the sale of the first issue of obligations by the Financial Assistance Corporation in accordance with section 6.26.

"Subtitle B—Financial Assistance Corporation

"SEC. 6.20. ESTABLISHMENT OF CORPORATION.

"Not later than 5 days after the date of the enactment of this title, the Farm Credit Administration shall charter the Farm Credit System Financial Assistance Corporation (hereinafter referred to in this Act as the 'Financial Assistance Corporation') which shall be—

"(1) an institution of the Farm Credit System; and

"(2) a Federally chartered instrumentality of the United States.

"SEC. 6.21. PURPOSE.

"The purpose of the Financial Assistance Corporation shall be to carry out a program to provide capital to institutions of the Farm Credit System that are experiencing financial difficulty.

"SEC. 6.22. BOARD OF DIRECTORS.

"(a) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The Board of Directors of the Financial Assistance Corporation (hereinafter referred to in this Act as the 'Board of Directors') shall consist of the Board of Directors of the Federal Farm Credit Banks Funding Corporation.

"(2) CHAIRMAN.—The Board of Directors shall elect annually a Chairman from among the members of the Board.

"(3) COMPENSATION.—The members of the Board of Directors shall receive compensation for the time devoted to meetings and other activities of the Board and reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Board of Directors in amounts not exceeding levels set by the Farm Credit Administration Board.

"(b) RULES AND RECORDS.—The Board of Directors shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"(c) QUORUM REQUIRED.—No business may be conducted at a meeting of the Board of Directors unless a quorum of the members of the Board is present, and a vote to approve an action requires a majority vote of the members voting.

"(d) CHIEF EXECUTIVE OFFICER.—A chief executive officer of the Financial Assistance Corporation shall be selected by the Board of Directors and shall serve at the pleasure of the Board.

"SEC. 6.23. STOCK.

"The Financial Assistance Corporation shall issue stock with a par value of $5 to System institutions, as provided for in this subtitle, and such stock shall not be transferable.

"SEC. 6.24. CORPORATE POWERS.

"(a) IN GENERAL.—The Financial Assistance Corporation shall have the power to—

"(1) operate under the direction of its Board of Directors;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(3) provide for such officers, employees, and agents, including joint employees with the Funding Corporation, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) adopt a salary scale for officers and employees of the Financial Assistance Corporation, in accordance with the directives of the Board of Directors;

"(5) prescribe by its Board of Directors bylaws, that are not inconsistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general business is conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(7) sue and be sued in its corporate name and complain and defend in courts of competent jurisdiction;

"(8) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business;

"(9) obtain insurance against loss;

"(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(11) borrow from any commercial bank on its own individual responsibility and on such terms and conditions as it may determine with the approval of the Farm Credit Administration;

"(12) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) and pay fees therefor and receive interest thereon as may be agreed; and

"(13) exercise such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with its charter and this subtitle.

"(b) POWER TO REMOVE, AND JURISDICTION.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Financial Assistance Corporation is a party shall be deemed to arise under the laws of the United States, and the United States District Court for the District of Columbia shall have original jurisdiction over such. The Financial Assistance Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

"SEC. 6.25. ACCOUNTS.

"(a) FARM CREDIT ASSISTANCE FUND.—

"(1) ESTABLISHMENT.—The Financial Assistance Corporation shall establish an account called the Farm Credit Assistance Fund (referred to in this Act as the 'Assistance Fund') which shall be available to the Financial Assistance Corporation as a revolving fund to carry out this subtitle. The monies of such Assistance Fund shall be invested in direct obligations of the United States or obligations guaranteed by the United States or an agency thereof.

"(2) FUNDING.—The Assistance Fund shall be funded through the issuance of debt obligations and payments, as provided in section 6.26, and payments, as provided in section 6.28.

"(b) FINANCIAL ASSISTANCE CORPORATION TRUST FUND.—The Financial Assistance Corporation shall establish an account called the Financial Assistance Corporation Trust Fund (hereinafter referred to in this Act as the 'Trust Fund') that shall consist of securities of the United States Treasury purchased by the Financial Assistance Corporation with the funds received from the purchase of stock by System institutions from the Financial Assistance Corporation under section 6.29.

"SEC. 6.26. DEBT OBLIGATIONS.

"(a) ISSUANCE.—During the period beginning 61 days after the date of the enactment of this title and ending September 30, 1992, the Financial Assistance Corporation, subject to the approval of the Assistance Board, may issue uncollateralized bonds, notes, debentures, and similar obligations, guaranteed as to the timely payment of principal and interest by the Secretary of the Treasury as set forth in subsection (d), with semiannual interest coupon payments and a maturity period of 15 years—

"(1) in an aggregate amount not to exceed $2,800,000,000; and

"(2) beginning January 1, 1989, in an additional amount, not to exceed $1,200,000,000, if—

"(A) debt obligations have been issued by the Corporation to the full extent authorized under paragraph (1);

"(B) the Assistance Board determines that such additional funds are needed to carry out this title; and

"(C) at least 90 days before the issuance of any debt obligations under this paragraph, the Assistance Board submits a report to Congress that sets forth the determination of the Assistance Board that such additional debt obligations should be issued, and that contains a detailed evaluation supporting the determination.

"(b) CONDITIONS.—The debt obligations shall be in such forms and denominations, bear such rates of interest, be subject to such conditions, be issued in such manner, and be sold at such prices as may be prescribed by the Financial Assistance Corporation.

"(c) INTEREST PAYMENTS.—

"(1) PAYMENT OF INTEREST DURING FIRST 5-YEAR PERIOD.—During each year of the first 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay, without recourse to System institutions, other than that described in paragraph (5), all of the interest due on such obligation.

"(2) PAYMENT OF INTEREST DURING SECOND 5-YEAR PERIOD.—

"(A) IN GENERAL.—During each year of the second 5-year period of the 10-year period beginning on the date of issuance of each obligation under subsection (a), the Finan-

cial Assistance Corporation shall pay all of the interest due on such obligation.

"(B) PAYMENT BY SYSTEM INSTITUTIONS TO FINANCIAL ASSISTANCE CORPORATION.—During each year of the second 5-year period, System institutions shall pay to the Financial Assistance Corporation 50 percent of the interest due on the obligations, except that System institutions shall pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System (as determined under generally accepted accounting principles) exceed 5 percent of net assets (total assets less allowance for loan losses) based on a year-end financial statement for the preceding year.

"(C) ALLOCATION.—During each year of the second 5-year period, each System institution shall pay to the Financial Assistance Corporation a proportion of the interest due from System institutions under this paragraph equal to—

"(i) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(ii) the total performing loan volume of the System for the preceding year.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(3) PAYMENTS BY TREASURY.—The Secretary of the Treasury, in accordance with section 6.28, shall pay to the Financial Assistance Corporation, in a timely manner, the balance of each interest payment not made by the System institutions.

"(4) PAYMENT OF INTEREST AFTER FIRST 10-YEAR PERIOD.—During each year of the third 5-year period of the 15-year period beginning on the date of the issuance of each obligation under subsection (a), the Financial Assistance Corporation shall pay all of the interest due on such obligation. During each year of such 5-year period, System institutions shall pay the entire amount of interest due on the obligation allocated in the same manner as under paragraph (2)(C). Such payments shall be made to the Financial Assistance Corporation at such times as the Financial Assistance Corporation shall determine.

"(5) REPAYMENT BY SYSTEM INSTITUTIONS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph, the institutions of the Farm Credit System shall, on a fair and equitable basis, repay to the Secretary of the Treasury the total amount of any annual interest charges on debt obligations issued under subsection (a) that such institutions have not previously paid, and such institutions shall not be required to pay any additional interest charges on such payments.

"(B) TIME OF PAYMENT.—The institutions of the Farm Credit System shall begin making interest payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that such institutions possess the financial viability to make such payments, except that such institutions shall not be required to begin making such payments until the obligations issued under subsection (d)(1)(C) have been fully repaid.

"(C) TERMS OF PAYMENTS.—

"(i) IN GENERAL.—The institutions of the Farm Credit System shall make interest payments at such levels, and on such dates, as the Farm Credit Administration determines appropriate, except that the Farm Credit Administration shall not set payment levels or dates that would jeopardize the financial viability of any such institution.

"(ii) LIMITATIONS.—The institutions of the Farm Credit System shall not be required to make such repayments in a manner that—

"(I) impairs the stock of such institution; or

"(II) jeopardizes the minimum capital requirements of the institution.

"(iii) UNCOLLATERALIZED OBLIGATION.—Obligations to make repayments under this paragraph shall not be required to be collateralized.

"(d) REFINANCING AND PAYMENT OF PRINCIPAL.—

"(1) IN GENERAL.—

"(A) TIME OF REPAYMENT.—On maturity of an obligation issued under subsection (a), the obligation shall be repaid by the Financial Assistance Corporation.

"(B) PAYMENTS BY INSTITUTIONS.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to such obligation (or the successor thereto) shall pay to the Financial Assistance Corporation, before the maturity date of such obligation, an amount equal to the par value of such stock outstanding for such institution.

"(C) SYSTEMWIDE REPAYMENT.—In order to enable the Financial Assistance Corporation to repay the obligations referred to in section 410(c) of the Agricultural Credit Act of 1987, each System institution shall pay to the Financial Assistance Corporation a proportion of such principal equal to—

"(I) the average performing loan volume of the bank for the preceding 15 years; divided by

"(II) the average performing loan volume of all of the System banks for the same period.

"(D) SPECIAL RULE.—For purposes of determining the average loan volume of Federal intermediate credit banks, loan volume shall consist of loans made by such banks with the exception of loans made to production credit associations.

"(E) FUNDS FOR PAYMENTS.—Payments under subparagraph (B) shall be made by each such institution from the funds of the institution or from funds raised by the institution through the issuance of debt obligations, which may be issued without a collateral requirement and without any guarantee by the Secretary of the Treasury.

"(2) REFINANCED OBLIGATIONS.—The refinanced obligations issued under paragraph (1) shall be solely the obligations of the institutions refinancing such, and sections 4.3 and 4.4 shall not apply to such obligations.

"(3) DEFAULTS.—

"(A) INTEREST.—

"(i) PAYMENT BY CORPORATION.—If a System institution defaults on the payment of interest due under this subsection during the first 15 years after an obligation is issued under subsection (a), the Financial Assistance Corporation shall pay the amount of the interest due by the System institution out of the Trust Fund, and shall recover the amount of the interest due from the defaulting System institution, and such amount shall be paid to the Trust Fund.

"(ii) PAYMENT BY INSURANCE FUND.—If the Financial Assistance Corporation has not recovered the full amount of interest due from a defaulting institution by the end of the 12-month period beginning on the date of default, such uncollected interest shall be paid to the Trust Fund from the Insurance Fund established under section 5.60, to the full extent of funds available in the Insurance Fund as of the date the Financial Assistance Corporation notified the Farm Credit System Insurance Corporation of amounts due under this section.

"(iii) PAYMENT BY REMAINING INSTITUTIONS.—To the extent that the payment from the Insurance Fund is insufficient to reimburse the Trust Fund, the remaining balance shall be added to the amount of interest due from remaining System institutions, under this subsection, and each remaining System institution, subject to the special rule provided in subsection (c)(2)(D), shall pay to the Trust Fund a proportion of the uncollected interest equal to—

"(I) the amount of the performing loan volume of the institution (based on the average loan volume for the preceding year); divided by

"(II) the total performing loan volume of the System.

"(B) PRINCIPAL.—

"(i) EVALUATION.—Not later than 90 days before the maturity of any obligation issued under subsection (a), the Farm Credit Administration shall complete an evaluation of the general financial condition of each System institution that issued preferred stock under section 6.27(a) with respect to such obligation to determine whether such System institution will be able to redeem such stock at par value on the maturity of the obligation, and remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates.

"(ii) AVAILABILITY OF EVALUATION.—A copy of the evaluation required under clause (i) shall be furnished to the Secretary of the Treasury and the appropriate committees of Congress.

"(iii) REDEMPTION BY INSTITUTION; PURCHASE BY SECRETARY OF THE TREASURY.—If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that the redemption of such stock at par value would impair the other stock or equities of such institution or render such institution incapable of meeting its capital adequacy standards, the institution shall be prohibited from redeeming the preferred stock it issued under section 6.27 with respect to the maturing obligation. If the Farm Credit Administration determines, in consultation with the Secretary of the Treasury, on the basis of the evaluation required under clause (i), that such institution will be able to redeem, in a timely manner and at par value, the preferred stock it issued under section 6.27 with respect to the maturing obligation, and remain a viable and competitive institution, such institution shall have the option of redeeming or not redeeming such stock. If such institution elects not to redeem such stock, the Financial Assistance Corporation shall withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock issued by such institution under section 6.27 so as to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. Simultaneously with such withdrawal of funds from the Trust Fund, the Financial Assistance Corporation shall transfer to the Insurance Fund an equal amount, at par value, of preferred stock of such institution. To the extent that the Trust Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation,

the Insurance Fund shall be used by the Farm Credit System Insurance Corporation to purchase, at par value, the preferred stock issued by such institution under section 6.27(a) to enable the Financial Assistance Corporation to pay the principal of the maturing obligation. To the extent that the Insurance Fund is insufficient to enable the Financial Assistance Corporation to pay the full principal of the maturing obligation, the Secretary of the Treasury shall purchase, at par value, the remaining quantity of the preferred stock issued by such institution to enable the Financial Assistance Corporation to make such full payment. For that purpose, the Secretary of the Treasury may use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code. The purposes for which such securities may be issued under such chapter are extended to include such purchases of stock. Any preferred stock transferred to, or purchased by, the Farm Credit System Insurance Corporation under this clause shall be retired by the issuing institution at such times and under such terms and conditions as are agreed to between the Insurance Corporation and such institution.

"(C) RECOURSE BY OTHER SYSTEM INSTITUTIONS.—A defaulting institution shall be liable to the remaining System institutions for the amount of any interest paid by the remaining institutions under this paragraph.

"(4) PAYMENT BY UNITED STATES.—

"(A) INABILITY TO PAY.—Notwithstanding any other provision of this Act, if the Financial Assistance Corporation is unable to pay the principal or interest of any obligation issued under subsection (a), the Secretary of the Treasury shall pay to the Financial Assistance Corporation the amount due which shall be used by the Financial Assistance Corporation to pay the obligation.

"(B) RECOVERY.—

"(i) INTEREST PAYMENTS.—In each instance in which the Secretary of the Treasury is required to make a payment under subparagraph (A) to the Financial Assistance Corporation as a result of a default made by a System institution on interest due from such System institution under subsection (c), the Secretary of the Treasury shall recover the amount of the payments the Secretary made, with respect to each defaulting institution, from such defaulting institution. If the Secretary has not recovered the full amount due from the defaulting institution by the end of the 12-month period beginning on the date of payment by the Secretary, the uncollected amount shall be paid to the Secretary from the Insurance Fund established under section 5.60.

"(ii) PRINCIPAL PAYMENTS.—In each instance in which the Secretary of the Treasury is required under paragraph (3)(B)(iii) to purchase preferred stock issued by a System institution under section 6.27(a), the Farm Credit System Insurance Corporation shall use funds deposited in the Insurance Fund to repurchase, at par value, from the Secretary of the Treasury such stock required to be purchased under paragraph (3)(B)(iii) as funds become available for such repurchase.

"(iii) PRIORITY.—Notwithstanding any other provision of this Act except for section 5.60, during any year in which payments are due to the Secretary of the Treasury from the Insurance Fund under clause (i), or preferred stock held by the Secretary is due to be repurchased by the Insurance Fund under clause (ii), the funds in such Fund, and all funds deposited in such Fund during such year, shall be used first for the purposes specified in clauses (i) and (ii).

"SEC. 6.27. PREFERRED STOCK.

"(a) ISSUANCE.—

"(1) IN GENERAL.—Each System institution that is certified under section 6.4(a) or (b) may issue a special class of preferred stock only in an amount, and subject to such terms and conditions, as authorized by the Assistance Board.

"(2) DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), dividends shall not be payable on stock issued under this section.

"(B) EXCEPTION.—Stock issued under this section shall be issued under such terms and conditions as to enable the Secretary of the Treasury, with respect to any of such stock the Secretary purchases under section 6.26(d)(3)(B)(iii), and the Reserve Account Board, with respect to any of such stock that the Board purchases or otherwise acquires under section 6.26(d)(3)(B)(iii) or section 6.26(d)(4)(B)(ii), to establish for such stock a stated dividend rate equal to the current market yield on outstanding, marketable obligations of the United States with maturities of 30 years, plus a premium to reflect the cost of capital for institutions in financial distress.

"(3) VOTING RIGHTS.—A holder of stock issued under this subsection shall have no voting rights with respect to the stock.

"(b) PURCHASE.—The Financial Assistance Corporation shall purchase shares of stock issued by certified System institutions under subsections (a) and (b) to the extent that the issuance of such stock is approved by the Assistance Board.

"SEC. 6.28. PAYMENTS.

"(a) IN GENERAL.—Beginning in fiscal year 1989, the Secretary of the Treasury shall reimburse the Financial Assistance Corporation for any amounts such Corporation pays in interest charges under section 6.26(c) during fiscal year 1988, and thereafter the Secretary shall pay the Financial Assistance Corporation any amounts due from the Secretary to such Corporation under section 6.26(c).

"(b) REPAYMENT OF INTEREST PAID BY SECRETARY OF TREASURY.—

"(1) IN GENERAL.—Any amounts paid into the Assistance Fund by the Secretary of the Treasury pursuant to subsection (a) exceeding $2,000,000,000 shall be repaid by System institutions in accordance with a schedule to be established by the Farm Credit Administration Board.

"(2) ALLOCATION.—Until such repayment is completed, each System institution shall pay a proportionate share of the amount due under this paragraph to—

"(A) the amount of the performing loan volume of the institution, determined in accordance with subsection (d)(1)(D) (based on the average loan volume for the preceding year); divided by

"(B) the total performing loan volume of the System for the preceding year.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury such sums on an annual basis as may be necessary to carry out this subtitle.

"SEC. 6.29. ONE-TIME STOCK PURCHASE.

"(a) AMOUNT OF STOCK PURCHASE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for the purpose of obtaining funds for the Trust Fund, each System institution shall purchase from the Financial Assistance Corporation stock issued in accordance with section 6.23 in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received by the institution under section 6.9(c)) exceeds—

"(A) in the case of a System bank, 5 percent of assets; or

"(B) in the case of a production credit a ssociation or a Federal land bank association, 13 percent of assets.

"(2) REALLOCATION.—The district board of a district, subject to the unanimous consent of the bank and associations in the district that would be affected by the reallocation, may reallocate the amount of stock required to be purchased by banks and associations in the district under paragraph (1) to equitably reflect the ability of the banks and associations to pay, except that—

"(A) the total amount of stock purchased by banks and associations in the district under this paragraph shall equal the total amount of stock required to be purchased by the banks and associations under paragraph (1); and

"(B) the board may not impair the stock of an association in carrying out this paragraph; and

"(C) a district board's authority to reallocate stock purchases under this paragraph shall be limited to reallocation among like associations of the amount of stock required to be purchased by such associations; reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations than those enumerated above shall not be permitted.

"(b) COMPUTATIONS.—For purposes of subsection (a), the unallocated retained earnings and assets of a System institution shall be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986.

"(c) NOTICE.—Within 15 days after the retirement of the obligations of the Capital Corporation under section 6.9—

"(1) the Financial Assistance Corporation shall notify each System institution of the amount of stock such institution is required to purchase under subsection (a); or

"(2) in the case of a district in which the district board has reallocated the stock purchase requirement in accordance with subsection (a)(2), the district board shall notify each System institution in the district of the amount of stock such institution is required to purchase under subsection (a).

"(d) INSTITUTION REQUIREMENTS AFTER NOTICE.—Within 15 days after a System institution is notified of the amounts due under subsection (c), the institution shall purchase from the Financial Assistance Corporation the amount of stock required to be purchased by the institution under this section. No further stock purchases, obligations, or assessments shall be required beyond that provided in section 6.26 and this section.

"(e) JURISDICTION OVER ACTIONS.—Notwithstanding any other provision of law, the United States district court for the District of Columbia shall have exclusive jurisdiction over any action brought under or arising out of this section. No suit or proceeding shall be maintained for the recovery of any amount of stock alleged to have been erroneously or illegally purchased, and no suit or

proceeding shall be maintained to enjoin or otherwise prevent or impede the giving of notice or the purchase of stock required under this section, unless the amount of stock required to be purchased under this section has been purchased and paid for in full.

"SEC. 6.30. EXEMPTION FROM TAXATION.

"(a) ASSETS.—The Financial Assistance Corporation, and the capital, reserves, and surplus thereof, and the income derived therefrom, shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Financial Assistance Corporation to the same extent, according to its value, as other similar property held by other persons is taxed.

"(b) OBLIGATIONS.—The notes, bonds, debentures, and other obligations issued by the Financial Assistance Corporation shall be accorded the same tax treatment as System-wide obligations.

"SEC. 6.31. TERMINATION.

"(a) FINANCIAL ASSISTANCE CORPORATION.—The Financial Assistance Corporation and the authority provided to such Corporation by this subtitle shall terminate on the maturity and full payment of all debt obligations issued under section 6.26(a).

"(b) ACCOUNTS.—Simultaneously with the termination of the Financial Assistance Corporation as provided in subsection (a), any funds in the accounts established under section 6.25 shall be transferred to the Insurance Fund established under section 5.60.".

SEC. 202. REVOLVING FUND.

Section 4.0 (12 U.S.C. 2151) is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"(a) REVOLVING FUND.—The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration during the period, and for the purposes provided for, in sections 6.7(b) and 6.13.

"(b) FARM CREDIT INSURANCE FUND.—On the date the first premium is due and payable under section 5.56(c), any funds remaining in the revolving fund shall be transferred to the Farm Credit Insurance Fund in accordance with the terms and conditions established by the Farm Credit Administration.".

SEC. 203. UNSAFE OR UNSOUND PRACTICES.

Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(4) the term 'unsafe or unsound practice' shall—

"(A) have the meaning given to it by the Farm Credit Administration by regulation, rule, or order; and

"(B) during the period beginning on the date of the enactment of this paragraph and ending December 31, 1992, mean any noncompliance by a System institution, as determined by the Farm Credit Administration in consultation with the Assistance Board, with any term or condition imposed on the institution by the Assistance Board under section 6.6.".

SEC. 204. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

(a) IN GENERAL.—Section 4.9 (12 U.S.C. 2160) is amended to read as follows:

"SEC. 4.9. FEDERAL FARM CREDIT BANKS FUNDING CORPORATION.

"(a) ESTABLISHMENT.—There is hereby established the Federal Farm Credit Banks Funding Corporation (hereinafter in this section referred to as the 'Corporation'), which shall be an institution of the Farm Credit System.

"(b) DUTIES.—The Corporation—

"(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

"(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

"(3) shall exercise such other powers as were provided to the Funding Corporation in accordance with its charter issued under section 4.25, in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987.

"(c) OFFICERS AND COMMITTEES.—

"(1) DESIGNATION.—The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

"(2) ISSUANCE OF OBLIGATIONS.—When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

"(d) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

"(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

"(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

"(C) Two voting members shall be appointed by the members elected under subparagraphs (A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

"(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

"(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

"(D) The president of the Corporation shall serve as a nonvoting member of the board.

In selecting candidates under subparagraphs (A) and (B), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

"(2) NONVOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation.

"(B) INSURANCE CORPORATION.—After such period, the board of directors of the Farm Credit System Insurance Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(C) MEETINGS.—The persons so designated by the Assistance Board and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(e) TRANSITIONAL AUTHORITY.—Until a quorum of the board of directors of the Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted.".

(b) CONFORMING REPEALER.—Section 4.5 (12 U.S.C. 2156) is repealed.

SEC. 205. REGULATORY ACCOUNTING PROCEDURES.

(a) DATES FOR PURCHASE AND SALE OF OBLIGATIONS.—Section 4.8(b) (12 U.S.C. 2159(b)) is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) ANNUAL REPORTS.—Section 5.19(b) (12 U.S.C. 2253(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraphs:

"(2) In accordance with the regulations of the Farm Credit Administration, for the period ending December 31, 1992, System institutions are authorized to use the authorities contained in this section except as otherwise provided in section 6.6.

"(3) Any preferred stock issued under section 6.27 shall be subordinated to, and impaired before, other stock or equities of the institution.".

SEC. 206. FINANCIAL REPORT.

During the period beginning September 30, 2001, and ending December 31, 2001, the Farm Credit Administration shall review and evaluate the financial condition of the Farm Credit System and report to the Secretary of the Treasury and the appropriate committees of Congress on—

(1) the general financial condition of each System institution;

(2) the total outstanding principal of debt obligations issued under section 6.26 of the Farm Credit Act of 1971 (as added by section 201 of this Act); and

(3) the ability of each System institution to retire, at par value, preferred stock issued by the institution in accordance with section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act).

SEC. 207. CONFORMING AMENDMENTS.

(a) REPEAL.—The following provisions are hereby repealed:

(1) Section 4.1 (12 U.S.C. 2152).

(2) Section 5.17(a)(8) (12 U.S.C. 2252(a)(8)).

(3) Part D1 of title IV (12 U.S.C. 2216 et seq.).

(b) EFFECTIVE DATE.—The repeals made by subsection (a) shall take effect 15 days after the date of the enactment of this Act.

(c) DEFINITION OF BANK.—Section 4.4 (12 U.S.C. 2155) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(d) REDESIGNATION.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "Capital Corporation" and inserting in lieu thereof "Financial Assistance Corporation.".

TITLE III—CAPITALIZATION OF SYSTEM INSTITUTIONS

SEC. 301. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) MINIMUM CAPITAL ADEQUACY STANDARDS.—

(1) IN GENERAL.—

(A) ESTABLISHMENT.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue regulations under section 4.3(a) of the Farm Credit Act of 1971 (12 U.S.C. 2154(c)) that establish minimum permanent capital adequacy standards for Farm Credit System institutions.

(B) BASIS FOR ESTABLISHMENT.—The standards established under subparagraph (A) shall be based on the financial statements of the institution prepared in accordance with generally accepted accounting principles.

(C) RATIO OF CAPITAL TO ASSETS.—The standards established under subparagraph (A) shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

(D) PHASE-IN PERIOD.—The standards established under subparagraph (A) shall be phased in during the 5-year period beginning on the date of the enactment of this Act.

(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration shall not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(b)(2)) with respect to the issuance of the proposed regulations required under paragraph (1)(A).

(3) PROHIBITIONS DURING TRANSITION PERIOD.—During the 5-year period specified in paragraph (1)(C), the Farm Credit Administration shall not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971 (as added by section 201 of this Act), solely because of the failure of such institution to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the Farm Credit System Assistance Board established under section 6.0 of such Act (as added by section 201 of this Act).

(4) PERMANENT CAPITAL.—For purposes of this subsection, the term "permanent capital" has the same meaning given that term in section 4.3A(a)(1) of the Farm Credit Act of 1971.

(b) CAPITALIZATION BYLAWS.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following new section:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS.

"(a) DEFINITIONS.—As used in this section:

"(1) PERMANENT CAPITAL.—The term 'permanent capital' means current year retained earnings, allocated and unallocated earnings, all surplus (less allowances for losses), and stock issued by a System institution, except stock that—

"(A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(B) is protected under section 4.9B or is otherwise not at risk.

"(2) STOCK.—The term 'stock' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities.

"(b) ADOPTION OF BYLAWS.—Subject to approval by shareholders under subsection (c)(2), each bank and association shall adopt bylaws, developed by its board of directors, that provide for the capitalization of the institution in accordance with subsection (c)(1).

"(c) REQUIREMENTS OF BYLAWS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this Act, the bylaws adopted under subsection (b)—

"(A) shall provide for such classes, par value, and amounts of the stock of the institution, the manner in which such stock shall be issued, transferred, and retired, and the payment of dividends and patronage refunds, as determined appropriate by the Board of Directors, subject to this section;

"(B) may provide for the charging of loan origination fees as determined appropriate by the Board of Directors;

"(C) shall enable the institution to meet the capital adequacy standards established under the regulations issued under section 4.3(a);

"(D) shall provide for the issuance of voting stock, which may only be held by—

"(i) borrowers who are farmers, ranchers, or producers, or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this Act;

"(ii) in the case of a Central Bank for Cooperatives, other banks for cooperatives; and

"(iii) in the case of banks other than banks for cooperatives, System associations;

"(E) shall require that—

"(i) as a condition of borrowing from or through the institution, any borrower who is entitled to hold voting stock or participation certificates shall, at the time a loan is made, acquire voting stock or participation certificates in an amount not less than $1,000 or 2 percent of the amount of the loan, whichever is less; and

"(ii) within 2 years after the loan of a borrower is repaid in full, any voting stock held by the borrower be converted to nonvoting stock;

"(F) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

"(G) shall require that any holder of stock issued before the adoption of bylaws under this section exchange a portion of such stock for new voting stock;

"(H) do not need to provide for maximum or minimum standards of borrower stock ownership based on a percentage of the loan of the borrower;

"(I) shall permit the retirement of stock at the discretion of the institution if the institution meets the capital adequacy standards established under standards issued under section 4.3(a); and

"(J) shall permit stock to be transferable.

"(2) EFFECTIVE DATE.—The bylaws adopted by the board of directors of a System institution under subsection (b) shall take effect only on approval of a majority of the stockholders of such institution present and voting, or voting by written proxy, at a duly authorized stockholders' meeting.

"(d) REDUCTION OF CAPITAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) and in section 4.9A, the board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities if, after or due to such action, the permanent capital of the institution would thereafter fail to meet the minimum capital adequacy standards established under section 4.3(a).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding paragraph (1), any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

"(e) COMPLIANCE.—The Farm Credit Administration may issue a directive that requires compliance with subsection (d), to the board of directors of any System institution that fails to comply therewith.

"(f) CONSTRUCTION.—This section shall not be construed to affect the provisions of this Act that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or other equities for application against the indebtedness on a defaulted or restructured loan.

"(g) CONTROLLING AUTHORITY.—To the extent that any provision of this section is inconsistent with any other provision of this Act (other than section 4.9A), the provision of this section shall control.".

SEC. 302. INSURANCE OF OBLIGATIONS OF FARM CREDIT SYSTEM.

Title V (12 U.S.C. 2221 et seq.) is amended by adding at the end thereof the following new part:

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"SEC. 5.51. DEFINITIONS.

"As used in this part:

"(1) BOARD OF DIRECTORS.—The term 'Board of Directors' means the Board of Directors of the Corporation.

"(2) CORPORATION.—The term 'Corporation' means the Farm Credit System Insurance Corporation established in section 5.52.

"(3) INSURED OBLIGATION.—The term 'insured obligation' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 4.2—

"(A) on or before the date of the enactment of this part, on behalf of any System bank; and

"(B) after such date, on behalf of any insured System bank.

"(4) INSURED SYSTEM BANK.—The term 'insured System bank' means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 is insured under this part.

"(5) RECEIVER.—The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration to liquidate a System institution.

"(6) STATE.—The term 'State' means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"SEC. 5.52. ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION.

There is hereby established the Farm Credit System Insurance Corporation which shall insure, in accordance with this part, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

"SEC. 5.53. BOARD OF DIRECTORS.

"(a) ESTABLISHMENT.—The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

"(b) CHAIRMAN.—The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

"SEC. 5.54. COMMENCEMENT OF INSURANCE.

"Effective beginning on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, each System bank shall be an insured System bank and shall be subject to this part. Each System bank that is authorized to commence or resume operations under a title of this Act shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

"SEC. 5.55. PREMIUMS.

"(a) AMOUNT IN FUND NOT EXCEEDING SECURE BASE AMOUNT.—Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(b) AMOUNT IN FUND EXCEEDING SECURE BASE AMOUNT.—At any time the aggregate of amounts in the Insurance Fund exceeds the secure base amount, the Corporation shall reduce the annual premium due from each insured System bank for the following calendar year by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

"(c) SECURE BASE AMOUNT.—For purposes of this part, the term 'secure base amount' means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other percentage of the aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

"(d) DETERMINATION OF PRINCIPAL OUTSTANDING.—For the purpose of subsection (a), the principal outstanding on all loans made by a Federal intermediate credit bank shall be determined based on all loans made—

"(1) by the production credit associations in the district in which such bank is located;

"(2) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2), that is able to make such loans because such entity is receiving, or has received, funds provided through the Federal intermediate credit bank; and

"(3) by such Federal intermediate credit bank (other than loans made to any party described in paragraph (1) or (2)).

"SEC. 5.56. CERTIFICATION OF PREMIUMS.

"(a) FILING CERTIFIED STATEMENT.—Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of such year shall file with the Corporation a certified statement showing the annual average principal outstanding on loans made by the bank that are in accrual status, the annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year.

"(b) CONTENTS AND FORM OF STATEMENT.—The certified statement required to be filed with the Corporation under subsection (a) shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors that to the best of the person's knowledge and belief the statement is true, correct, complete, and has been prepared in accordance with this part and all regulations issued thereunder.

"(c) INITIAL PREMIUM PAYMENT.—Each System bank shall pay to the Corporation the amount of the initial premium it is required to certify under subsection (a) as soon as practicable after January 1, 1990, based on the application of section 5.55 to the accruing loan volume of the bank for calendar year 1989.

"(d) SUBSEQUENT PREMIUM PAYMENTS.—The premium payments required from insured System banks under subsection (a) shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60 days after filing the certified statement setting forth the amount of the premium.

"(e) REGULATIONS.—The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

"SEC. 5.57. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES.

"(a) OVERPAYMENTS.—The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

"(b) UNDERPAYMENTS.—

"(1) RECOVERY.—The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has made any report of condition required under section 5.55 or filed any certified statement under section 5.56, and whether or not suit has been brought to compel the bank to make any such report or file any such statement.

"(2) LIMITATION.—Any action or proceeding for the recovery of any premium due the Corporation under paragraph (1), or for the recovery of any amount paid to the Corporation exceeding the amount due the Corporation, shall be brought within 5 years after the right accrued for which the claim is made. If an insured System bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, the claim shall not be deemed to have accrued until the Corporation discovers that the certified statement is false or fraudulent.

"(c) FAILURE TO FILE STATEMENT OR PAY PREMIUM.—

"(1) FORFEITURE OF RIGHTS.—If any insured System bank fails to file any certified statement required to be filed by such bank under section 5.56 or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this Act shall be thereby forfeited.

"(2) ENFORCEMENT.—The Corporation may bring an action to enforce this subsection against any such bank in any court of competent jurisdiction for the judicial district in which the bank is located.

"(3) LIABILITY OF DIRECTORS.—Every director who participated in or assented to a failure (described in paragraph (1)) shall be held personally liable for all consequential damages.

"(d) EFFECT ON OTHER REMEDIES.—The remedies provided in subsections (b) and (c) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

"SEC. 5.58. GENERAL CORPORATE POWERS.

"On the date of the enactment of this part, the Corporation shall become a body corporate and as such shall have the following powers:

"(1) SEAL.—The Corporation may adopt and use a corporate seal.

"(2) SUCCESSION.—The Corporation may have succession until dissolved by an Act of Congress.

"(3) CONTRACTS.—The Corporation may make contracts.

"(4) LEGAL ACTIONS.—

"(A) IN GENERAL.—The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

"(B) JURISDICTION.—All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy, and the Corporation, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal then in effect.

"(C) ATTACHMENT AND EXECUTION.—No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

"(D) AGENT FOR SERVICE OF PROCESS.—The Board of Directors shall designate an agent on whom service of process may be made in any State or jurisdiction in which any insured System bank is located.

"(5) OFFICERS AND EMPLOYEES.—

"(A) IN GENERAL.—The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, to define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees.

"(B) EMPLOYEES OF THE UNITED STATES.—Nothing in this or any other Act shall be construed to prevent the appointment and compensation, as an officer or employee of the Corporation, of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"(6) BYLAWS.—The Corporation may prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

"(7) INCIDENTAL POWERS.—The Corporation may exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

"(8) INFORMATION.—The Corporation may, when necessary, make examinations of, and require information and reports from, System institutions, as provided in this part.

"(9) RECEIVER.—The Corporation may act as receiver.

"(10) RULES AND REGULATIONS.—The Corporation may prescribe by its Board of Directors such rules and regulations as it considers necessary to carry out this part (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

"SEC. 5.59. CONDUCT OF CORPORATE AFFAIRS; EXAMINATION OF INSURED SYSTEM BANKS.

"(a) CONDUCT OF CORPORATE AFFAIRS.—

"(1) FAIR ADMINISTRATION.—The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination.

"(2) OBLIGATIONS AND EXPENSES.—The Board of Directors shall determine and prescribe the manner in which the obligations of the Corporation may be incurred and the expenses of the Corporation may be allowed and paid.

"(3) USE OF MAILS.—The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

"(4) USE OF INFORMATION.—The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Federal Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

"(b) EXAMINATION OF INSURED SYSTEM BANKS.—

"(1) APPOINTMENT OF EXAMINERS.—The Board of Directors may appoint examiners who may, on behalf of the Corporation, examine any insured System bank, any production credit association, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary.

"(2) POWERS AND REPORT.—Each examiner may make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation.

"(3) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors, in like manner, shall appoint claim agents who may investigate and examine all claims for insured obligations.

"(c) OATH, AFFIRMATIONS, AND TESTIMONY.—In connection with examinations under this section, the Corporation or its designated representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution.

"(d) COOPERATION WITH FCA EXAMINERS.—The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

"SEC. 5.60. INSURANCE FUND.

"(a) ESTABLISHMENT.—There is hereby established a Farm Credit Insurance Fund (hereinafter referred to in this section as the 'Insurance Fund') for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation.

"(b) AMOUNTS IN FUND.—

"(1) REVOLVING FUND.—All amounts in the revolving fund established by section 4.0 (in effect immediately before the date of the enactment of this part) shall be transferred into the Farm Credit Insurance Fund on January 1, 1989, or 12 months after the date of the enactment of this part, whichever is later, except that the obligations to, and rights of, any person in such revolving fund arising out of any event or transaction before the date of the enactment of this part shall remain unimpaired.

"(2) DEPOSIT OF PREMIUMS.—Beginning 5 years after the date of the enactment of this part, the Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part.

"(c) USES OF FUND.—

"(1) MANDATORY USE.—Beginning 5 years after the date of the enactment of this part, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations.

"(2) OTHER MANDATORY USES.—Beginning 5 years after the date of enactment of this part, the Corporation shall use amounts in the Insurance Fund to—

"(A) satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 6.26(d)(3); and

"(B) ensure the retirement of borrower stock at par value and participation certificates or other similar equities at face value as provided for under section 4.9A(c)(2).

"(3) PERMISSIVE USES.—The Corporation may expend amounts in the Insurance Fund to carry out section 5.61 and to cover the operating costs of the Corporation.

"(4) CORPORATE PAYMENT OR REFUNDS.—The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Insurance Fund.

"SEC. 5.61. POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) IN GENERAL.—The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken—

"(A) to prevent the placing of the bank in receivership;

"(B) to restore the bank to normal operation; or

"(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

"(2) ENUMERATED POWERS.—

"(A) FACILITATION OF MERGERS OR CONSOLIDATION.—To facilitate a merger or consolidation of a qualifying insured System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may—

"(i) purchase any such assets or assume any such liabilities;

"(ii) make loans or contributions to, or purchase debt securities of, such other insured System bank;

"(iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or

"(iv) take any combination of the actions referred to in the preceding clauses.

"(B) QUALIFYING INSURED SYSTEM BANK.—For purposes of subparagraph (A), the term 'qualifying insured System bank' means any insured System bank that—

"(i) is in receivership;

"(ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or

"(iii) is, in the sole discretion of the Corporation, an insured System bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

"(3) LIMITATION.—

"(A) COST OF LIQUIDATION.—Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating the bank (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in the area of operations of the bank.

"(B) PURCHASE OF STOCK.—The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect the financial interests of the Corporation.

"(4) SUBORDINATION.—Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

"(5) REPORTS.—The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

"(b) AUTHORITY TO PLEDGE OR SELL ASSETS.—The Corporation, in its discretion, may make loans on the security of, or may purchase, and liquidate or sell, any part of the assets of, any insured System bank that is placed in receivership because of the inability of the bank to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner.

"(c) SUBROGATION.—

"(1) IN GENERAL.—On the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment.

"(2) RECEIPT OF DIVIDENDS.—Subrogation under paragraph (1) shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

"(d) RIGHT TO ASSETS.—Any agreement that shall diminish or defeat the right, title, or interest of the Corporation in any asset acquired by such Corporation under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

"(1) is in writing;

"(2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;

"(3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and

"(4) has been, continuously, from the time of its execution, an official record of the bank.

"(e) INSURED SYSTEM BANK.—As used in this section, the terms 'insured System bank' and 'bank' include each production credit association.

"(f) EFFECTIVE DATE.—The Corporation shall not exercise any authority under this section during the 5-year period beginning on the date of the enactment of this part.

"SEC. 5.62. INVESTMENT OF FUNDS.

"Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"SEC. 5.63. EXEMPTION FROM TAXATION.

"Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

"SEC. 5.64. REPORTS.

"(a) IN GENERAL.—The Corporation annually shall prepare and submit to Congress a report of the operations of the Corporation, as soon as practicable after the first day of January in each calendar year.

"(b) CONTENTS.—Reports submitted under subsection (a) shall include information concerning the—

"(1) aggregate amount in the Insurance Fund at the close of the preceding calendar year;

"(2) projections of the costs to be incurred by the Corporation during the calendar year; and

"(3) estimates of the aggregate amount to be collected as premiums during the calendar year.

"SEC. 5.65. PROHIBITIONS.

"(a) CORPORATE NAME.—

"(1) USE OF CORPORATE NAME.—It shall be unlawful for any person or entity to use the words 'Farm Credit System Insurance Corporation' or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Corporation, by virtue of the name under which such person or entity does business.

"(2) FALSE REPRESENTATION.—

"(A) BY OUTSIDE PERSON OR ENTITIES.—It shall be unlawful for any person or entity to falsely represent by any device, that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Corporation.

"(B) SYSTEM BANKS.—It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

"(3) PENALTY.—Any person or entity that willfully violates any provision of this subsection shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

"(b) PAYMENTS OR DISTRIBUTIONS WHILE IN DEFAULT.—

"(1) IN GENERAL.—It shall be unlawful for any insured System bank to pay any dividends on bank stock or participation certificates or interest on the capital notes or debentures of such bank (if such interest is required to be paid only out of net profits) or distribute any of the capital assets of such bank while the bank remains in default in the payment of any premium due to the Corporation.

"(2) LIABILITY OF DIRECTORS.—Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than $1,000, imprisoned not more than 1 year, or both.

"(3) APPLICABILITY.—This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(c) FAILURE TO FILE STATEMENT OR PAY PREMIUM.—

"(1) IN GENERAL.—Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use.

"(2) APPLICABILITY.—This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(d) EMPLOYMENT OF PERSONS CONVICTED OF CRIMINAL OFFENSES.—

"(1) IN GENERAL.—Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank.

"(2) PENALTY.—For each willful violation of paragraph (1), the bank involved shall be subject to a penalty of not more than $100 for each day during which the violation continues, which the Corporation may recover for its use.".

SEC. 303. JOINT AND SEVERAL LIABILITY OF BANKS.

(a) CLARIFICATION OF JOINT AND SEVERAL LIABILITY.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended to read as follows:

"(a)(1) Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same title of this Act.

"(2)(A) Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make.

"(B) Such calls first shall be made on all nondefaulting banks in proportion to each such bank's proportionate share of the aggregate available collateral held by all such banks.

"(C) For purposes of this paragraph, the term 'available collateral' means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral as described in section 4.3 exceeds the collateral required to support the bank's outstanding notes, bonds, debentures, and other similar obligations.

"(D) If the Farm Credit Administration makes any such call and the available collateral of all such banks does not fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank's remaining assets.

"(E) Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment.

"(F) On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a receiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.".

(b) INSURANCE FUND CALLED ON BEFORE INVOKING JOINT AND SEVERAL LIABILITY.—Section 4.4 (12 U.S.C. 2155) is amended by adding at the end thereof the following new subsection:

"(e) Beginning 5 years after the date of the enactment of this subsection, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted, even if the Fund is only able to make a partial payment because of insufficient amounts in the Fund.".

SEC. 304. ENHANCEMENT OF CAPITAL ADEQUACY OF BANKS.

Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended to read as follows:

"(c) Each bank shall have on hand at the time of issuance of any note, bond, debenture, or other similar obligation and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under this Act or real or personal property acquired in connection with loans made under this Act, obligations of the United States or any agency thereof direct or fully guaranteed,

other bank assets (including marketable securities) approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.".

SEC. 305. FEDERAL INTERMEDIATE CREDIT BANK ASSESSMENT POWER.

Section 2.5 (12 U.S.C. 2076) is amended—

(1) in the title, by inserting "; AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS" before the period;

(2) by inserting "(a)" before "The Federal"; and

(3) by adding at the end thereof the following new subsection:

"(b) Each Federal intermediate credit bank may assess each production credit association and other financing institution described in section 2.3(a)(2) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Federal intermediate credit bank, that are in nonaccrual status, multiplied by 0.0025.".

SEC. 306. CONSERVATORS AND RECEIVERS.

Section 4.12(b) (12 U.S.C. 2183(b)) is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon;

(2) by inserting after paragraph (5) the following new paragraph: "(6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(3)) issued by the institution."; and

(3) in the second sentence by inserting before the period at the end thereof the following: ", and such receiver or conservator, after the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, shall be the Farm Credit System Insurance Corporation".

TITLE IV—RESTRUCTURING THE FARM CREDIT SYSTEM

SUBTITLE A—CREATION OF FARM CREDIT BANKS

SEC. 401. FARM CREDIT BANKS AND ASSOCIATIONS CHARTERS.

Effective 6 months after the date of enactment of this Act, titles I and II of the Farm Credit Act of 1971 (12 U.S.C. 2000 et seq.) are amended to read as follows:

"TITLE I—FARM CREDIT BANKS

"SEC. 1.3. ESTABLISHMENT, CHARTERS, TITLES, BRANCHES.

"(a) ESTABLISHMENT.—The banks established pursuant to the merger of each District Federal Intermediate Credit Bank and Federal Land Bank (hereinafter referred to in this title as 'Farm Credit Banks') shall be federally chartered instrumentalities of the United States.

"(b) CHARTERS.—The charters or organization certificates of Farm Credit Banks may be modified from time to time by the Farm Credit Administration Board, not inconsistent with the provisions of this title, as may be necessary or expedient to implement this Act.

"(c) TITLE.—Each Farm Credit Bank may include in its title the name of the city in which it is located or other geographical designation.

"(d) BRANCHES.—Each Farm Credit Bank may establish such branches or other offices as may be appropriate for the effective operation of its business.

"SEC. 1.4. BOARD OF DIRECTORS.

"Each Farm Credit Bank shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 1.5. GENERAL CORPORATE POWERS.

"Each Farm Credit Bank shall be a body corporate and, subject to regulation by the Farm Credit Administration, shall have power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business;

"(6) make, participate in, and discount loans, make commitments for credit, accept advance payments, and provide services as authorized in this Act, and charge fees for such;

"(7) operate under the direction of its board of directors;

"(8) provide by its board of directors for a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, as provided in this Act, define their duties, and require surety bonds or make other provision against losses occasioned by employees;

"(9) prescribe by its board of directors—

"(A) the bylaws of such bank that shall not be inconsistent with law, providing for the classes of the stock of the bank and the manner in which such stock shall be issued, transferred, and retired;

"(B) the officers, employees, and agents of the bank as provided for;

"(C) the property of the bank acquired, held, and transferred;

"(D) the loans and discounts made by the bank;

"(E) the general business conducted by the bank; and

"(F) the privileges granted to the bank by law exercised and enjoyed;

"(10) borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined as provided for in this Act;

"(11) purchase nonvoting stock in, or pay in surplus to, and accept deposits or securities of funds from associations in its district, and pay interest on such funds;

"(12) participate with—

"(A) one or more other Farm Credit Banks in loans under this title on such terms as may be agreed on among such banks;

"(B) participate with one or more other Farm Credit System institutions in loans made under this title or other titles on the basis prescribed in section 4.18; and

"(C) participate with lenders that are not Farm Credit System institutions in loans that the bank is authorized to make under this title;

"(13) approve the salary scale of the officers and employees of the associations in its district, and the appointment and compensation of the chief executive officer thereof, and supervise the exercise by such associations of the functions vested in or delegated to them;

"(14) deposit the securities and current funds of the bank with any member bank of the Federal Reserve System or any insured State nonmember bank as defined in section 3 of the Federal Deposit Insurance Act and pay fees and receive interest on such as may be agreed, and when designated for that purpose by the Secretary of the Treasury, such bank—

"(A) shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary;

"(B) may be employed as a fiscal agent of the Government; and

"(C) shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of such bank;

except that no Government funds deposited under the provisions of this paragraph shall be invested in loans or bonds or other obligations of the bank;

"(15) buy and sell obligations of, or insured by, the United States or any agency thereof, or securities backed by the full faith and credit of any such agency, and make other investments as may be authorized under regulations issued by the Farm Credit Administration;

"(16) sell to lenders that are not Farm Credit System institutions interests in loans, and buy from and sell to Farm Credit System institutions interests in loans and other extensions of credit, and nonvoting stock as may be authorized under regulations issued by the Farm Credit Administration;

"(17) conduct studies and make and adopt standards for lending;

"(18) delegate to Federal land bank associations such functions as the bank determines appropriate;

"(19) amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of such items;

"(20) for loans made by the bank, require associations to endorse notes and other obligations of borrowers from the bank;

"(21) exercise through the board of directors or authorized officers, employees, or agents of the bank, all such incidental powers as may be necessary or expedient to carry on the business of the bank;

"(22) accept contributions to the capital of the bank from associations and account for such as authorized by the Farm Credit Administration; and

"(23) as may be authorized by the board of directors of the bank and approved by the Farm Credit Administration Board, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.

"SEC. 1.6. FARM CREDIT BANK CAPITALIZATION.

"In accordance with section 4.3A, the Farm Credit Banks shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank

stock shall be issued, held, transferred, and retired and bank earnings distributed.

"SEC. 1.7. LENDING AUTHORITY.

"(a) REAL ESTATE LOANS.—The Farm Credit Banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 not more than 40 years.

"(b) INTERMEDIATE CREDIT.—

"(1) IN GENERAL.—The Farm Credit Banks are authorized to make loans and extend other similar financial assistance to and to discount for or purchase from—

"(A) any production credit association, or

"(B) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with the institution's endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations as authorized by this Act.

"(2) PARTICIPATION WITH OTHER ENTITIES.—The Farm Credit Banks may participate with one or more production credit associations or other Farm Credit Banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with option to purchase to persons eligible for assistance under this title, equipment needed in the operations of such persons.

"(3) LIMITATIONS ON EXTENSION OF FINANCIAL ASSISTANCE.—

"(A) GENERAL RULE.—No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Farm Credit Bank to any entity identified in paragraph (1)(B) of this subsection if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser.

"(B) LIMITATION ON NATIONAL BANK.—It shall be unlawful for any national bank which is indebted to any Farm Credit Bank, on paper discounted or purchased under paragraph (1), to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation herein contained.

"(4) FCA REGULATIONS.—

"(A) IN GENERAL.—All of the loans, financial assistance, discounts and purchases authorized by this section shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations.

"(B) REQUIREMENT OF REGULATIONS.—The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under paragraph (1)(B) of this subsection, and that—

"(i) is significantly involved in lending for agricultural or aquatic purposes;

"(ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers;

"(iii) has limited access to national or regional capital markets; and

"(iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized under title II.

"(C) FEES.—The regulations may authorize a Farm Credit Bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution.

"(D) SUBSIDIARIES AND AFFILIATES.—For purposes of this subsection, a financing institution together with the subsidiaries and affiliates of such may be considered as one, but such determination to consider such institution together with the subsidiaries and affiliates of such as one shall be made in the first instance by the bank and in the event of a denial by the bank of its services to a financial institution, then by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates.

"(5) EFFECTIVE DATE.—Nothing in this section shall require termination of discount relationships in existence on the effective date of the Farm Credit Act Amendments of 1980.

"SEC. 1.8. INTEREST RATES AND OTHER CHARGES.

"(a) IN GENERAL.—Loans and discounts made by a Farm Credit Bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time.

"(b) SETTING RATES AND CHARGES.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into consideration the cost of money to the bank, necessary reserve and expenses of the bank and associations, and providing services to members. The loan documents or discounting and financing agreements, may provide for the interest rate or rates to vary from time to time during the repayment period of the loan or agreement.

"SEC. 1.9. ELIGIBILITY.

"The credit and financial services authorized in this title may be made available to persons who are or become stockholders or members of the bank or associations in the district, and who are—

"(1) bona fide farmers, ranchers, or producers or harvesters of aquatic products;

"(2) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs; or

"(3) owners of rural homes.

"SEC. 1.10. SECURITY; TERMS.

"(a) REAL ESTATE LOANS.—

"(1) MAXIMUM LEVEL OF LOANS.—

"(A) IN GENERAL.—Real estate mortgage loans originated by a Farm Credit Bank, or in which a Farm Credit Bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(B) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(C) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(2) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(3) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(4) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(5) FINANCIAL STATEMENT.—Each Farm Credit Bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.

"(b) INTERMEDIATE CREDIT.—Loans, other than real estate loans, and discounts made under the provisions of this title shall be repayable in not more than 7 years (15 years if made to producers or harvester of aquatic products) from the time that such are made or discounted by the Farm Credit Bank, except that the Board of Directors, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than 10 years from the time that such are made or discounted by such bank.

"SEC. 1.11. PURPOSES FOR EXTENSIONS OF CREDIT.

"(a) AGRICULTURAL OR AQUATIC PURPOSES.—Loans made by a Farm Credit Bank to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the applicant shall supply at least 20 percent, or such larger percent as may be required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.

"(b) RURAL HOUSING FINANCING.—

"(1) IN GENERAL.—Loans and discounts may be made to rural residents for rural housing financing under regulations of the Farm Credit Administration.

"(2) LIMITATIONS.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, or planned or recommended for, the rural area where it is located, except that a Farm Credit Bank may not at any one time have a total amount of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 percent of the total of all loans outstanding in such bank.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(c) FARM-RELATED SERVICES.—

"(1) IN GENERAL.—Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services.

"(2) FACILITIES.—The banks may own and lease, or lease with option to purchase, to persons eligible for credit under this title, facilities needed in the operations of such persons.

"SEC. 1.12. RELATED SERVICES.

"The Farm Credit Banks may provide technical assistance to borrowers, members, and applicants from the bank and associations in the district, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

"SEC. 1.13. LOANS THROUGH ASSOCIATIONS OR AGENTS.

"(a) IN GENERAL.—The Farm Credit Banks shall, except as otherwise herein provided, make loans of the type authorized under section 1.7(a) through a Federal land bank association chartered to serve the territory in which the real estate of the borrower is located.

"(b) NO ACTIVE ASSOCIATION.—If there is no active association chartered to serve territory where the real estate is located, the bank may make the loan directly or through such bank or trust company or savings or other financial institution as such bank may designate.

"(c) PURCHASE OF STOCK REQUIRED.—When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in accordance with the capitalization requirements provided for in the by-laws of the bank.

"SEC. 1.14. LIENS ON STOCK.

"The Farm Credit Banks shall have a first lien on the stock or participation certificates it issues for the payment of any liability of the stockholders to the bank.

"SEC. 1.15. TAXATION.

"The Farm Credit Banks and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Farm Credit Bank to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Farm Credit Banks and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

"TITLE II—FARM CREDIT ASSOCIATIONS

"SUBTITLE A—PRODUCTION CREDIT ASSOCIATIONS

"SEC. 2.0. ORGANIZATION AND CHARTERS.

"(a) CHARTER.—Each production credit association shall continue as a Federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—Production credit associatiojs may be organized by 10 or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money ujder the provisions of this title.

"(2) ARTICLES OF ASSOCIATION.—The proposed articles of association shall be forwarded to the Farm Credit Bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank.

"(3) CONTENTS OF ARTICLES.—The articles shall specify in general terms the—

"(A) objects for which the association is formed;

"(B) the powers to be exercised by the association in carrying out the functions authorized by this part; and

"(C) the territory the associations' proposes to serve.

"(4) SIGNATURES.—The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which such person will become a stockholder.

"(5) COPY TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area described in the charter of another production credit association.

"(6) DENIAL OF CHARTER.—The Farm Credit Administration for good cause shown may deny the charter.

"(7) APPROVAL OF ARTICLES.—On approval of the proposed articles by the Farm Credit Administration, and on the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(8) POWERS OF FCA.—The Farm Credit Administration shall have the power, under rules and regulations prescribed by Farm Credit Administration or by prescribing in the terms of the charter or by approval of bylaws of the association to—

"(A) provide for the organization of the association;

"(B) provide for the initial amount of stock of the association;

"(C) provide for the territory within which the associations operations may be carried on; and

"(D) direct at any time such changes in the charter as Farm Credit Administration finds necessary for the accomplishment of the purposes of this Act.

"SEC. 2.1. BOARD OF DIRECTORS.

"Each production credit association shall elect from the voting members of such association, a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by the bylaws of the association, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.2. GENERAL CORPORATE POWERS.

"Each production credit association shall be a body corporate and, subject to supervision by the Farm Credit Bank for the district and regulation by the Farm Credit Administration, shall have the power to—

"(1) have succession until terminated in accordance with this Act or any other Act of Congress;

"(2) adopt and use a corporate seal;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with the provisions of this Act;

"(7) subscribe to stock of the bank;

"(8) purchase stock of the bank held by other production credit associations and stock of other production credit association;

"(9) contribute to the capital of the bank or other production credit associations;

"(10) invest funds of the association as may be approved by the Farm Credit Bank under regulations of the Farm Credit Administration and deposit the current funds and securities of such with the Farm Credit Bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed;

"(11) buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System and buy from and sell to such banks, interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration;

"(12) borrow money from the Farm Credit Bank, and with the approval of such bank, borrow from and issue notes or other obligations to any commercial bank or other financial institution;

"(13) make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this subtitle and charge fees therefor, and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act;

"(14) endorse and become liable on loans discounted or pledged to the Farm Credit Bank;

"(15) as may be authorized by the Farm Credit Bank in accordance with regulations of the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose;

"(16) prescribe by the board of directors of the association the bylaws not inconsistent with law providing for—

"(A) the classes of association stock and the manner in which the stock shall be issued, transferred, and retired;

"(B) the officers and employees elected or provided for;

"(C) the property acquired, held, and transferred by the association; and

"(D) the general business conducted, and the privileges granted to the associations by law exercised and enjoyed;

"(17) elect by the board of directors of the association a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define their duties, and require surety bonds or make other provisions against losses occasioned by employees, but no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried

employee of the association on the board of which he served;

"(18) elect by the board of directors of the association a loan committee with power to approve applications for membership in the association and loans or participations or, with the approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association;

"(19) perform any functions delegated to the association by the bank; and

"(20) exercise by the board of directors or authorized officers or employees of the association, all such incidental powers as may be necessary or expedient to carry on the business of the association.

"SEC. 2.3. PRODUCTION CREDIT ASSOCIATION CAPITALIZATION.

"(a) IN GENERAL.—In accordance with section 4.3A, each production credit association shall provide, through its bylaws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and, except as provided in subsection (b), its earnings distributed.

"(b) APPLICATION OF EARNINGS.—Each production credit association at the end of each fiscal year shall apply the amount of the earnings of the association for such year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 percent of the loans outstanding at the end of the fiscal year to the extent that such earnings in such year in excess of other operating expenses permit, or in such greater amounts as are deemed necessary under generally accepted accounting principles, until such reserves equal or exceed 3½ percent of the loans outstanding at the end of the fiscal year, beyond which 3½ percent further additions to such reserves may be made, if deemed necessary under generally accepted accounting principles) first to the restoration of the impairment, if any, of capital, and second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.

"(c) PATRONAGE.—When the bylaws of an association so provide and subject to the general directions of the Farm Credit Administration, available net earnings at the end of any fiscal year may be distributed on a patronage basis in stock, participation certificates, or in cash. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

"SEC. 2.4. SHORT- AND INTERMEDIATE-TERM LOANS; PARTICIPATION; OTHER FINANCIAL ASSISTANCE; TERMS; CONDITIONS; INTEREST; SECURITY.

"(a) SHORT- AND INTERMEDIATE-TERM LOAN.—Each production credit association, under standards prescribed by the board of directors of the Farm Credit Bank of the district, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to—

"(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the operations of the borrower and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products, except that the operations of the borrower shall supply at least 20 percent, or such larger percent as is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended;

"(2) rural residents for housing financing in rural areas, under regulations of the Farm Credit Administration; and

"(3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs.

"(b) RURAL HOUSING.—

"(1) IN GENERAL.—Rural housing financed under this title shall be for single-family, moderate-priced dwellings and the appurtenances of such not inconsistent with the general quality and standards of housing existing in, planned or recommended for, the rural area where it is located.

"(2) LIMITATION.—The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 percent of the outstanding loans at the end of its preceding fiscal year except on prior approval by the Farm Credit Bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 percent of the outstanding loans of all associations in the district at the end of the preceding fiscal year.

"(3) RURAL AREAS.—For rural housing purposes under this section the term 'rural areas' shall not be defined to include any city or village having a population in excess of 2,500 inhabitants.

"(4) EQUIPMENT.—Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

"(c) INTEREST RATES AND CHARGES.—

"(1) IN GENERAL.—Loans authorized in subsection (a) hereof shall bear such rate or rates of interest as are determined under standards prescribed by the board of the bank subject to the provisions of section 4.17 of this Act, and shall be made upon such terms, conditions, and upon such security, if any, as shall be authorized in such standards.

"(2) SETTING OF RATES.—In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members.

"(3) VARYING RATES.—The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association.

"(4) PRIOR APPROVAL.—Such standards may require prior approval of the bank on certain classes of loans, and may authorize a continuing commitment to a borrower of a line of credit.

"SEC. 2.5. OTHER SERVICES.

"Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm and aquatic operations as is determined feasible by the board of directors of each Farm Credit Bank, under regulations prescribed by the Farm Credit Administration.

"SEC. 2.6. TAXATION.

"Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority.

"SUBTITLE B—FEDERAL LAND BANK ASSOCIATIONS

"SEC. 2.10. ORGANIZATIONS; ARTICLES; CHARTERS; POWERS OF THE FARM CREDIT ADMINISTRATION.

"(a) CHARTER.—Each Federal land bank association shall continue as a federally chartered instrumentality of the United States.

"(b) ORGANIZATION.—

"(1) IN GENERAL.—A Federal land bank association may be organized by any group of 10 or more persons desiring to borrow money from a Farm Credit Bank, including persons to whom the Farm Credit Bank has made a loan directly or through an agent and has taken as security real estate located in the territory proposed to be served by the association.

"(2) ARTICLES OF ASSOCIATION.—

"(A) DESCRIPTION OF TERRITORY.—The articles of association shall describe the territory within which the association proposes to carry on its operations.

"(B) SUBMISSION TO FCA.—Proposed articles shall be forwarded to the Farm Credit Bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock in accordance with the bylaws of the Farm Credit Bank.

"(C) STOCK PURCHASE.—Association stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association.

"(D) STATEMENT.—The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing—

"(i) the individuals eligibility for, and request or need of the individual of a Farm Credit Bank loan;

"(ii) that the real estate with respect to which the individual desires the loan for is not being served by another Federal land bank association; and

"(iii) that the individual is or will become a stockholder in the proposed association.

"(E) SUBMISSION TO FCA.—A copy of the articles of association shall be forwarded to the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association.

"(3) DENIALS OF CHARTERS.—The Farm Credit Administration for good cause shown may deny the charter applied for.

"(4) APPROVAL OF ARTICLES.—On the approval of the proposed articles by the Farm Credit Administration and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States.

"(c) FCA AUTHORITY ON ORGANIZATION.—The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the

Farm Credit Administration or by approving the bylaws of the association, to provide for the—

"(1) organization of the association;

"(2) the initial amount of stock of such association;

"(3) the territory within which the operations of the association may be carried on; and

"(4) to direct at any time changes in the charter of such association as the Farm Credit Administration finds necessary in accomplishing the purposes of this Act.

"SEC. 2.11. BOARD OF DIRECTORS.

"Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"SEC. 2.12. GENERAL CORPORATE POWERS.

"Each Federal land bank association shall be a body corporate and, subject to supervision of the Farm Credit Bank for the district and the regulation of the Farm Credit Administration, shall have the power to—

"(1) adopt and use a corporate seal;

"(2) have succession until dissolved under the provisions of this Act or other Act of Congress;

"(3) make contracts;

"(4) sue and be sued;

"(5) acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to the business of the association;

"(6) operate under the direction of the board of directors of the association in accordance with this Act;

"(7) elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this Act, define the duties of such, and require surety bonds or make other provision against losses occasioned by employees, except that no director shall, within one year after the date when such director ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which such director served;

"(8) prescribe by its board of directors, association bylaws, not inconsistent with law, providing for the classes of association stock and the manner in which such stock shall be issued, transferred, and retired; the officers and employees of the association elected or provided for, the property of the association that is acquired, held, and transferred, the general business of the association conducted, and the privileges granted to the association by law exercised and enjoyed;

"(9) accept applications for Farm Credit Bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans;

"(10) subscribe to stock of the Farm Credit Bank of the district;

"(11) elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Farm Credit Bank, or with the approval of the Farm Credit Bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association;

"(12) on agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in the Farm Credit Banks as may be agreed to or delegated to the association;

"(13) endorse and become liable to the bank on loans it makes to association members;

"(14) receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and make such other charges for services as may be approved by the bank;

"(15) provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Farm Credit Bank approval, are feasible, under regulations of the Farm Credit Administration;

"(16) borrow money from the bank and, with the approval of such bank, borrow from and issue association notes or other obligations to any commercial bank or other financial institution;

"(17) buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System;

"(18) invest association funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit securities and current funds of the association with any member bank of the Federal Reserve System, with the Farm Credit Bank, or with any bank insured by the Federal Deposit Insurance Corporation, and pay fees therefor and receive interest thereon as may be agreed;

"(19) perform such other function delegated to the association by the Farm Credit Bank of the district;

"(20) exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business; and

"(21) contribute to the capital of the bank.

"SEC. 2.13. FEDERAL LAND BANK ASSOCIATION CAPITALIZATION.

"In accordance with section 4.3A, the Federal land bank association shall provide, through its by-laws and subject to Farm Credit Administration regulations, for its capitalization and the manner in which its stock shall be issued, held, transferred, and retired and its earning distributed.

"SEC. 2.14. LIQUIDATION.

"Whenever any Federal land bank association is liquidated, a sum equal to its reserve account as required in this Act shall be paid and become the property of the bank in which such association is a shareholder.

"SEC. 2.15. AGREEMENTS FOR SHARING GAINS OR LOSSES.

"Each Farm Credit Bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements and also, subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association. As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements with other Farm Credit System institutions to share loans and other losses, whether to protect against capital impairment or for any other purpose.

"SEC. 2.16. LIENS ON STOCK.

"Each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock or participation certificates, held by or other Farm Credit System institutions, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

"SEC. 2.17. TAXATION.

"Each Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land bank associations and the notes, bonds, debentures, and other obligations issued by the banks shall be considered and held to be instrumentalities of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a))."

SUBTITLE B—MERGER OF SYSTEM INSTITUTIONS

SEC. 410. MANDATORY MERGER.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Federal land bank and the Federal intermediate credit bank of each district shall merge into a Farm Credit Bank in such district pursuant to a plan of merger agreed on by the Boards of Directors of such banks and approved by the Farm Credit Administration, or if such banks fail to agree, a plan of merger prescribed by the Farm Credit Administration.

(b) CAPITAL STOCK.—The number of shares of capital stock issued by a Farm Credit Bank to stockholders and other owners of the institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the merging banks, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

(c) ASSISTANCE.—The Assistance Board shall direct the Financial Assistance Corporation to provide any Farm Credit Bank with that amount of financial assistance as is necessary to ensure that the stock of the Farm Credit Bank, upon implementation of the merger, has a book value equal to 75 percent of par, and such Farm Credit Bank shall be subject to all of the requirements of title VI of the Farm Credit Act of 1971.

(d) INITIAL BOARD.—The initial board of each Farm Credit Bank shall be composed of the members of the district board (which is dissolved upon the creation of such bank) elected by the production credit associations, Federal land bank associations, and stockholders at large. Such initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter the board shall be elected and serve in accordance with the provisions of section 1.4 of the Farm Credit Act of 1971.

SEC. 411. MERGER OF PRODUCTION CREDIT ASSOCIATIONS AND FEDERAL LAND BANK ASSOCIATIONS.

(a) SUBMISSION OF PROPOSAL.—Not later than 6 months after the date of the merger of the Federal land bank and the Federal inter-

mediate credit bank in a district, the Boards of Directors of each Federal land bank association and each production credit association in such district, that share substantially the same geographical territory with each other, shall submit to the voting stockholders of each such association for their approval, a plan, approved by the supervising bank and the Farm Credit Administration, for merging such associations.

(b) PREREQUISITES TO MERGER.—

(1) STOCKHOLDER VOTE.—The stockholder vote required for approval of a merger under subsection (a) shall be a majority of the voting stockholders of each association voting, in person or by written proxy, at a duly authorized stockholders meeting.

(2) SUBMISSION TO FCA.—Not later than 60 days prior to the end of the 6-month period beginning on the date of the enactment of this section, the plan of merger under subsection (a), together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration .

(3) EXPEDITED CONSIDERATION BY FCA.—The Farm Credit Administration shall expedite its consideration of the plan and accompanying information submitted under paragraph (2) so that review and approval of such plan and information shall be completed by the Administration so as to enable a stockholder vote to occur within the 6-month period referred to in paragraph (2).

(c) DIRECT LENDERS.—On approval of a merger under this subsection, the resulting association shall be a direct lender in the same manner as applies to production credit associations.

SEC. 412. CONSOLIDATION OF FARM CREDIT SYSTEM DISTRICTS.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, a special committee shall be selected pursuant to regulations of the Farm Credit Administration for the purpose of developing a proposal for the consolidation of Farm Credit System districts.

(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of one representative from each Farm Credit Bank board and the members of the Board of Directors of the Assistance Board.

(2) DEVELOPMENT OF PROPOSAL.—Not later than 6 months after the formation of the special committee, the committee shall develop, a proposal to consolidate the Farm Credit System banks into no less than six financially viable farm credit banks through inter-district mergers.

(3) REPORT.—Not later than the end of each calendar quarter beginning at least 6 months after the selection of the special committee, such committee shall prepare and submit, to the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the progress of the committee in developing a proposal under this subsection.

(b) PREREQUISITES TO CONSOLIDATION.—

(1) FCA REVIEW OF PROPOSAL.—Prior to the submission of the proposal developed under subsection (b)(2) to the stockholders under paragraph (2), the proposal together with all information to be presented to the stockholders, shall be submitted to the Farm Credit Administration for approval.

(2) PREREQUISITES.—Proposals developed under subsection (a)(2) shall not be submitted to stockholders under paragraph (3) unless the proposal is approved by—

(A) a majority of the members of the Board of Directors of the Assistance Board; and

(B) the members of the special committee that represent the districts affected by the terms of the proposal.

(3) SUBMISSION TO STOCKHOLDERS.—Not later than the end of the 18-month period after the date of enactment of this Act, each Farm Credit Bank involved, in consultation with the special committee, shall submit the proposed merger affecting such bank to the voting stockholders of each such bank.

(4) STOCKHOLDER VOTE.—Each association shall be entitled to cast a number of votes equal to the number of voting stockholders of such association.

SEC. 413. VOLUNTARY MERGER OF THE BANKS FOR COOPERATIVES.

(a) SUBMISSION OF PROPOSAL.—

(1) SPECIAL COMMITTEE.—

(A) IN GENERAL.—Not later than 15 days after the date of the enactment of this section, a special committee shall be selected pursuant to subparagraph (B), for the purpose of developing a proposal for the voluntary merger of the banks for cooperatives.

(B) COMPOSITION.—The special committee selected under subparagraph (A) shall be composed of—

(i) one member of each district board elected by the voting stockholders of the bank for cooperatives in the district; and

(ii) one member chosen from the board of directors of the Central Bank for Cooperatives by the board of such Bank.

(C) DEVELOPMENT OF PLAN.—Not later than 75 days after the date of the enactment of this section, the special committee shall develop a plan of merger for all such banks and the Central Bank for Cooperatives into a National Bank for Cooperatives.

(2) PREREQUISITES TO MERGER.—

(A) SUBMISSION TO FCA.—On completion of the plan of merger pursuant to subparagraph (C), the special committee shall submit the proposed plan, together with all information that is to be distributed to the stockholders concerning such plan, to the Farm Credit Administration for approval.

(B) EXPEDITED REVIEW.—Not later than 30 days after the Farm Credit Administration receives the plan of merger, the Administration shall promptly review such plan and advise the special committee concerning any required changes that are necessary to the plan.

"(3) SUBMISSION TO STOCKHOLDERS.—On approval of the plan by the Farm Credit Administration, the special committee shall, under such procedures as may be established by the committee, submit the plan and recommendations to all voting stockholders and subscribers to the guaranty funds of the district banks and the Central Bank for Cooperatives.

(b) VOTING REQUIREMENTS.—

(1) MAJORITY VOTE REQUIRED.—An approval of the plan of merger developed and submitted under subsection (a) shall—

(A) require a majority vote of the stockholders of each district bank for cooperatives voting, in person or by proxy, at a duly authorized stockholders' meeting, computed both—

(i) in accordance with the requirement that, except as provided in section 3.3(d), each cooperative that is the holder of voting stock in, or a subscriber to the guaranty fund of the bank for cooperatives shall be entitled to cast one vote; and

(ii) on the basis of the total equity interests in the bank (including allocated, but not unallocated, surplus and reserves) held by such stockholders;

(B) require a majority vote of the voting stockholders of the Central Bank for Cooperatives voting on a one bank-one vote basis;

(C) take place not later than 180 days after the date of the enactment of this section; and

(D) take place prior to any other merger vote involving a bank for cooperatives.

"(2) APPROVAL BY ALL BANKS FOR COOPERATIVES.—If the stockholders of all of the banks for cooperatives approve the merger, the merger shall take place.

(3) EFFECT OF LESSER VOTE.—If the stockholders of more than one but fewer than all of the banks approve the plan, each such bank whose stockholders voted to approve the merger shall be merged into a single bank for cooperatives, as provided in paragraphs (4) or (5).

(4) NATIONAL BANK FOR COOPERATIVES.—

(A) CREATION.—If the stockholders of eight or more of the district banks approve the merger, such banks, and the Central Bank for Cooperatives, shall be merged into a single bank, which shall be referred to as the "National Bank for Cooperatives".

(B) SERVICES PROVIDED.—The National Bank for Cooperatives may offer credit and related services to eligible borrowers located within any territory that may be served by Farm Credit System institutions under section 5.0, or to any borrower otherwise eligible under section 3.7(b).

(5) UNITED BANK FOR COOPERATIVES.—

(A) CREATION.—If the stockholders of more than one but fewer than eight of the district banks approve the plan, each such bank, and the Central Bank for Cooperatives (if approved by a numerical majority of its stockholders), shall be merged into a single bank, which shall be referred to as the "United Bank for Cooperatives".

(B) SERVICES PROVIDED.—The United Bank for Cooperatives shall offer credit and related services only in the territory included, as of the date of the enactment of this section, within the boundaries of the districts that had been served by the constituent banks of the United Bank for Cooperatives, and to any borrower otherwise eligible under section 3.7(b).

(6) NONCONSENTING BANKS.—

(A) IN GENERAL.—

(i) NATIONAL BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger may offer credit and related services to any eligible borrowers within any territory or area that may be served by the National Bank.

(ii) UNITED BANK FOR COOPERATIVES.—Any of the district banks whose stockholders did not approve the plan of merger, shall continue as district banks for cooperatives and shall continue to serve only the territory within the boundaries of the district that such banks served as of the date of the enactment of this section.

(B) NONDISCRIMINATION.—Any district bank whose stockholders did not approve the plan of merger, shall be entitled to the availability, from the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, of the same credit and related services now provided by the Central Bank for Cooperatives as of the date of the enactment of this section, regardless of the decision not to merge.

(D) SUBSEQUENT MERGERS.—Any district bank referred to in subparagraph (A) may subsequently merge with the National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be, on the approval of the voting stockholders of both

banks proposing to merge based on the voting requirement of subsection (a).

(c) REFERENCES.—References in this section to voting stockholders shall include subscribers to the guaranty fund.

SEC. 414. BANK FOR COOPERATIVES BOARD OF DIRECTORS.

(a) INITIAL BOARD.—The initial board of each district bank for cooperatives shall be composed of the members of the district board (which is dissolved upon the creation of the district Farm Credit Bank) elected by the stockholders of the bank for cooperatives and one member elected by the other two members, which member shall not be a director, officer, employee, or stockholder of a System institution. The initial board shall operate for such term as is agreed to by the members of the board, except that such period shall not exceed two years. Thereafter, the board shall be elected and serve in accordance with section 3.0 of the Farm Credit Act of 1971.

(b) PERMANENT BOARD.—Section 3.0 of the Act shall be amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Each bank for cooperatives shall elect from its voting stockholders a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that, at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

SEC. 415. ORGANIZATION AND OPERATION OF THE MERGED BANK FOR COOPERATIVES.

Title III (12 U.S.C. 2121 et seq.) is amended—

(1) by inserting after the title designation the following:

"PART A—BANKS FOR COOPERATIVES"; AND

(2) by adding at the end thereof the following new part:

"PART B—UNITED AND NATIONAL BANKS FOR COOPERATIVES

"SEC. 3.20. CHARTER, POWERS, AND OPERATION.

"(a) CHARTER.—The National Bank for Cooperatives or the United Bank for Cooperatives, as the case may be (hereinafter in this part referred to in this section as the 'consolidated bank') shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System.

"(b) POWERS.—The consolidated bank and the board of directors of such bank shall have all of the powers, rights, responsibilities, and obligations of the district banks for cooperatives and the Central Bank for Cooperatives and the boards of directors of such banks, as otherwise provided for in this Act.

"(c) OPERATION.—The consolidated bank shall be organized and operated on a cooperative basis.

"SEC. 3.21. BOARD OF DIRECTOR PROVISIONS.

"(a) INITIAL BOARD OF DIRECTORS.—The initial board of directors of a consolidated bank shall include the members of the boards of directors of the farm credit districts who were elected by voting stockholders of the constituent district banks for cooperatives (as such banks existed on the date of the enactment of this section) and who shall serve out the terms for which they were elected.

"(b) PERMANENT BOARD OF DIRECTORS.—

"(1) COMPOSITION.—The permanent board of directors of a consolidated bank shall consist of—

"(A) three members, elected by the voting stockholders of the consolidated bank, from each of the farm credit districts that had been served by constituent banks, as such districts existed on the date of the enactment of this section, at least one of whom, from each such district, shall be a farmer;

"(B) one member elected by the voting stockholders of each district bank for cooperatives that is not a constituent of the consolidated bank; and

"(C) one member appointed by the members chosen under subparagraphs (A) and (B) who shall not be a stockholder or borrower of System institution or an officer or director of any such stockholder or borrower.

"(2) NOMINATION AND ELECTION.—For purposes of nominating and electing members of the board of directors under paragraph (1)(A):

"(A) FIRST MEMBER.—The nomination and election of the first member from each district shall be carried out on the basis provided for in section 3.3(d),

"(B) SECOND MEMBER.—

"(i) IN GENERAL.—The nomination and election of the second member from each district shall be carried out with each voting stockholder of the consolidated bank located in the district having one vote, plus a number of votes (or fractional part thereof) equal to the number of stockholders eligible to vote in that district multiplied by the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the consolidated bank of all such stockholders located in that district held by the individual voting stockholder—

"(I) as of the final date of the fiscal year of the consolidated bank; or

"(II) with respect to the first election held under this subsection, as of such date as the Farm Credit Administration shall prescribe.

"(ii) TOTAL NUMBER OF VOTES.—The total number of votes for each district under this subparagraph shall be the number of voting stockholders of the consolidated bank located in the district multiplied by two.

"(3) TERMS.—

"(A) IN GENERAL.—The members of the board of directors of the consolidated bank shall serve for a term of 3 years.

"(B) TIMING OF ELECTIONS.—Procedures for electing members of the board of directors of the consolidated bank under this subsection shall ensure that the beginning of the terms of such members coincide with the expiration of the terms of members of the interim board of directors of the bank under subsection (a).

"(4) FCA REGULATIONS.—The nomination and election of the members of the board of directors of the consolidated bank under this subsection shall be carried out in accordance with regulations issued by the Farm Credit Administration.

"(c) MODIFICATION OF BOARD OF DIRECTOR PROVISIONS.—The provisions of subsection (b) relating to the board of directors of the consolidated bank, other than the provisions relating to the initial composition, nomination, and election of the members of the board, may be modified on an affirmative vote of at least two-thirds of the voting stockholders of the bank, with each such stockholder to have, for such purposes, only one vote. Any proposals for modifying such provisions shall be submitted for a vote by such stockholders in accordance with procedures prescribed by the Farm Credit Administration.

"SEC. 3.22. CREDIT DELIVERY OFFICE.

"On a determination by the board of directors of the United Bank for Cooperatives or the National Bank for Cooperatives that the bank's loan portfolio is concentrated in any one district or districts (according to the district boundaries in effect immediately prior to the effective date of the merger), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

"SEC. 3.23. CONSOLIDATION OF FUNCTIONS.

"Subject to section 3.22, to the greatest extent practicable, the functions of the consolidated bank shall be consolidated in the central office of the bank.

"SEC. 3.24. EXCHANGE OF OWNERSHIP INTERESTS.

"On the establishment of the consolidated bank, ownership interests of the stockholders and subscribers to the guaranty funds of the constituent district banks for cooperatives (including stock, participation certificates, and allocated equities) shall be exchanged for like ownership interests in the consolidated bank on a book value basis.

"SEC. 3.25. CAPITALIZATION.

The board of directors of the consolidated bank shall provide for the capitalization of such bank in accordance with the provisions of section 4.3A.

"SEC. 3.26. PATRONAGE POOLS.

Under such terms and conditions as may be determined by its board of directors, the consolidated bank may—

"(1) for a period of at least 3 years following the date of the enactment of this section, establish separate patronage pools consisting of loans to eligible borrowers located in each constituent farm credit district (as such district existed on the date of the enactment of this section); and

"(2) allocate revenues, expenses, and net savings among such pools on an equitable basis.

"SEC. 3.27. TRANSACTIONS TO ACCOMPLISH THE MERGER.

"The receipt of assets or assumption of liabilities by the consolidated bank, the exchange of stock, equities, or other ownership interests, and any other transaction carried out in accomplishing the merger of the banks for cooperatives shall not be treated as a taxable event under the laws of the United States or of any State or political subdivision thereof. The preceding sentence shall also apply to the receipt of assets and liabilities by a taxable institution to the extent that the net amount of the distribution is immediately reinvested in stock of a consolidated bank (and in such case the basis of such stock shall be appropriately reduced by the amount of gain not recognized by reason of this sentence).

"SEC. 3.28. LENDING LIMITS.

"The Farm Credit Administration may not establish lending limits for the consolidated bank with respect to any loans or borrowers that are more restrictive than the combined lending limits that were previously established by the Farm Credit Administration for a district bank for cooperatives and the Central Bank for Cooperatives with respect to such loans or borrowers.".

SEC. 416. MERGER OF SYSTEM INSTITUTIONS.

The Act (12 U.S.C. 2001 et seq.) (as amended by section 201 of this Act) is further amended by adding at the end thereof the following new title:

"TITLE VII—MERGERS OF SYSTEM INSTITUTIONS

Subtitle A—Merger of Banks Within a District

"SEC. 7.0. POWER TO MERGE.

"Two or more banks within a district may merge into a single entity (hereinafter in this title referred to as a 'merged bank') if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective boards of directors of the banks involved;

"(3) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of section 5.2(c) relating to the casting of votes by stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"SEC. 7.1. BOARD OF DIRECTORS FOR THE DISTRICT.

"(a) COMPOSITION.—

"(1) IN GENERAL.—Following a merger pursuant to section 7.1, the district Board of Directors shall continue to be composed of seven members as provided in section 5.1.

"(2) REGULATIONS.—The Farm Credit Administration shall issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial Board of Directors of the merged bank.

"(b) ELECTION.—Following a merger pursuant to section 7.8, the members of the district board shall be elected pursuant to regulations issued by the Farm Credit Administration prescribing procedures that are as consistent as practicable with those set forth in section 5.2.

"SEC. 7.2. POWERS OF MERGED BANKS.

"(a) IN GENERAL.—Except as otherwise provided in this title, a merged bank shall have all of the powers granted to, and shall be subject to all of the obligations imposed on, any of the constituent entities of the merged bank.

"(b) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank.

"SEC. 7.3. CAPITAL STOCK.

"(a) PLAN OF MERGER.—Subject to subsection (c), the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting power, redemption rights, preferences on liquidation, and the right to dividends) shall be determined by the plan of merger adopted by the banks involved, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(b) BOARD OF DIRECTORS.—Subject to subsection (a), the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, shall be determined by the Board of Directors of the merged bank established under this subtitle.

"(c) VOTING STOCK.—Voting stock of a merged bank shall be held only—

"(1) by associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

"(2) by farmers, ranchers, or producers or harvesters of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank.

"SEC. 7.4. EARNINGS, RESERVES, AND DISTRIBUTIONS.

"(a) USE OF NET EARNINGS.—The Board of Directors of a merged bank shall determine the use or other application of net earnings after payment of operating expenses.

"(b) RESTORATION OF VALUE OF IMPAIRED CAPITAL STOCK.—Net earnings shall first be applied to restore the value of impaired capital stock.

"(c) OTHER USES.—After restoration, the application of net earnings may include (but not necessarily in the following order)—

"(1) additions to an allocated reserve account;

"(2) additions to an unallocated reserve account;

"(3) payment of a dividend on capital stock; and

"(4) payment of patronage refunds in cash or in stock or other notices of allocation.

"(d) USE OF CAPITAL AND RETAINED EARNINGS.—All capital and retained earnings of a merged bank shall be available for use in the activities of the merged bank as the Board of Directors shall determine, without regard to the activities giving rise to such earnings.

"SEC. 7.5. REPORTS BY MERGED BANKS FOR COOPERATIVES.

"(a) IN GENERAL.—When two or more banks for cooperatives merge, the resulting bank shall, not later than December 31 of each year of the succeeding 5 years following the date of the merger, file an annual report with the Farm Credit Administration that—

"(1) analyzes the effect of the merger;

"(2) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

"(3) describes the adequacy of credit and other assistance services provided to smaller cooperatives.

"(b) AVAILABILITY.—A copy of the report required in subsection (a) shall be made available to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Subtitle B—Mergers, Transfers of Assets, and Powers of Associations Within a District

"Chapter 1—Transfers by Federal Land Banks to Federal Land Bank Associations

"SEC. 7.6. TRANSFER OF LENDING AUTHORITY.

"(a) ASSIGNMENTS.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents, may assign to a Federal land bank association, and the association may assume, the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under sections 1.6 through 1.9 if the assignment is approved by—

"(1) the Farm Credit Administration Board;

"(2) the Board of Directors of both institutions; and

"(3) a majority of the stockholders of the bank and of the association, in accordance with the voting provisions of sections 7.0 and 7.6.

"(b) DIRECT LOANS AND FINANCIAL ASSISTANCE.—After an assignment described in subsection (a)—

"(1) the Federal land bank association shall possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and

"(2) the Federal land bank may provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association under subsection (a).

"(c) REGULATIONS.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the association referred to in subsection (a). Following a transfer or assignment under subsection (a), the provisions of section 4.3A shall be applicable to the association.

"Chapter 2—Merger of Like and Unlike Associations

"SEC. 7.7. MERGERS OF UNLIKE ASSOCIATIONS.

"On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of its direct lending authority of the bank to such association under section 7.8.

"SEC. 7.8. MERGER OF ASSOCIATIONS.

"(a) IN GENERAL.—Two or more associations within the same district, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this title referred to as a "merged association") if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the boards of directors of the associations;

"(3) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) POWERS, OBLIGATIONS, AND CONSOLIDATION.—

"(1) POWERS AND OBLIGATIONS.—Except as otherwise provided by this title, a merged association shall—

"(A) possess all powers granted under this Act to the associations forming the merged association; and

"(B) be subject to all of the obligations imposed under this Act on the associations forming the merged association.

"(2) CONSOLIDATION.—The Farm Credit Administration shall issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger under subsection (a), the provisions of section 4.3A shall be applicable to the merged association.

"(c) STOCK ISSUANCE.—

"(1) PLAN OF MERGER.—Subject to section 4.3A, the number of shares of capital stock issued by a merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends), shall be determined by the plan of merger adopted by the merged associations.

"(2) PLAN OF CAPITALIZATION.—The number of shares of capital stock, and the rights and

privileges thereof, issued by a merged association after a merger shall be determined by the Board of Directors of the merged association, with the approval of the supervising bank, and shall be consistent with section 4.3A and the regulations issued by the Farm Credit Administration.

"(3) VOTING STOCK.—Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers or harvesters of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of such merged association.

"(d) CAPITALIZATION.—The plan of merger shall provide for the issuance, transfer, and retirement of stock and the distribution of earnings in accordance with the provisions of section 4.3A.

"SEC. 7.9. RECONSIDERATION.

"(a) PERIOD.—A stockholder vote in favor of—

"(1) the merger of districts under section 5.17(a)(2);

"(2) the merger of banks within a district under section 7.0;

"(3) the transfer of the lending authority of a Federal land bank or a merged bank having a Federal land bank as one of its constituents, under section 7.6;

"(5) the merger of two or more associations under section 7.8;

"(6) the termination of the status of an institution as a System institution under section 7.10; and

"(7) the merger of similar banks under section 7.13;

shall not take effect except in accordance with subsection (b).

"(b) RECONSIDERATION.—

"(1) NOTICE.—Not later than 30 days after a stockholder vote in favor of any of the actions described in subsection (a), the officer or employee that records such vote shall ensure that all stockholders of the voting entity receive notice of the final results of the vote.

"(2) EFFECTIVE DATE.—A voluntary merger, transfer, or termination that is approved by a vote of the stockholders of two or more banks or associations, shall not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote in accordance with paragraph (1).

"(3) PETITION FILED.—If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of the notification required under paragraph (1)—

"(A) a voluntary merger, transfer, or termination shall not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

"(B) a special meeting of the stockholders of the affected banks or associations shall be held during the period referred to in subparagraph (A) to reconsider the vote.

"(4) VOTE ON RECONSIDERATION.—If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote against the proposed merger, transfer, or termination, such action shall not take place.

"(5) FAILURE TO FILE PETITION.—If a petition for reconsideration of such vote is either not filed prior to the 60th day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination shall become effective in accordance with the plan of merger, transfer, or termination.

"(c) SPECIAL RECONSIDERATION.—

"(1) ISSUANCE OF REGULATIONS.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of the enactment of this section, may petition for the opportunity to organize as a separate association.

"(2) REQUIREMENTS.—The regulations issued by the Farm Credit Administration shall require that—

"(A) the petition be filed within 1 year after the date of the implementation of such regulations;

"(B) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

"(C) the petition describe the territory in which the proposed separate association will operate;

"(D) if the petition is approved—

"(i) the loans of the members of the new association will be transferred from the current association to such new association;

"(ii) the stock, participation certificates, and other similar equities of the current association held by members of the new association will be retired at book value and the proceeds of such will be transferred to the new association, and an equivalent amount of stock, participation certificates, and other similar equities will be issued to the members by the new association; and

"(iii) the other assets of the current association will be distributed equitably among the current association and any resulting new association.

"(3) NOTIFICATION.—

"(A) IN GENERAL.—Not later than 30 days after the filing of the petition for organization, the current association shall notify its stockholders that a petition to establish the separate association has been filed.

"(B) CONTENTS.—The notification required under this paragraph shall contain—

"(i) the date of a special stockholders' meeting to consider the petition for organization; and

"(ii) an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established.

"(C) FCA APPROVAL.—

"(1) IN GENERAL.—All notifications under this paragraph shall be submitted to the Farm Credit Administration Board for approval prior to being distributed to the stockholders.

"(ii) AMENDING NOTIFICATION.—The Farm Credit Administration Board shall require that, prior to the distribution of the notification to the stockholders, the notification be amended as determined necessary by the Board to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association.

"(D) SPECIAL STOCKHOLDERS' MEETING.—

"(i) TIMING OF MEETING.—The special stockholders' meeting to consider the petition shall be held within 60 days after the filing of the petition.

"(ii) APPROVAL.—If, at the special stockholders' meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration shall, within 30 days of such vote, issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association.

"Chapter 3—Termination and Dissolution of Institutions

"SEC. 7.10. TERMINATION OF SYSTEM INSTITUTION STATUS.

"(a) CONDITIONS.—A System institution may terminate the status of the institution as a System institution if—

"(1) the institution provides written notice to the Farm Credit Administration Board not later than 90 days prior to the proposed termination date;

"(2) the termination is approved by the Farm Credit Administration Board;

"(3) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

"(4) the institution pays to the Farm Credit Assistance Fund, as created under section 6.25, if the termination is prior to January 1, 1992, or pays to the Farm Credit Insurance Fund, if the termination is after such date, the amount by which the total capital of the institution exceeds, 6 percent of the assets;

"(5) the institution pays or makes adequate provision for payment of all outstanding debt obligations of the institution;

"(6) the termination is approved by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the Farm Credit Administration Board; and

"(7) the institution meets such other conditions as the Farm Credit Administration Board by regulation considers appropriate.

"(b) EFFECT.—On termination of its status as a System institution—

"(1) the Farm Credit Administration Board shall revoke the charter of the institution; and

"(2) the institution shall no longer be an instrumentality of the United States under this Act.

"Subtitle C—Approval of Disclosure Information and Issuance of Charters by the Farm Credit Administration Board

"SEC. 7.11. APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS.

"(a) DISCLOSURE OF INFORMATION.—

"(1) APPROVAL OF PLAN.—With respect to any plan of merger, transfer or assignment of lending authority, dissolution, or termination, prior to submission to the voters (voting stockholders and, where required, contributors to guaranty funds) of such institutions, such plan shall be submitted to the Farm Credit Administration Board, together with all information that is to be distributed to the voters with respect to the contemplated action, including an enumerated statement of the anticipated benefits and potential disadvantages of such action.

"(2) NOTICE OF APPROVAL.—On notification that the Farm Credit Administration Board has approved such plan for submission to the stockholders, or after 30 days of no action on the plan by the Board, the submitting institutions may submit the plan, together with the disclosure information, to the voters for the prescribed vote.

"(b) NOTICE OF REASONS FOR DISAPPROVAL.—If the Farm Credit Administration Board disapproves the plan for submission to the

stockholders, notification to the submitting institutions shall specify the reasons for the determination by the Board. If such plan is determined to be inadequate, it shall not be submitted to the voters for a vote.

"(c) FEDERAL CHARTER.—Each plan of merger or transfer of lending authority may include a proposed new or revised Federal charter for the merged or transferee entity. The Farm Credit Administration Board shall issue such charter on the approval of the plan, as prescribed in this title, unless the Board determines that the charter submitted is not consistent with this Act.

"Subtitle D—Mergers of Like Entities

"SEC. 7.12. MERGER OF SIMILAR BANKS.

"(a) IN GENERAL.—Banks organized or operating under this Act may merge with banks in other districts operating under the same title if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the banks involved;

"(3) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting, with each association having a number of votes equal to the number of such associations voting stockholders; and

"(4) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

"(b) PROCEDURES.—The provisions of sections 7.2 through 7.4 shall apply to banks merged under this section.

"(c) BOARD OF DIRECTORS.—

"(1) IN GENERAL.—After a merger under subsection (a), a board of directors shall be created for the resulting bank.

"(2) COMPOSITION.—The board shall be composed of—

"(A) two directors elected by each of the bank boards, with at least one such director from each bank being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

"(B) one outside director elected by the members elected under subparagraph (A).

"(3) OUTSIDE DIRECTOR.—

"(A) QUALIFICATIONS.—The outside director elected under paragraph (2)(B) shall be experienced in financial services and credit, and within the 2-year period prior to such election, shall not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System.

"(B) FAILURE TO ELECT.—If the other members of the board fail to elect an outside director, the Farm Credit Administration Board shall appoint a qualified person to serve on the board of directors until such member is so elected.

"(4) BYLAWS.—Notwithstanding paragraph (2), the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors to be selected in a different manner, except that the bylaws shall provide for at least one outside director.

"SEC. 7.13. MERGER OF SIMILAR ASSOCIATIONS.

"(a) IN GENERAL.—Associations may voluntarily merge with other like associations if the plan of merger is approved by—

"(1) the Farm Credit Administration Board;

"(2) the respective Boards of Directors of the associations involved;

"(3) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(4) the Farm Credit Bank.

"(b) PROCEDURES.—The provisions of subsections (b), (c), and (d) of section 7.8 shall apply to associations merged under this section.".

SEC. 414. NONDISCRIMINATION.

The second sentence of section 5.17(a)(2) (12 U.S.C. 2251(a)(2)) is amended by striking out "; and the Farm Credit Administration shall ensure" and all that follows through "discriminated against in the provision of any financial service and assistance" and inserting in lieu thereof ". The Farm Credit Administration Board shall ensure that disapproving associations (A) shall not be charged any assessment under this Act at a rate higher than that charged other like associations in the district, and (B) shall be provided with financial services and assistance on the same basis as other like associations in the district".

SEC. 415. CONFORMING AMENDMENTS.

(a) DISSOLUTION AND MERGER.—

(1) PART HEADING.—The part heading of part B of title IV (12 U.S.C. 2181 et seq.) is amended by striking out "AND MERGER".

(2) MERGER.—Section 4.10 (12 U.S.C. 2181) is repealed.

(3) BOARDS OF DIRECTORS.—Section 4.11 (12 U.S.C. 2182) is repealed.

(4) DISSOLUTION.—Section 4.12(a) (12 U.S.C. 2183(a)) is amended—

(A) by striking out the third sentence; and

(B) in the fourth sentence, by striking out "may require such merger" and inserting in lieu thereof "Board may require an association to merge with another association".

(b) ISSUANCE OF OBLIGATIONS.—Section 4.2(d) (12 U.S.C. 2174(d)) is amended by striking out "each of the 12 districts and the Central Bank for Cooperatives" and inserting in lieu thereof "each bank".

(c) DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION.—Sections 5.1 through 5.6 (12 U.S.C. 2222-2227) are repealed.

(d) FARM CREDIT ADMINISTRATION POWERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by striking out "; approve mergers of banks" and all that follows through "territories" and inserting in lieu thereof "approve mergers and any related activities as provided for in title VII; and the consolidation or division of the territories"; and

(2) by striking out "4.10" and inserting in lieu thereof "7.0".

Subtitle C—Other Restructuring Provisions

SEC. 420. COMMUNICATIONS WITH STOCKHOLDERS.

Part B of title IV (12 U.S.C. 2181 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.12A. COMMUNICATIONS WITH STOCKHOLDERS.

"(a) PROVISION OF STOCKHOLDER LISTS.—

"(1) IN GENERAL.—Within 7 days after receipt of a written request by a stockholder, a bank for cooperatives, Federal land bank association, or production credit association shall provide a current list of its stockholders to such requesting stockholder.

"(2) CONDITIONS.—As a condition of providing a stockholder list under paragraph (1), the bank or association may require that the stockholder agree and certify in writing that the stockholder will—

"(A) use the list exclusively for communicating with stockholders for permissible purposes; and

"(B) not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

"(b) ALTERNATIVE COMMUNICATIONS.—

"(1) REQUEST TO ISSUE.—As an alternative to receiving a list of stockholders, a stockholder may request the institution to mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder.

"(2) WHEN PERMISSIBLE.—Alternative communications may be used, at the discretion of the requesting stockholder, if the requester agrees to defray the reasonable costs of the communication. If the requester decides to exercise this option, the institution shall provide the requester with a written estimate of the costs of handling and mailing the communication as soon as is practicable after receipt of the stockholder's request to furnish the communication.".

SEC. 421. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8 (12 U.S.C. 2129) is amended by striking out subsection (2) and inserting in lieu thereof the following new subsection:

"(b) Notwithstanding any other provision of this section:

"(1) The following entities shall also be eligible to borrow from a bank for cooperatives:

"(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Ba nk, or that have been certified by the Administrator of the Rural Electrification Adiinistration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities.

"(B) Ajy legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible tk borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, except that any such legal entity, when considered together with one or more such associations or other entities that hold such control, meet the requirement of subsection (a)(3).

"(C) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is ehigible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity, and make funds available to that association or entity under the same terms and conditions that the funds are borrowed from a bank for cooperatives.

"(2) Notwithstanding the provisions of section 3.9, the board of directors of a bank for cooperatives may determine that, with respect to a loan to any borrower eligible to borrow from a bank under paragraph (1)(A) that is fully guaranteed by the United States, no stock purchase requirement shall apply, other than the requirement that a borrower eligible to own voting stock shall purchase one share of such stock.

"(3) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 3.7(a), shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.

"(4) Nothing in this subsection shall be construed to adversely affect the eligibility, as it existed on the date of the enactment of this subsection, of cooperatives and other entities for any other credit assistance under Federal law.".

SEC. 422. SALES OF INSURANCE BY SYSTEM INSTITUTIONS.

(a) IN GENERAL.—Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after the subsection designation;

(B) by striking out "of this Act";

(C) by inserting "or borrower from" before "any such bank";

(D) by adding at the end thereof the following new sentence: "A member or borrower shall have the option, without coercion from the bank or association of such member or borrower, to accept or reject such insurance."; and

(E) by adding at the end thereof the following new paragraph:

"(2) In making insurance available through private insurers, the banks shall approve the programs of more than two insurers for each type of insurance offered in the district. The banks may provide comparative information relating to costs and quality of approved programs and the financial conditions of approved companies. Associations shall offer at least two insurers for each program from among those approved by the Federal intermediate credit banks."; and

(2) in paragraph (2) of subsection (b)—

(A) by redesignating clauses (i), (ii), and (iii), as subparagraphs (A), (B), and (C), respectively;

(B) by striking out "and" in subparagraph (B) as so redesignated;

(C) by striking out "and" in subparagraph (C) as so redesignated; and

(D) by adding at the end thereof the following new subparagraphs:

"(D) the insurance program has been approved by the bank or association from among specific programs made available to it by insurers—

"(i) meeting reasonable financial and quality of service standards; and

"(ii) licensed under State law to do business in the State; and

"(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least two approved insurers for each type of insurance made available to the members and borrowers; and".

(b) CONTINUATION OF PROGRAM.—Notwithstanding the amendments made to section 4.29 by subsection (a), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act that does not meet the requirements of section 4.29, as so amended, may be continued until July 1, 1988.

SEC. 423. CIVIL MONEY PENALTIES.

(a) ASSESSMENT AUTHORITY.—Section 5.32(a) (12 U.S.C. 2268(a)) is amended by striking out "continues, but" and inserting in lieu thereof the following: "continues. Any such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues. Notwithstanding the preceding sentences,".

(b) NOTIFICATION OF ALLEGED VIOLATORS.—Section 5.32(b) (12 U.S.C. 2268(b)) is amended by inserting after the subsection designation the following new sentence: "Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty.".

(c) REVIEW OF FINAL ORDERS.—Section 5.32(d) (12 U.S.C. 2268(d)) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5, United States Code.".

SEC. 424. LIMITATION ON FCA AUTHORITY TO REQUIRE DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—Section 5.17(a)(9) (12 U.S.C. 2252(a)(9)) is amended by inserting before the period the following: ", except that the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

"(A) to a director of the institution—

"(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

"(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

"(B) to a member of the immediate family of a director of the institution unless—

"(i) the family member resides in the same household as the director; or

"(ii) the director has a material financial or legal interest in the loan or business operation of the family member.".

(b) REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by subsection (a).

SEC. 425. REMOVAL OF CERTAIN SUNSET PROVISIONS; PROHIBITION AGAINST USE OF SIGNED BALLOTS.

Section 4.20 (12 U.S.C. 2208) is amended to read as follows:

"SEC. 4.20. PROHIBITION AGAINST USE OF SIGNED BALLOTS.

"In any election or merger vote, or other proceeding subject to a vote of the stockholders (or subscribers to the guaranty fund of a bank for cooperatives), conducted by a lending institution of the Farm Credit System, the institution—

"(1) may not use signed ballots; and

"(2) shall implement measures to safeguard the voting process for the protection of the right of stockholders (or subscribers) to a secret ballot.".

SEC. 426. FEDERAL LAND BANK LOAN SECURITY.

Section 1.9 (12 U.S.C. 2017) is amended to read as follows:

"SEC. 1.9. FEDERAL LAND BANK LOAN SECURITY.

"(a) MAXIMUM LEVEL OF LOANS.—

"(1) IN GENERAL.—Loans originated by a Federal land bank, or in which a Federal land bank participates in with a lender that is not a System institution, shall not exceed 85 percent of the appraised value of the real estate security, except as provided for in paragraphs (2) and (3).

"(2) REGULATION.—The Farm Credit Administration may, by regulation, require that loans not exceed 75 percent of the appraised value of the real estate security.

"(3) GUARANTEED LOANS.—If the loan is guaranteed by Federal, State, or other governmental agencies, the loan may not exceed 97 percent of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration.

"(b) SECURITY.—All loans originated or participated in by a bank under this section shall be secured by first liens on interests in real estate of such classes as may be approved by the Farm Credit Administration.

"(c) VALUE OF SECURITY.—To adequately secure the loan, the value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration.

"(d) ADDITIONAL SECURITY.—Additional security for any loan may be required by the bank to supplement real estate security. Credit factors, other than the ratio between the amount of the loan and the security value, shall be given due consideration.

"(e) FINANCIAL STATEMENT.—Each Federal land bank shall require a financial statement from each borrower at least once every 3 years, or during such shorter period of time as may be required under regulations of the Farm Credit Administration.".

SEC. 427. AFFIRMATIVE ACTION.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.37. AFFIRMATIVE ACTION.

The Assistance Board established under section 6.0 and all institutions of the Farm Credit System with more than 20 employees shall establish and maintain an affirmative action program plan that applies the affirmative action standards otherwise applied to contractors of the Federal government.".

SEC. 428. ENCOURAGEMENT OF CONSERVATION PRACTICES.

Part F of title IV (12 U.S.C. 2219 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 4.38. ENCOURAGEMENT OF CONSERVATION PRACTICES.

"At the time a System institution or an agricultural mortgage loan originator (as defined in section 8.0(7)) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.), the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.".

SEC. 429. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

Part B of title V is amended by inserting after section 5.22 (12 U.S.C. 2257) the following new section:

"SEC. 5.22A. UNIFORM FINANCIAL REPORTING INSTRUCTIONS.

"(a) IN GENERAL.—Each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration, to standardize and facilitate the reporting of System data.

"(b) COMPUTERIZED SYSTEM.—If the financial reports are maintained by a computer system, each System institution may develop an internal computer system or it may contract out to a vendor under open competitive bidding any or all aspects of the computerized system.

"(c) SUBMISSION OF PROPOSAL.—Within 6 months of the date of the enactment of this section, each System institution shall submit to the Farm Credit Administration a report on the plan of that institution to bring the operations of the institution into compliance with the uniform financial reporting instructions required by the Farm Credit Administration.".

SEC. 430. COMPENSATION FOR DIRECTORS.

Section 5.5 (12 U.S.C. 2226) is amended by inserting before the period at the end thereof the following: "No director may receive compensation under this section during any year in a total amount exceeding $15,000.".

SEC. 431. FARM CREDIT ADMINISTRATION BOARD.

(a) RULES AND RECORDS.—Section 5.8(c) (12 U.S.C. 2242) is amended by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Board shall adopt such rules as it deems appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.".

(b) CHAIRMAN.—Subsection (a) of section 5.10 (12 U.S.C. 2244(a)) is amended to read as follows:

"(a)(1) The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.

"(2) In carrying out the responsibilities of the chief executive officer, the Chairman shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the Farm Credit Administration.

"(3) In carrying out policies as directed by the Board, the Chairman shall act as spokesperson for the Board and represent the Board and the Farm Credit Administration in their official relations within the Federal government.

"(4) Under policies adopted by the Board, the Chairman shall consult on a regular basis with—

"(A) the Secretary of the Treasury concerning the exercise, by the System, of the powers conferred under section 4.2;

"(B) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and

"(C) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy.".

(c) FUNCTIONS AND APPOINTMENTS.—Section 5.11 (12 U.S.C. 2245) is amended to read as follows:

"SEC. 5.11. ORGANIZATION OF THE FARM CREDIT ADMINISTRATION.

"(a) POLICIES OF THE BOARD.—The Chairman of the Farm Credit Administration Board, in carrying out the powers and duties vested in the Chairman by this Act, and Acts supplementary thereto, shall be governed by policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

"(b) APPOINTMENTS.—The Chairman of the Board shall appoint such personnel as may be necessary to carry out the functions of the Farm Credit Administration. The appointment by the Chairman of the heads of major administrative divisions under the Board shall be subject to the approval of the Board.

"(c) PERSONNEL.—

"(1) APPOINTMENTS BY BOARD MEMBERS.—Personnel employed regularly and full-time in the immediate offices of Board members shall be appointed by each such Board member.

"(2) OFFICERS AND EMPLOYEES.—The officers and employees of the agency shall be—

"(A) subject to the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.);

"(B) considered officers or employees of the United States for the purposes of sections 201 through 203, and sections 205 through 209, of title 18, United States Code; and

"(C) subject to section 5315 of title 5, United States Code.

"(3) DELEGATION.—The powers of the Chairman as chief executive officer necessary for day to day management may be exercised and performed by the Chairman through such other officers and employees of the Administration as the Chairman shall designate, except that the Chairman may not delegate powers specifically reserved to the Chairman by this Act without Board approval.

"(d) FUNDING.—The operations of the Farm Credit Administration, and the salaries of members of the Board and employees of the Administration, shall be funded and paid for from the fund created under section 5.15.".

(d) ADVISORY COMMITTEES.—Section 5.12 (12 U.S.C. 2246) is amended by inserting ", subject to the approval of the Board," after "Chairman of the Board".

(e) POWERS.—Section 5.17(a) (12 U.S.C. 2251(a)) is amended—

(1) in paragraph (2), by striking out the last sentence and inserting in lieu thereof the following new sentence: "The Farm Credit Administration Board, after consultation with the respective boards of directors of the affected banks, may require two or more banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet its outstanding obligations."; and

(2) in paragraph (15)—

(A) by inserting "by the Board" after "determined"; and

(B) by adding at the end thereof the following new sentence: "The Board may not delegate its responsibilities under this paragraph.".

(f) SPECIAL DISTRICT RULE.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end thereof the following new subsection:

"(c)(1) On request, the Farm Credit Administration Board may permit a production credit association, located in a district in which there are no more than three such associations, notwithstanding any territorial limitation in the charter of such association, to provide credit and technical assistance to any borrower who is denied credit by a production credit association that—

"(A) has an adjoining service territory; and

"(B) is located in the same district,

if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards.

"(2) If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after the receipt of the application from the borrower.".

(g) CONFORMING AMENDMENT.—Section 4.12 (12 U.S.C. 2183) is amended by inserting "Board" after "Farm Credit Administration" each place it appears in subsection (b) other than in clause (5) of the first sentence.

SEC. 432. FARM CREDIT ADMINISTRATION ORGANIZATION.

(a) OPERATING EXPENSES FUND.—Section 5.15 (12 U.S.C. 2249) is amended to read as follows:

"SEC. 5.15. FARM CREDIT ADMINISTRATION OPERATING EXPENSES FUND.

"(a) DETERMINATIONS REQUIRED.—

"(1) GENERALLY.—Prior to the first day of each fiscal year, the Farm Credit Administration shall determine—

"(A) the cost of administering this Act for the subsequent fiscal year, including expenses for official functions;

"(B) the amount of assessments that will be required to pay such administrative expenses, taking into consideration the funds contained in the Administrative Expense Account, and maintain a necessary reserve; and

"(C) the amount of assessments that will be required to pay the costs of supervising and examining the Mortgage Corporation established under title VIII.

"(2) APPORTIONMENTS.—On the basis of the determinations made under paragraph (1), the Farm Credit Administration shall—

"(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration;

"(B) assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and

"(C) assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount specified in paragraph (1)(C).

"(b) DEPOSITS INTO FUND.—

"(1) TREASURY FUND.—The amounts collected under subsection (a) shall be deposited in the Farm Credit Administration Administrative Expense Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard to the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) or any other law, to pay the expenses of the Farm Credit Administration.

"(2) NONGOVERNMENT FUNDS.—The funds contained in the Expense Account shall not be construed to be Federal government funds or appropriated monies.

"(3) INVESTMENT.—

"(A) AUTHORITY.—On request of the Farm Credit Administration, the Secretary of the Treasury shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the Farm Credit Administration, are in excess of the amounts necessary for current expenses of the Farm Credit Administration.

"(B) RETURNS.—All income earned from such investments and reinvestments shall be deposited in the Expense Account.

"(C) TYPE.—Such investments shall be made in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the Farm Credit Administration, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) EXAMINATION OF FEDERAL LAND BANK ASSOCIATIONS.—Section 5.19(a) (12 U.S.C. 2253(a)) is amended—

(1) in the first sentence, by striking out "Each" and inserting in lieu thereof "Except for Federal land bank associations, each";

(2) by inserting after the first sentence the following new sentence: "Each Federal land bank association shall be examined by Farm Credit Administration examiners at such times as the Farm Credit Administration Board may determine, except that each such association shall be examined at least once every 5 years."; and

(3) by striking out "the Chairman of" each place it appears in such subsection.

(c) POWER TO REMOVE DIRECTORS AND OFFICERS.—Part C of title V (12 U.S.C. 2260) is

amended by adding at the end thereof the following new section:

"SEC. 5.38. POWER TO REMOVE DIRECTORS AND OFFICERS.

"Notwithstanding any other provision of this Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association.".

SEC. 433. REASSIGNMENT OF ASSOCIATIONS TO ADJOINING DISTRICTS.

(a) PETITION OF BANK.—Notwithstanding any other provision of this Act, effective for the 12-month period beginning on the date of enactment of the Agricultural Credit Act of 1987, each Federal land bank association or production credit association, whose chartered territory adjoins the territory of another district, may petition the Farm Credit Administration to amend the charters of the association and the adjoining district bank to provide that the territory of the association is part of the adjoining district.

(b) REQUIREMENTS OF PETITION.—To be considered under this section, the petition must be signed by not less than 15 percent of the stockholders of the association. Only one such petition may be filed by an association under this subsection.

(c) FCA ACTION.—The Farm Credit Administration shall take any action necessary—

(1) to amend the charters of the association and the district bank; and

(2) to incorporate the petitioning association into the adjoining district if the reassignment is approved by—

(A) a majority of the stockholders of the association voting, in person or by proxy, at a duly authorized stockholders' meeting held for such purpose;

(B) the board of directors of such adjoining district;

(C) the Assistance Board; and

(D) the Farm Credit Administration Board.

SEC. 434. CONFORMING AMENDMENT.

Effective 6 months after the date of the enactment of this Act, section 1.2 (12 U.S.C. 2002) is amended to read as follows:

"SEC. 1.2. THE FARM CREDIT SYSTEM.

"The Farm Credit System shall include the Farm Credit Banks, the Federal land bank associations, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to the regulation by the Farm Credit Administration.".

TITLE V—STATE MEDIATION PROGRAMS

Subtitle A—Matching Grants for State Mediation Programs

SEC. 501. QUALIFYING STATES.

(a) IN GENERAL.—A State is a qualifying State if the Secretary of Agriculture (hereinafter in this subtitle referred to as the "Secretary") determines that the State has in effect an agricultural loan mediation program that meets the requirements of subsection (c).

(b) DETERMINATION BY SECRETARY.—Within 15 days after the Secretary receives from the Governor of a State, a description of the agricultural loan mediation program of the State and a statement certifying that the State has met all of the requirements of subsection (c), the Secretary shall determine whether the State is a qualifying State.

(c) REQUIREMENTS OF STATE PROGRAMS.—Within 15 days after the Secretary receives a description of a State agricultural loan mediation program, the Secretary shall certify the State as a qualifying State if the State program—

(1) provides for mediation services to be provided to producers, and their creditors, that, if decisions are reached, result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

(2) is authorized or administered by an agency of the State government or by the Governor of the State;

(3) provides for the training of mediators;

(4) provides that the mediation sessions shall be confidential; and

(5) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

SEC. 502. MATCHING GRANTS TO STATES.

(a) MATCHING GRANTS.—Within 60 days after the Secretary certifies the State as a qualifying State under section 501(b), the Secretary shall provide financial assistance to the State, in accordance with subsection (b), for the operation and administration of the agricultural loan mediation program.

(b) AMOUNT OF GRANT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay to a State under subsection (a) not more than 50 percent of the cost of the operation and administration of the agricultural loan mediation program within the State.

(2) MAXIMUM AMOUNT.—The Secretary shall not pay more than $500,000 per year to a single State under subsection (a).

(c) USE OF GRANT.—Each State that receives an amount paid under subsection (a) shall use that amount only for the operation and administration of the agricultural loan mediation program of the State.

(d) PENALTY.—If the Secretary determines that a State has not complied with subsection (c), such State shall not be eligible for additional financial assistance under this subtitle.

SEC. 503. PARTICIPATION OF FEDERAL AGENCIES.

(a) DUTIES OF THE SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—The Secretary, with respect to each program under the jurisdiction of the Secretary that makes, guarantees, or insures agricultural loans—

(A) shall prescribe rules requiring each such program to participate in good faith in any State agricultural loan mediation program;

(B) shall, on the date of the enactment of this Act, participate in agricultural loan mediation programs; and

(C) shall—

(i) cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(ii) present and explore debt restructuring proposals advanced in the course of such mediation.

(2) NONBINDING ON SECRETARY.—The Secretary shall not be bound by any determination made in a program described in paragraph (1) if the Secretary has not agreed to such determination.

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—The Farm Credit Administration shall prescribe rules requiring the institutions of the Farm Credit System—

(1) to cooperate in good faith with requests for information or analysis of information made in the course of mediation under any agricultural loan mediation program described in section 501; and

(2) to present and explore debt restructuring proposals advanced in the course of such mediation.

SEC. 504. REGULATIONS.

Within 150 days after the date of the enactment of this Act, the Secretary and the Farm Credit Administration shall prescribe such regulations as may be necessary to carry out this subtitle.

SEC. 505. REPORT.

Not later than January 1, 1990, the Secretary of Agriculture shall report to Congress on—

(1) the effectiveness of the State agricultural loan mediation programs receiving matching grants under this subtitle;

(2) recommendations for improving the delivery of mediation services to producers; and

(3) the savings to the States as a result of having an agricultural loan mediation program.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $7,500,000 for each of the fiscal years 1988 through 1991.

Subtitle B—Waiver of Mediation Rights

SEC. 511. WAIVER OF MEDIATION RIGHTS BY FARM CREDIT SYSTEM BORROWERS.

Part C of Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section added by section 107 the following new section:

"SEC. 4.14E. WAIVER OF MEDIATION RIGHTS BY BORROWERS.

"No System institution may make a loan secured by a mortgage or lien on agricultural property to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

SEC. 512. WAIVER OF MEDIATION RIGHTS BY FmHA BORROWERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 619 of this Act the following new section:

"SEC. 358. WAIVER OF MEDIATION RIGHTS BY BORROWERS.

"The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

TITLE VI—FARMERS HOME ADMINISTRATION LOANS

SEC. 601. AMENDMENT OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

SEC. 602. DEFINITIONS.

Section 343 (7 U.S.C. 1991) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in sections 307(e), 331D, 335(e) and (f), 338(f), 351(h), 352(b) and (c), 353, and 357:

"(1) The term 'borrower' means any farm borrower who has outstanding obligations to the Secretary under any farmer program loan, without regard to whether the loan has been accelerated, but does not include any farm borrower all of whose loans and accounts have been foreclosed on or liquidated, voluntarily or otherwise.

"(2) The term 'loan service program' means, with respect to a farmer program borrower, a primary loan service program or a preservation loan service program.

"(3) The term 'primary loan service program' means—

"(A) loan consolidation, rescheduling, or reamortization;

"(B) interest rate reduction, including the use of the limited resource program;

"(C) loan restructuring, including deferral, set aside, or writing down of the principal or accumulated interest charges, or both, of the loan; or

"(D) any combination of actions described in subparagraphs (A), (B), and (C).

"(4) The term 'preservation loan service program' means—

"(A) homestead retention as authorized under section 352; and

"(B) a leaseback or buyback of farmland authorized under section 335.".

SEC. 603. SECURITY FOR FMHA REAL ESTATE LOANS.

Section 307(c) (7 U.S.C. 1927(c)) is amended by adding at the end thereof the following new sentence: "A borrower may use the same collateral to secure two or more loans made, insured, or guaranteed under this subtitle, except that the outstanding amount of such loans may not exceed the total value of the collateral so used.".

SEC. 604. ADDITIONAL COLLATERAL.

Section 307 (7 U.S.C. 1927) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may not—

"(1) require any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

"(2) bring any action to foreclose, or otherwise liquidate, any such loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested.".

SEC. 605. NOTICE OF LOAN SERVICE PROGRAMS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 331C the following new section:

"SEC. 331D. NOTICE OF LOAN SERVICE PROGRAMS.

"(a) REQUIREMENT.—The Secretary shall provide notice by certified mail to each borrower who is at least 180 days delinquent in the payment of principal or interest on a loan made or insured under this title.

"(b) CONTENTS.—The notice required under subsection (a) shall—

"(1) include a summary of all primary loan service programs, preservation loan service programs, and appeal procedures, including the eligibility criteria, and terms and conditions of such programs and procedures;

"(2) include a summary of the manner in which the borrower may apply, and be considered, for all such programs, except that the Secretary shall not require the borrower to select among such programs or waive any right in order to be considered for any program carried out by the Secretary;

"(3) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

"(4) provide any relevant forms, including applicable response forms;

"(5) advise the borrower that a copy of regulations is available on request; and

"(6) be designed to be readable and understandable by the borrower.

"(c) CONTAINED IN REGULATIONS.—All notices required by this section shall be contained in the regulations implementing this title.

"(d) TIMING.—The notice described in subsection (b) shall be provided—

"(1) at the time an application is made for participation in a loan service program;

"(2) on written request of the borrower; and

"(3) before the earliest of—

"(A) initiating any liquidation;

"(B) requesting the conveyance of security property;

"(C) accelerating the loan;

"(D) repossessing property;

"(E) foreclosing on property; or

"(F) taking any other collection action.

"(e) CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.—The Secretary shall consider a farmer program borrower for all loan service programs if, within 45 days after receipt of the notice required in this section, the borrower requests such consideration in writing. In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.".

SEC. 606. PLANTING AND PRODUCTION HISTORY GUIDELINES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after the section added by section 605 of this Act the following new section:

"SEC. 331E. PLANTING AND PRODUCTION HISTORY GUIDELINES.

"The Secretary shall ensure that appropriate procedures, including to the extent practicable onsite inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by natural disasters declared under the Disaster Relief Act of 1974.".

SEC. 607. COUNTY COMMITTEES.

Section 332(a) (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end thereof the following: "before conducting any county committee election. The Secretary shall publish any regulation promulgated under this subsection"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) The Secretary shall ensure that farmers have—

"(A) at least 45 days to submit nominations following general public notice of any procedure by which to submit nominations for county committee elections in each county; and

"(B) at least 30 days after general public notice of an election in each county, before the election is held.

"(3) Any farmer eligible for a loan made or insured under subtitle A shall be eligible to serve as an elected or appointed county committee member, subject to section 336(c).

"(4) Not more than one farmer eligible for a loan made or insured under subtitle A may serve on a county committee at the same time.

"(5) For purposes of this subsection, the term 'farmer' shall include the spouse of a farmer otherwise eligible under this section.".

SEC. 608. ADMINISTRATIVE APPEALS.

Section 333B (7 U.S.C. 1983b) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary shall establish and maintain within the Farmers Home Administration a national appeals division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Farmers Home Administration who shall have no duties other than hearing and determining formal appeals arising under this section.

"(e)(1) Hearing officers within the appeals division in a State shall hear and determine all formal appeals of decisions which are subject to this section and are made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working in the State. Such hearings shall be held in the State of residence of the appellant. The decisions of hearing officers shall, on the request and election of the borrower, be reviewed by the State director of the State of residence of the appellant or shall be referred directly to the director of the national appeals division. If the borrower elects review by the State director, the decisions of the State director shall, on request of the borrower, be subject to further review by the director of the national appeals division.

"(2) Each hearing before a hearing officer in the appeals division shall be recorded verbatim by voice recorder, stenographer, or other method, and a transcript of the hearing, together with all documents and evidence submitted, shall be made available to the appellant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing.

"(3) If a decision of a hearing officer is appealed, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director of the national appeals division and the Secretary. The national appeals division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer.

"(f) All hearing officers within the national appeals division shall report to the principal officers of the division, and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the national appeals division.

"(g) The Secretary shall ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals in the State of residence of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties on initial employment and at regular intervals thereafter. The Secretary may expend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of this subsection in the event that necessary appropriations sufficient to fund the division are not available.".

SEC. 609. BORROWERS' RIGHT TO INFORMATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 333B the following new section:

"SEC. 333C. PROVISION OF INFORMATION TO BORROWERS.

"(a) IN GENERAL.—On request of a farm borrower of a farmer program loan, the Sec-

retary shall make available to the borrower the following:

"(1) One copy of each document signed by the borrower.

"(2) One copy of each appraisal performed with respect to the loan.

"(3) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

"(b) CONSTRUCTION OF SECTION.—Subsection (a) shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect immediately before the date of the enactment of this section, unless such duty is in direct conflict with any duty imposed by subsection (a).".

SEC. 610. DISPOSITION AND LEASING OF FARMLAND.

(a) CLASSIFICATION OF PROPERTY.—Section 335(c) (7 U.S.C. 1985(c)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after the first sentence the following new sentence: "The County Committee shall classify or reclassify real property (including real property administered by the Sec retary on the date of the enactment of this sentence) that is farmland, as being suitable for farming operation for such disposition unless the property, including property subdivided in accordance with subsection (e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland)."; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this subtitle to operators (as of the time immediately after such contract for sale or lease is entered into) of not larger than family sized farms, as determined by the county committee. In selling such land, the county committee shall—

"(A) grant a priority to persons eligible for loans under subtitle A, including individuals approved for, but who, as of the date of the enactment of this paragraph, have not yet received, such loans;

"(B) offer suitable land at a price not greater than that which reflects the appraised market value of such land;

"(C) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

"(D) publish or caused to be published three consecutive weekly announcements at least twice annually of the availability of such farmland, in at least one newspaper that is widely circulated in the county in which the land is located until the property is sold.".

(b) DISPOSITION AND LEASING.—Section 335(e) (7 U.S.C. 1985(e)) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A)(i) During the 180-day period beginning on the date of acquisition, or during the applicable period under State law, the Secretary shall allow the borrower from whom the Secretary acquired real property used to secure any loan made to the borrower under this title (hereinafter referred to in this paragraph as the 'borrower-owner') to purchase or lease such property.

"(ii) The period for the purchase or lease of real property described under clause (i), by a person described in clauses (i) or (ii) of subparagraph (C), shall expire 190 days after the date of acquisition, or after the applicable period under State law.

"(iii) The rights regarding the purchase or lease of real property provided by this paragraph and accorded a person described in subparagraph (C) may be freely and knowingly waived by such person.

"(B) Any purchase or lease under subparagraph (A) shall be on such terms and conditions as are established in regulations promulgated by the Secretary.

"(C) The Secretary shall give preference in the sale or lease, with option to purchase, of property that has been foreclosed, purchased, redeemed, or otherwise acquired by the Secretary to persons in the following order:

"(i) The immediate previous borrower-owner of the acquired property.

"(ii) If actively engaged in farming—

"(I) the spouse or child of the previous borrower-owner; or

"(II) a stockholder in the corporation, if the borrower-owner is a corporation held exclusively by members of the same family.

"(iii) The immediate previous family size farm operator of such acquired property.

"(iv) Operators (as of the time immediately after such sale or lease is entered into) of not larger than family-size farms.

"(D)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation,

"(II) the borrower-owner is the Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of such Indian tribe, and

"(III) the period in which the right to purchase or lease such real property provided in clauses (i) and (ii) of subparagraph (A) has expired,

the Secretary shall dispose of or administer the property only as provided for in this subparagraph.

"(ii) For purposes of this subparagraph, the term 'Indian reservation' means all land located within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; trust or restricted land located within the boundaries of a former reservation of a federally recognized Indian tribe in the State of Oklahoma; or all Indian allotments the Indian titles to which have not been extinguished if such allotments are subject to the jurisdiction of a federally recognized Indian tribe.

"(iii) The Secretary shall, within 90 days after the expiration of the period for which the right to purchase or lease real property described in clause (i) is provided in clauses (i) and (ii) of subparagraph (A), afford an opportunity to purchase or lease the real property in accordance with the order of priority established under clause (iv) by the Indian tribe having jurisdiction over the Indian reservation within which the real property is located or, if no order of priority is established by such Indian tribe under clause (iv), in the following order:

"(I) to an Indian member of the Indian tribe that has jurisdiction over the reservation within which the real property is located;

"(II) to an Indian corporate entity;

"(III) to such Indian tribe.

"(iv) The governing body of any Indian tribe having jurisdiction over an Indian reservation may revise the order of priority provided in clause (iii) under which lands located within such reservation shall be offered for purchase or lease by the Secretary under clause (iii) and may restrict the eligibility for such purchase or lease to—

"(I) persons who are members of such Indian tribe,

"(II) Indian corporate entities that are authorized by such Indian tribe to lease or purchase lands within the boundaries of such reservation, or

"(III) such Indian tribe itself.

"(v) If real property described in clause (i) is not purchased or leased under clause (iii) and the Indian tribe having jurisdiction over the reservation within which the real property is located is unable to purchase or lease the real property, the Secretary shall transfer the real property to the Secretary of the Interior who shall administer the real property as if the real property were held in trust by the United States for the benefit of such Indian tribe. From the rental income derived from the lease of the transferred real property, and all other income generated from the transferred real property, the Secretary of the Interior shall pay those State, county, municipal, or other local taxes to which the transferred real property was subject at the time of acquisition by the Secretary, until the earlier of—

"(I) the expiration of the 4-year period beginning on the date on which the real property is so transferred, or

"(II) such time as the lands are transferred into trust pursuant to clause (viii).

"(vi) At any time any real property is transferred to the Secretary of the Interior under clause (v), the Secretary of Agriculture shall be deemed to have no further responsibility under this Act for collection of any amounts with regard to the farm program loan which had been secured by such real property, nor with regard to any lien arising out of such loan transaction, nor for repayments of any amount with regard to such loan transactions or liens to the Treasury of the United States, and the Secretary of the Interior shall be deemed to have succeeded to all right, title and interest of the Secretary of Agriculture in such real estate arising from the farm program loan transaction, including the obligation to remit to the Treasury of the United States, in repayment of the original loan, those amounts provided in clause (vii).

"(vii) After the payment of any taxes which are required to be paid under clause (v), all remaining rental income derived from the lease of the real property transferred to the Secretary of the Interior under clause (v), and all other income generated from the real property transferred to the Secretary of the Interior under clause (v), shall be deposited as miscellaneous receipts in the Treasury of the United States until the amount deposited is equal to the lesser of—

"(I) the amount of the outstanding lien of the United States against such real property, as of the date the real property was acquired by the Secretary;

"(II) the fair market value of the real property, as of the date of the transfer to the Secretary of the Interior; or

"(III) the capitalized value of the real property, as of the date of the transfer to the Secretary of the Interior.

"(viii) When the total amount that is required to be deposited under clause (vii) with respect to any real property has been deposited into the Treasury of the United States, title to the real property shall be held in trust by the United States for the benefit of the Indian tribe having jurisdiction over the Indian reservation within which the real property is located.

"(ix) Notwithstanding any other clause of this subparagraph, the Indian tribe having jurisdiction over the Indian reservation within which the real property described in clause (i) is located may, at any time after the real property has been transferred to the Secretary of the Interior under clause (v), offer to pay the remaining amount on the lien, or the fair market value of the real property, whichever is less. Upon payment of such amount, title to such real property shall be held by the United States in trust for the tribe and such trust or restricted lands that have been acquired by the Secretary under foreclosure or voluntary transfer under a loan made or insured under this title and transferred to an Indian person, entity, or tribe under the provisions of this subparagraph shall be deemed to have never lost trust or restricted status.

"(E) The rights provided in this subsection shall be in addition to any such right of first refusal under the law of the State in which the property is located.";

(2) in paragraph (3)—

(A) by striking out subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D), as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (B) (as so redesignated), by striking out "give special consideration to a previous owner or operator of such land if such owner or operator" and inserting in lieu thereof "determine if the lessee"; and

(D) by adding at the end thereof the following new subparagraph:

"(D) The Secretary may enter into a contract with a borrower of a farmer program loan made or insured under this title, to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary takes possession of such land.";

(3) by amending subparagraph (A) of paragraph (5) to read as follows:

"(A) If the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A because such farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for such eligible persons, the Secretary shall, to the greatest extent practicable, subdivide such land into tracts suitable for sale under subsection (c). Such land shall be subdivided into parcels of land the shape and size of which are suitable for farming, the value of which shall not exceed the individual loan limits as prescribed under section 305.";

(4) in paragraph (6)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) provide written notice reasonably calculated to inform the immediate previous owner or immediate previous family-size farm operator of such farmland, of the availability of such farmland."; and

(5) by adding at the end thereof the following new paragraphs:

"(9) Denials of applications for or disputes over terms and conditions of a lease or purchase agreement under this section are appealable under section 333B.

"(10) In the event of any conflict between any provision of this subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail.".

SEC. 611. INCOME RELEASE.

Subsection (f) of section 335 (7 U.S.C. 1985(f)) is amended to read as follows:

"(f)(1) As used in this subsection, the term 'normal income security' means all security not considered basic security, including crops, livestock, poultry products, Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments, and other property covered by Farmers Home Administration liens that is sold in conjunction with the operation of a farm or other business, but shall not include any equipment (including fixtures in States that have adopted the Uniform Commercial Code), or foundation herd or flock, that is the basis of the farming or other operation, and is the basic security for a Farmers Home Administration farmer program loan.

"(2) The Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household and farm operating expenses of the borrower, until such time as the Secretary accelerates such loan.

"(3) A borrower whose account was accelerated on or after November 1, 1985, and on or before May 7, 1987, but not thereafter foreclosed on or liquidated, shall be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses of such borrower in an amount not to exceed $18,000 over 12 months, if such borrower—

"(A) as of October 30, 1987, continued to be actively engaged in the farming operations for which the Secretary had made the farmer program loan; and

"(B) as of the deadline for responding to the notice provided for under paragraph (5), requests restructuring of such loans pursuant to section 353.

"(4) The county committee in the county in which borrower's land is located shall determine whether the borrower has complied with the requirements of paragraph (3)(A).

"(5)(A) Within 45 days after the date of the enactment of this subsection, the Secretary shall provide to the borrowers described in paragraph (3) notice by certified mail of the right of such borrowers to apply for the benefits under such paragraph.

"(B) Releases under such paragraph shall be made to qualified borrowers who have responded to the notice within 30 days after receipt.

"(C) Within 12 months after a borrower has requested restructuring under section 353, the Secretary shall make a final determination on the request. Notwithstanding the 12-month limitation provided for in paragraph (3), releases shall continue to be made to the borrower until a denial or dismissal of the application of the borrower for restructuring under section 353 is made. The amount of essential household and farm operating expenses which may be released to any borrower eligible for such releases after 12 months may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary.

"(6) If a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, the Secretary shall—

"(A) notify the borrower of such requirement; and

"(B) notify the borrower of the right to the release of funds under this section and the means by which a request for the funds may be made.

"(7) The Secretary shall issue regulations consistent with this section that—

"(A) ensure the release of funds to each borrower; and

"(B) establish guidelines for releases under paragraph (3), including a list of expenditures for which funds will normally be released.".

SEC. 612. CONSERVATION EASEMENTS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)(4), by inserting "and other wildlife habitat" after "wetland"; and

(2) in subsection (e), by striking out the last period and inserting in lieu thereof the following: "or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.".

SEC. 613. INTEREST RATE REDUCTION PROGRAM; DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.

(a) EXTENSION OF PROGRAM FOR 5 YEARS.—Section 1320 of the Food Security Act of 1985 (99 Stat. 1532) is amended by striking out "1988" and inserting in lieu thereof "1993".

(b) AMENDMENTS TO PROGRAM.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (b)(1)(C), by striking out "12-month" and inserting in lieu thereof "24-month"; and

(2) by adding at the end thereof the following new subsections:

"(f) Each Farmers Home Administration county supervisor shall make available to farmers, on request, a list of approved lenders in the area that participate in the Farmers Home Administration guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

"(g) Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this title after the date of the enactment of this subsection shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.".

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351 (7 U.S.C. 1999) is amended by adding after the subsection added by subsection (b) of this section the following new subsection:

"(h)(1) During the 3-year period beginning on the date of the enactment of this subsection, the Secretary shall establish and carry out a demonstration project in accordance with this subsection under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and Farm Credit System institutions to purchase acquired properties owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971.

"(2) To be eligible to participate in the project, a borrower must—

"(A) meet the requirements of subsection (b)(1);

"(B) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

"(C) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under this title.

"(3) A certificate of eligibility issued under this subsection may be used to reduce the interest rate payable by an eligible borrower on a guaranteed loan by not more than 4 percent.

"(4) A certificate of eligibility issued under this subsection shall reduce the interest rate on a guaranteed loan for a term equal to the outstanding term of such loan, or 5 years, whichever is less.

"(5) Notwithstanding any other provision of law, if the lender of a guaranteed loan assisted under this subsection reduces the interest rate payable on the loan by at least 1 full percentage point, the Secretary may guarantee the repayment of 95 percent of the principal and interest due on the loan.

"(6) In carrying out this subsection, the Secretary may—

"(A) certify the eligibility of borrowers to participate in the demonstration project;

"(B) process applications for participation in the project;

"(C) provide certificate of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System certified to issue preferred stock under section 6.27 of the Farm Credit Act of 1971; and

"(D) set aside the largest practicable portion of funds made available to guarantee farm ownership loans under this title (including unobligated funds) to carry out this subsection.

"(7) To carry out this subsection, the Secretary may transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

"(8) In carrying out this subsection, Farm Credit System institutions shall—

"(A) sell land to eligible borrowers under this subsection at fair market value;

"(B) to the extent practicable, set aside each fiscal year land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value, for purchase by eligible borrowers in accordance with this subsection; and

"(C) if necessary, subdivide tracts of land made available under this subsection into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under this title.

"(9) Not later than 60 days after the date of the enactment of this subsection, the Secretary and the Farm Credit Administration shall develop a joint memorandum of understanding governing the implementation of this subsection.".

SEC. 614. HOMESTEAD PROTECTION.

Section 352 (7 U.S.C. 2000) is amended—

(1) in subsection (a)(3), by inserting before the period ", including a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual";

(2) in subsection (b), by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) The Secretary or the Administrator shall, on application by a borrower who meets the eligibility requirements of subsection (c)(1), permit the borrower to retain possession and occupancy of homestead property under the terms set forth, and until the action described in this section has been completed, if—

"(A) the Secretary forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a loan made or insured under this title;

"(B) the Administrator forecloses, holds in inventory on the date of the enactment of this paragraph, or takes into inventory, property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or

"(C) the borrower of a loan made or insured by the Secretary or the Administrator files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part.";

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator shall—

"(A) apply for such occupancy not later than 90 days after the property is acquired by the Secretary or Administrator, or for property in inventory on the date of the enactment of this subsection, the borrower shall apply for occupancy not later than 90 days after such date;

"(B) have received from farming or ranching operations gross farm income reasonably commensurate with—

"(i) the size and location of the farming unit of the borrower; and

"(ii) local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made;

"(C) have received from farming or ranching operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in subparagraph (B);

"(D) have continuously occupied the homestead property during the 6-year period described in subparagraph (B), except that such requirement may be waived if a borrower has, due to circumstances beyond the control of the borrower, had to leave the homestead property for a period of time not to exceed 12 months during the 6-year period;

"(E) during the period of the occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located;

"(F) during the period of the occupancy of the homestead property, maintain the property in good condition; and

"(G) meet such other reasonable and necessary terms and conditions as the Secretary may require consistent with this section.

"(2) For purposes of subparagraphs (B) and (C) of paragraph (1), the term 'farming or ranching operations' shall include rent paid by lessees of agricultural land during any period in which the borrower, due to circumstances beyond the control of the borrower, is unable to actively farm such land.

"(3) For the purposes of paragraph (1)(E), the failure of the borrower to make timely rental payments shall constitute cause for the termination of all rights of such borrower to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower or lessee the notice and hearing procedural rights described in section 333B and shall comply with all applicable State and local laws governing eviction from residential property.

"(4)(A) The period of occupancy allowed the prior owner of homestead property under this section shall be the period requested in writing by the prior owner, except that such period shall not exceed 5 years.

"(B) At any time during the period of occupancy, the borrower shall have a right of first refusal to reacquire the homestead property on such terms and conditions as the Secretary shall determine, except that the Secretary may not demand a payment for the homestead property that is in excess of the current market value of the homestead property as established by an independent appraisal. The independent appraisal shall be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor.

"(5) No rights of a borrower under this section, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, shall be transferable or assignable by the borrower or by operation of any law, except that in the case of death or incompetency of such borrower, such rights and agreements shall be transferable to the spouse of the borrower if the spouse agrees to comply with the terms and conditions thereof.

"(6) Within 30 days of the acquisition of the homestead property securing a loan made or insured under this title, the Secretary shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this section. For property in inventory on the date of the enactment of this subsection, the Secretary shall make a good faith effort to notify the borrower of the availability of homestead protection rights under this section within 60 days after such date.";

(3) in subsection (d), by adding at the end thereof the following new sentence: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer."; and

(4) by adding at the end thereof the following new subsections:

"(f) The Secretary may enter into contracts authorized by this section before the Secretary acquires title to the homestead property.

"(g) In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.".

SEC. 615. DEBT RESTRUCTURING AND LOAN SERVICING.

(a) IN GENERAL.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 353. DEBT RESTRUCTURING AND LOAN SERVICING.

"(a) IN GENERAL.—The Secretary shall modify delinquent farmer program loans made or insured under this title, or purchased from the lender or the Federal Deposit Insurance Corporation under section 309B, to the maximum extent possible—

"(1) to avoid losses to the Secretary on such loans, with priority consideration being placed on writing-down the loan prin-

cipal and interest (subject to subsections (d) and (e)), and debt set-aside (subject to subsection (e)), whenever these procedures would facilitate keeping the borrower on the farm or ranch, or otherwise through the use of primary loan service programs as provided in this section; and

"(2) to ensure that borrowers are able to continue farming or ranching operations.

"(b) ELIGIBILITY.—To be eligible to obtain assistance under subsection (a)—

"(1) the delinquency must be due to circumstances beyond the control of the borrower, as defined in regulations issued by the Secretary;

"(2) the borrower must have acted in good faith with the Secretary in connection with the loan as defined in regulations issued by the Secretary;

"(3) the borrower must present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to—

"(A) meet the necessary family living and farm operating expenses; and

"(B) service all debts, including those of the loans restructured; and

"(4) the loan, if restructured, must result in a net recovery to the Federal government, during the term of the loan as restructured, that would be more than or equal to the net recovery to the Federal government from an involuntary liquidation or foreclosure on the property securing the loan.

"(c) RESTRUCTURING DETERMINATIONS.—

"(1) DETERMINATION OF NET RECOVERY.—In determining the net recovery from the involuntary liquidation of a loan under this section, the Secretary shall calculate—

"(A) the recovery value of the collateral securing the loan, in accordance with paragraph (2); and

"(B) the value of the restructured loan, in accordance with paragraph (3).

"(2) RECOVERY VALUE.—For the purpose of paragraph (1), the recovery value of the collateral securing the loan shall be based on—

"(A) the amount of the current appraised value of the property securing the loan; less

"(B) the estimated administrative, legal, and other expenses associated with the liquidation and disposition of the loan and collateral, including—

"(i) the payment of prior liens;

"(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase in the value of the property, and lost interest income, each calculated for the average holding period for the type of property involved;

"(iii) resale expenses, such as repairs, commissions, and advertising; and

"(iv) other administrative and attorney's costs.

"(3) VALUE OF THE RESTRUCTURED LOAN.—

"(A) IN GENERAL.—For the purpose of paragraph (1), the value of the restructured loan shall be based on the present value of payments that the borrower would make to the Federal government if the terms of such loan were modified under any combination of primary loan service programs to ensure that the borrower is able to meet such obligations and continue farming operations.

"(B) PRESENT VALUE.—For the purpose of calculating the present value referred to in subparagraph (A), the Secretary shall use a discount rate of not more than the current rate on 90-day Treasury bills.

"(4) NOTIFICATION.—Within 60 days after receipt of a written request for restructuring from the borrower, the Secretary shall—

"(A) make the calculations specified in paragraphs (2) and (3);

"(B) notify the borrower in writing of the results of such calculations; and

"(C) provide documentation for the calculations.

"(5) RESTRUCTURING OF LOANS.—If the value of the restructured loan is greater than or equal to the recovery value, the Secretary shall, within 45 days after notifying the borrower of such calculations, offer to restructure the loan obligations of the borrower under this title through primary loan service programs that would enable the borrower to meet the obligations (as modified) under the loan and to continue the farming operations of the borrower. If the borrower accepts such offer, within 45 days after receipt of notice of acceptance, the Secretary shall restructure the loan accordingly.

"(6) TERMINATION OF LOAN OBLIGATIONS.—If the value of the restructured loan is less than the recovery value and if, within 45 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value, the obligations of the borrower to the Secretary under the loan shall terminate, except that the Secretary may require, as a condition of such termination of loan obligations, that the borrower enter into an agreement with the Secretary if the borrower sells or otherwise conveys the real property used to secure such loan within 2 years after the date of such agreement. Any such agreement shall provide for the recapture of part or all of the difference between the recovery value of the loan and the fair market value (on the date of such agreement) of the property securing the loan if the borrower realizes a gain on the sale or conveyance over the amount of the recovery value of the loan. In no event shall any such agreement provide for recapture of an amount that exceeds the difference between such recovery value and the fair market value of the property securing the loan on the date of such agreement.

"(d) PRINCIPAL AND INTEREST WRITE-DOWN.—

"(1) IN GENERAL.—

"(A) PRIORITY CONSIDERATION.—In selecting the restructuring alternatives to be used in the case of a borrower who has requested restructuring under this section, the Secretary shall give priority consideration to the use of principal and interest write-down, except that this procedure shall not be given first priority in the case of a borrower unless other creditors of such borrower (other than those creditors who are fully collateralized) representing a substantial portion of the total debt of the borrower held by such creditors, agree to participate in the development of the restructuring plan or agree to participate in a State mediation program.

"(B) FAILURE OF CREDITORS TO AGREE.—Failure of creditors to agree to participate in the restructuring plan or mediation program shall not preclude the use of principal and interest write-down by the Secretary if the Secretary determines that this restructuring alternative results in the least cost to the Secretary.

"(2) PARTICIPATION OF CREDITORS.—Before eliminating the option to use debt write-down in the case of a borrower, the Secretary shall make a reasonable effort to contact the creditors of such borrower, either directly or through the borrower, and encourage such creditors to participate with the Secretary in the development of a restructuring plan for the borrower.

"(e) SHARED APPRECIATION ARRANGEMENTS.—

"(1) IN GENERAL.—As a condition of restructuring a loan in accordance with this section, the borrower of the loan may be required to enter into a shared appreciation arrangement that requires the repayment of amounts written off or set aside.

"(2) TERMS.—Shared appreciation agreements shall have a term not to exceed 10 years, and shall provide for recapture based on the difference between the appraised values of the real security property at the time of restructuring and at the time of recapture.

"(3) PERCENTAGE OF RECAPTURE.—The amount of the appreciation to be recaptured by the Secretary shall be 75 percent of the appreciation in the value of such real security property if the recapture occurs within 4 years of the restructuring, and 50 percent if the recapture occurs during the remainder of the term of the agreement.

"(4) TIME OF RECAPTURE.—Recapture shall take place at the end of the term of the agreement, or sooner—

"(A) on the conveyance of the real security property;

"(B) on the repayment of the loans; or

"(C) if the borrower ceases farming operations.

"(5) TRANSFER OF TITLE.—Transfer of title to the spouse of a borrower on the death of such borrower shall not be treated as a conveyance for the purpose of paragraph (4).

"(f) DETERMINATION TO RESTRUCTURE.—If the appeal process results in a determination that a loan is eligible for restructuring, the Secretary shall restructure the loan in the manner consistent with this section, taking into consideration the restructuring recommendations, if any, of the appeals officer.

"(g) PREREQUISITES TO FORECLOSURE OR LIQUIDATION.—No foreclosure or other similar actions shall be taken to liquidate any loan determined to be ineligible for restructuring by the Secretary under this section—

"(1) until the borrower has been given the opportunity to appeal such decision; and

"(2) if the borrower appeals, the appeals process has been completed, and a determination has been made that the loan is ineligible for restructuring.

"(h) TIME LIMITS FOR RESTRUCTURING.—Once an appeal has been filed under section 333B, a decision shall be made at each level in the appeals process within 45 days after the receipt of the appeal or request for further review.

"(i) NOTICE OF INELIGIBILITY FOR RESTRUCTURING.—

"(1) IN GENERAL.—A notice of ineligibility for restructuring shall be sent to the borrower by registered or certified mail within 15 days after such determination.

"(2) CONTENTS.—The notice required under paragraph (1) shall contain—

"(A) the determination and the reasons for the determination;

"(B) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

"(C) a statement of the right of the borrower to appeal the decision to the appeals division, and to appear before a hearing officer.

"(j) INDEPENDENT APPRAISALS.—An appeal filed with the appeals division under section 333B may include a request by the borrower for an independent appraisal of any property securing the loan. On such request, the appeals division shall present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower shall select an appraiser to conduct the appraisal, the cost of which shall be borne by the borrower. The results of such

appraisal shall be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph shall be provided to the borrower.

"(k) FUTURE CREDITWORTHINESS OF BORROWER DETERMINED WITHOUT REGARD TO RESTRUCTURING.—The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are restructured under this section shall be determined without regard to such restructuring.".

(b) OTHER RESTRUCTURING PROVISIONS.—

(1) OPTION TO RESTRUCTURE INTEREST RATES FOR CERTAIN WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY BORROWERS.—

(A) IN GENERAL.—The item designated "Loan Programs" under the subheading "Farmers Home Administration" in chapter I of title I of the Supplemental Appropriations Act, 1985 (7 U.S.C. 1927a; 99 Stat. 296) is amended—

(i) by striking out "Effective November 12, 1983, and thereafter," and inserting in lieu thereof "Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers,"; and

(ii) by striking out "housing, farm, water and waste disposal, and community facility" and inserting in lieu thereof "such".

(B) CERTAIN OBLIGATIONS EXCEPTED.—The amendment made by subparagraph (A) shall not apply to any note or other obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of the enactment of this paragraph.

(2) INTEREST RATE RESTRUCTURING FOR CERTAIN OTHER BORROWERS.—Effective July 29, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.

(c) LIQUIDATION NOT REQUIRED AS PREREQUISITE TO DEBT RESTRUCTURING AND LOAN SERVICING.—Subsection (d) of section 331 (7 U.S.C. 1981(d)) is amended—

(1) by inserting "debts or" before "claims"; and

(2) by adding at the end of the first sentence the following: "The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a prerequisite to initiating an action authorized under this subsection.".

(d) SUSPENSION OF COLLECTION ACTIVITIES DURING TRANSITION PERIOD.—The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any delinquent farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by this section. The preceding sentence shall not prohibit the Secretary from taking any action with respect to waste, fraud, or abuse by the borrower.

SEC. 616. TRANSFER OF INVENTORY LANDS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 615(a) of this Act the following new section:

"SEC. 354. TRANSFER OF INVENTORY LANDS.

"The Secretary, without reimbursement, may transfer to any Federal or State agency, for conservation purposes any real property, or interest therein, administered by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired;

"(2) that is determined by the Secretary to be suitable or surplus; and

"(3) that—

"(A) has marginal value for agricultural production;

"(B) is environmentally sensitive; or

"(C) has special management importance.".

SEC. 617. TARGET PARTICIPATION RATES.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 616 of this Act the following new section:

"SEC. 355. TARGET PARTICIPATION RATES.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish annual target participation rates, on a county wide basis, that shall ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory farmland.

"(2) GROUP POPULATION.—In establishing such target rates the Secretary shall take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in such county.

"(b) RESERVATION AND ALLOCATION.—

"(1) RESERVATION.—The Secretary shall, to the greatest extent practicable, reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates established under subsection (a).

"(2) ALLOCATION.—The Secretary shall allocate such loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland, with the greatest amount of loan funds being distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland.

"(c) REPORT.—The Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes the annual target participation rates and the success in meeting such rates.

"(d) DEFINITION.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.".

SEC. 618. EXPEDITED CLEARING OF TITLE TO INVENTORY PROPERTY.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 617 of this Act the following:

"SEC. 356. EXPEDITE CLEARING OF TITLE TO INVENTORY PROPERTY.

"The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.".

SEC. 619. PAYMENT OF LOSSES ON GUARANTEED LOANS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 357. PAYMENT OF LOSSES ON GUARANTEED LOANS.

"(a) PAYMENTS TO LENDERS.—

"(1) REQUIREMENT.—Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, United States Code, for any borrower to whom a lender has made a loan guaranteed under this title, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

"(2) PAYMENT TOWARD LOAN GUARANTEE.—Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment towards satisfaction of the loan guarantee.

"(b) ADMINISTRATION.—

"(1) LOSS BY LENDER.—If the lender of a guaranteed farmer program loan takes any action described in section 331(d) with respect to the loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which—

"(A) the outstanding balance of the loan immediately before such action, exceeds

"(B) the outstanding balance of the loan immediately after such action.

"(2) NET PRESENT VALUE OF LOAN.—The Secretary shall approve the taking of an action described in section 331(d) by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

"(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

"(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

"(3) CONSTRUCTION OF SUBSECTION.—This subsection shall not be construed to limit the authority of the Secretary to enter into a shared appreciation arrangement with a borrower, or the terms and conditions which shall be required of a borrower, under section 353(e).".

SEC. 620. LEASE OF CERTAIN ACQUIRED PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.

SEC. 621. STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS.

Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act, the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act, are borrowers or

potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.

SEC. 622. CONTINUATION OF LIMITED RESOURCE FARMERS' INITIATIVE.

The Secretary of Agriculture shall maintain substantially at the levels in effect on the date of the enactment of this title, the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise.

SEC. 623. FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(1) informing persons eligible for assistance under any other provision of this Act of—

(A) the possibility of acquiring such inventory farmland; and

(B) various farm ownership loan programs; and

(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

SEC. 624. REGULATIONS.

Within 150 days after the date of the enactment of this title, and after considering public comment obtained under section 553 of title 5, United States Code, the Secretary shall issue final regulations to carry out the amendments made by this title.

SEC. 625. SENSE OF CONGRESS REGARDING GUARANTEED LOAN PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions.

SEC. 626. SENSE OF CONGRESS REGARDING NATIONAL RURAL CRISIS RESPONSE CENTER.

It is the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide.

TITLE VII—AGRICULTURAL MORTGAGE SECONDARY MARKETS

Subtitle A—The Federal Agricultural Mortgage Corporation

SEC. 701. STATEMENT OF PURPOSE.

It is the purpose of this subtitle—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation;

(3) to provide for a secondary marketing arrangement for agricultural real estate mortgages that meet the underwriting standards of the corporation—

(A) to increase the availability of long-term credit to farmers and ranchers at stable interest rates;

(B) to provide greater liquidity and lending capacity in extending credit to farmers and ranchers; and

(C) to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding, including funds at fixed rates of interest; and

(4) to enhance the ability of individuals in small rural communities to obtain financing for moderate-priced homes.

SEC. 702. AGRICULTURAL MORTGAGE SECONDARY MARKET.

The Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding after title VII (as added by section 401 of this Act) the following new title:

"TITLE VIII—AGRICULTURAL MORTGAGE SECONDARY MARKET

"SEC. 8.0. DEFINITIONS.

"For purposes of this title:

"(1) AGRICULTURAL REAL ESTATE.—The term 'agricultural real estate' means—

"(A) a parcel or parcels of land, or a building or structure affixed to the parcel or parcels, that—

"(i) is used for the production of one or more agricultural commodities or products; and

"(ii) consists of a minimum acreage or is used in producing minimum annual receipts, as determined by the Corporation; or

"(B) a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding—

"(i) any community having a population in excess of 2,500 inhabitants; and

"(ii) any dwelling with a purchase price exceeding $100,000 (as adjusted for inflation).

"(2) BOARD.—The term 'Board' means—

"(A) the interim board of directors established in section 8.2(a); and

"(B) the permanent board of directors established in section 8.2(b);

as the case may be.

"(3) CERTIFIED FACILITY.—The term 'certified facility' means a secondary marketing agricultural loan facility that is certified under section 8.5.

"(4) CORPORATION.—The term 'Corporation' means the Federal Agricultural Mortgage Corporation established in section 8.1.

"(5) GUARANTEE.—The term 'guarantee' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans, in accordance with this title.

"(6) INTERIM BOARD.—The term 'interim board' means the interim board of directors established in section 8.2(a).

"(7) ORIGINATOR.—The term 'originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, association of agricultural producers, agricultural cooperative, commercial finance company, trust company, credit union, or other entity that originates and services agricultural mortgage loans.

"(8) PERMANENT BOARD.—The term 'permanent board' means the permanent board of directors established in section 8.2(b).

"(9) QUALIFIED LOAN.—The term 'qualified loan' means an obligation that—

"(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(B) is an obligation of—

"(i) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

"(ii) a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are individuals described in clause (i); and

"(C) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms.

"(10) STATE.—The term 'State' has the meaning given such term in section 5.51.

"SEC. 8.1. FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

"(2) INSTITUTION WITHIN FARM CREDIT SYSTEM.—The Corporation shall be an institution of the Farm Credit System.

"(3) LIABILITY.—

"(A) CORPORATION.—The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System.

"(B) SYSTEM INSTITUTIONS.—The Farm Credit System and System institutions (other than the Corporation) shall not be liable for any debt or obligation of the Corporation.

"(b) DUTIES.—The Corporation shall—

"(1) in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of guarantees for specific mortgage pools; and

"(3) provide guarantees for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified loans.

"SEC. 8.2. BOARD OF DIRECTORS.

"(a) INTERIM BOARD.—

"(1) NUMBER AND APPOINTMENT.—Until the permanent board of directors established in subsection (b) first meets with a quorum of its members present, the Corporation shall be under the management of an interim board of directors composed of 9 members appointed by the President within 90 days after the effective date of this title as follows:

"(A) 3 members appointed from among persons who are representatives of banks, other financial institutions or entities, and insurance companies.

"(B) 3 members appointed from among persons who are representatives of the Farm Credit System institutions.

"(C) 2 members appointed from among persons who are farmers or ranchers who are not serving, and have not served, as directors or officers of any financial institution or entity, of which not more than 1 may be a stockholder of any Farm Credit System institution.

"(D) 1 member appointed from among persons who represent the interests of the general public and are not serving, and have not served, as directors or officers of any financial institution or entity.

"(2) POLITICAL AFFILIATION.—Not more than 5 members of the interim board shall be of the same political party.

"(3) VACANCY.—A vacancy in the interim board shall be filled in the manner in which the original appointment was made.

"(4) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the interim board who was appointed to such board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from among persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative or becomes such a director or officer, as the case may be.

"(5) TERMS.—The members of the interim board shall be appointed for the life of such board.

"(6) QUORUM.—5 members of the interim board shall constitute a quorum.

"(7) CHAIRPERSON.—The President shall designate 1 of the members of the interim board as the chairperson of the interim board.

"(8) MEETINGS.—The interim board shall meet at the call of the chairperson or a majority of its members.

"(9) VOTING COMMON STOCK.—

"(A) INITIAL OFFERING.—Upon the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board shall arrange for an initial offering of common stock and shall take whatever other actions are necessary tk proceed with the operations of the Corporation.

"(B) PURCHASERS.—Subject to subparagraph (C), the voting common stock shall be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim board may adopt.

"(C) DISTRIBUTION.—The voting stock shall be fairly and broadly offered to ensure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class and that capital contributions and issuances of voting common stock for the contributions are fairly distributed between entities eligible to hold class A and class B stock, as provided under section 8.4.

"(10) TERMINATION.—The interim board shall terminate when the permanent board of directors established in subsection (b) first meets with a quorum present.

"(b) PERMANENT BOARD.—

"(1) ESTABLISHMENT.—Immediatehy after the date that banks, other financial institutions or entities, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Corporation, the Corporation shall arrange for the election and appointment of a permanent board of directors. After the termination of the interim board, the Corporation shall be under the management of the permanent board.

"(2) COMPOSITION.—The permanent board shall consist of 15 members, of which—

"(A) 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities;

"(B) 5 members shall be elected by holders of common stock that are Farm Credit System institutions; and

"(C) 5 members shall be appointed by the President, by and with the advice and consent of the Senate—

"(i) which members shall not be, or have been, officers or directors of any financial institutions or entities;

"(ii) which members shall be representatives of the general public;

"(iii) of which members not more than 3 shall be members of the same political party; and

"(iv) of which members at least 2 shall be experienced in farming or ranching.

"(3) PRESIDENTIAL APPOINTEES.—The President shall appoint the members of the permanent board referred to in paragraph (2)(C) not later than the later of—

"(A) the date referred to in paragraph (1); or

"(B) the expiration of the 270-day period beginning on the effective date of this title.

"(4) VACANCY.—

"(A) ELECTED MEMBERS.—Subject to paragraph (6), a vacancy among the members elected to the permanent board in the manner described in subparagraph (A) or (B) of paragraph (2) shall be filled by the permanent board from among persons eligible for election to the position for which the vacancy exists.

"(B) APPOINTED MEMBERS.—A vacancy among the members appointed to the permanent board under paragraph (2)(C) shall be filled in the manner in which the original appointment was made.

"(5) CONTINUATION OF MEMBERSHIP.—If—

"(A) any member of the permanent board who was appointed or elected to the permanent board from among persons who are representatives of banks, other financial institutions or entities, insurance companies, or Farm Credit System institutions ceases to be such a representative; or

"(B) any member who was appointed from persons who are not or have not been directors or officers of any financial institution or entity becomes a director or an officer of any financial institution or entity;

such member may continue as a member for not longer than the 45-day period beginning on the date such member ceases to be such a representative, officer, or employee or becomes such a director or officer, as the case may be.

"(6) TERMS.—

"(A) APPOINTED MEMBERS.—The members appointed by the President shall serve at the pleasure of the President.

"(B) ELECTED MEMBERS.—The members elected under subparagraphs (A) and (B) of subsection (b)(2) shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and shall serve until their successors are elected and qualified. Any seat on the permanent board that becomes vacant after the annual election of the directors shall be filled by the members of the permanent board from the same category of directors, but only for the unexpired portion of the term.

"(C) VACANCY APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term.

"(D) SERVICE AFTER EXPIRATION OF TERM.—A member may serve after the expiration of the term of the member until the successor of the member has taken office.

"(7) QUORUM.—8 members of the permanent board shall constitute a quorum.

"(8) NO ADDITIONAL PAY FOR FEDERAL OFFICERS OR EMPLOYEES.—Members of the permanent board who are fulltime officers or employees of the United States shall receive no additional pay by reason of service on the permanent board.

"(9) CHAIRPERSON.—The President shall designate 1 of the members of the permanent board who are appointed by the President as the chairperson of the permanent board.

"(10) MEETINGS.—The permanent board shall meet at the call of the chairperson or a majority of its members.

"(c) OFFICERS AND STAFF.—The Board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the Board determines to be appropriate.

"SEC. 8.3. POWERS AND DUTIES OF CORPORATION AND BOARD.

"(a) GUARANTEES.—After the Board has been duly constituted, subject to the other provisions of this title and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

"(b) DUTIES OF THE BOARD.—

"(1) IN GENERAL.—The Board shall—

"(A) determine the general policies that shall govern the operations of the Corporation;

"(B) select, appoint, and determine the compensation of qualified persons to fill such offices as may be provided for in the bylaws of the Corporation; and

"(C) assign to such persons such executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or by the Board.

"(2) EXECUTIVE OFFICERS AND FUNCTIONS.—The persons elected or appointed under paragraph (1)(B) shall be the executive officers of the Corporation and shall discharge the executive functions, powers, and duties of the Corporation.

"(c) POWERS OF THE CORPORATION.—The Corporation shall be a body corporate and shall have the following powers:

"(1) To operate under the direction of its Board.

"(2) To issue stock in the manner provided in section 8.4.

"(3) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(4) To provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons.

"(5) To provide guarantees in the manner provided under section 8.6.

"(6) To have succession until dissolved by a law enacted by the Congress.

"(7) To prescribe bylaws, through the Board, not inconsistent with law, that shall provide for—

"(A) the classes of the stock of the Corporation; and

"(B) the manner in which—

"(i) the stock shall be issued, transferred, and retired;

"(ii) the officers, employees, and agents of the Corporation are selected;

"(iii) the property of the Corporation is acquired, held, and transferred;

"(iv) the commitments and other financial assistance of the Corporation are made;

"(v) the general business of the Corporation is conducted; and

"(vi) the privileges granted by law to the Corporation are exercised and enjoyed;

"(8) To prescribe such standards as may be necessary to carry out this title.

"(9) To enter into contracts and make payments with respect to the contracts.

"(10) To sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

"(11) To make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System.

"(12) To acquire, hold, lease, mortgage or dispose of, at public or private sale, real and personal property, purchase or sell any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to the business of the Corporation.

"(13) To exercise such other incidental powers as are necessary to carry out the powers, duties, and functions of the Corporation in accordance with this title.

"(d) FEDERAL RESERVE BANKS AS DEPOSITARIES AND FISCAL AGENTS.—The Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation.

"(e) ACCESS TO BOOK-ENTRY SYSTEM.—The Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System.

"SEC. 8.4. STOCK ISSUANCE.

"(a) VOTING COMMON STOCK.—

"(1) ISSUE.—The Corporation shall issue voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors. Voting shall be by classes as described in section 8.2(a)(9). The stock shall be divided into two classes with the same par value per share. Class A stock may be held only by entities that are not Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(A). Class B stock may be held only by Farm Credit System institutions that are entitled to vote for directors specified in section 8.2(b)(2)(B).

"(2) LIMITATION ON ISSUE.—After the date the permanent board first meets with a quorum of its members present, voting common stock of the Corporation may be issued only to originators and certified facilities.

"(3) AUTHORITY OF BOARD TO ESTABLISH TERMS AND PROCEDURES.—The Board shall adopt such terms, conditions, and procedures with regard to the issue of stock under this section as may be necessary, including the establishment of a maximum amount limitation on the number of shares of voting common stock that may be outstanding at any time.

"(4) TRANSFERABILITY.—Subject to such limitations as the Board may impose, any share of any class of voting common stock issued under this section shall be transferable among the institutions or entities to which shares of such class of common stock may be offered under paragraph (1), except that, as to the Corporation, such shares shall be transferable only on the books of the Corporation.

"(5) MAXIMUM NUMBER OF SHARES.—No stockholder, other than a holder of class B stock, may own, directly or indirectly, more than 33 percent of the outstanding shares of such class of the voting common stock of the Corporation.

"(b) REQUIRED CAPITAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Corporation may require each originator and each certified facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation.

"(2) STOCK ISSUED AS CONSIDERATION FOR CONTRIBUTION.—The Corporation, from time to time, shall issue to each originator or certified facility voting common stock evidencing any capital contributions made pursuant to this subsection.

"(c) DIVIDENDS.—

"(1) IN GENERAL.—Such dividends as may be declared by the Board, in the discretion of the Board, shall be paid by the Corporation to the holders of the voting common stock of the Corporation pro rata based on the total number of shares of both classes of stock outstanding.

"(2) RESERVES REQUIREMENT.—No dividend may be declared or paid by the Board under this section unless the Board determines that adequate provision has been made for the reserve required under section 8.10(c)(1).

"(3) DIVIDENDS PROHIBITED WHILE OBLIGATIONS ARE OUTSTANDING.—No dividend may be declared or paid by the Board under this section while any obligation issued by the Corporation to the Secretary of the Treasury under section 8.13 remains outstanding.

"(d) NONVOTING COMMON STOCK.—The Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the Board from time to time. Such nonvoting common stock shall be freely transferable, except that, as to the Corporation, such stock shall be transferable only on the books of the Corporation. Such dividends as may be declared by the Board, in the discretion of the Board, may be paid by the Corporation to the holders of the nonvoting common stock of the Corporation, subject to paragraphs (2) and (3) of subsection (c).

"(e) PREFERRED STOCK.—

"(1) AUTHORITY OF BOARD.—The Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Such preferred stock issued shall be freely transferable, except that, as to the Corporation, such stock shall be transferred only on the books of the Association.

"(2) RIGHTS OF PREFERRED STOCK.—Subject to paragraphs (2) and (3) of subsection (c), the holders of the preferred stock shall be entitled to such rate of cumulative dividends, and such holders shall be subject to such redemption or other conversion provisions, as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

"(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock shall be paid in full at the par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

"SEC. 8.5. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.

"(a) ELIGIBILITY STANDARDS.—

"(1) ESTABLISHMENT REQUIRED.—Within 120 days after the date on which the permanent board first meets with a quorum present, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities, including eligibility standards in accordance with paragraph (2).

"(2) MINIMUM REQUIREMENTS.—To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

"(B) meet or exceed capital standards established by the Board;

"(C) have as one of the purposes of the facility, the sale or resale of securities representing interests in, or obligations backed by, pools of qualified loans that have been provided guarantees by the Corporation;

"(D) demonstrate managerial ability with respect to agricultural mortgage loan underwriting, servicing, and marketing that is acceptable to the Corporation;

"(E) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the Board;

"(F) for purposes of enabling the Corporation to examine the facility, agree to allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation that are necessary to facilitate an examination of the operations of the facility in connection with securities, and the pools of qualified loans that back securities, for which the Corporation has provided guarantees; and

"(G) adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation.

"(3) NONDISCRIMINATION REQUIREMENT.—The standards established under this subsection shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

"(b) CERTIFICATION BY CORPORATION.—Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards established by the Corporation under subsection (a)(1).

"(c) MAXIMUM TIME PERIOD FOR CERTIFICATION.—Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

"(d) REVOCATION.—

"(1) IN GENERAL.— After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility no longer meets the standards referred to in subsection (a).

"(2) EFFECT OF REVOCATION.—Revocation of a certification shall not affect any pool guarantee that has been issued by the Corporation.

"(e) AFFILIATION OF FCS INSTITUTIONS WITH FACILITY.—

"(1) ESTABLISHMENT OF AFFILIATE AUTHORIZED.—Notwithstanding any other provision of this Act, any Farm Credit System institution (other than the Corporation), acting for

such institution alone or in conjunction with one or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage marketing facility if, within a reasonable time after such establishment, such facility obtains and thereafter retains certification under subsection (b) as a certified facility.

"(2) EXCLUSIVE AGENCY AGREEMENT AUTHORIZED.—Any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate established under paragraph (1) to sell the qualified loans of such institutions exclusively to or through the facility.

"SEC. 8.6. GUARANTEE OF QUALIFIED LOANS.

"(a) GUARANTEE AUTHORIZED FOR CERTIFIED FACILITIES.—

"(1) IN GENERAL.—Subject to the requirements of this section and on such other terms and conditions as the Corporation shall consider appropriate, the Corporation shall guarantee the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility.

"(2) INABILITY OF FACILITY TO PAY.—If the facility is unable to make any payment of principal or interest on any security for which a guarantee has been provided by the Corporation under paragraph (1), subject to the provisions of subsection (b) the Corporation shall make such payment as and when due in cash, and on such payment shall be subrogated fully to the rights satisfied by such payment.

"(3) POWER OF CORPORATION.—Notwithstanding any other provision of law, the Corporation is empowered, in connection with any guarantee under this subsection, whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgages constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such pool shall become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by such pool.

"(b) RESERVE OR SUBORDINATED PARTICIPATION REQUIREMENTS.—In the case of any pool referred to in subsection (a), the Corporation shall—

"(1) provide a guarantee only with respect to an individual pool of qualified loans on application of a certified facility;

"(2) provide a guarantee only if a reserve, or retained subordinated participating interests, in an amount equal to at least 10 percent of the outstanding principal amount of the loans constituting the pool has been established in accordance with this title;

"(3) require that full recourse be taken against reserves and retained subordinated participating interests before any demand be made by the certified facility with respect to the guarantee of the Corporation; and

"(4) ensure the timely receipt of principal and interest due to security or obligation holders only after full recourse has been taken against such reserves and retained subordinated participating interests.

"(c) STANDARDS REQUIRING DIVERSIFIED POOLS.—

"(1) IN GENERAL.—To reduce the risks incurred by the Corporation in providing guarantees under this section and to further the purposes of this title, the Board shall establish standards governing the composition of each pool of qualified loans (in connection with which such guarantees are provided) over the period during which the commitment to provide guarantees is effective.

"(2) MINIMUM CRITERIA.—The standards established by the Board pursuant to paragraph (1) for pools of qualified loans shall, at a minimum—

"(A) require that each pool consist of loans that—

"(i) are secured by agricultural real estate that is widely distributed geographically;

"(ii) vary widely in terms of amounts of principal; and

"(iii) in the case of land used in the production of agricultural commodities, are secured by agricultural real estate that, in the aggregate, is used to produce a wide range of agricultural commodities;

"(B) prohibit the inclusion in any such pool of—

"(i) any loan the principal amount of which exceeds 3.5 percent of the aggregate amount of principal of all loans in such pool; and

"(ii) 2 or more loans to related borrowers; and

"(C) require that each pool consist of not less than 50 loans.

"(3) SMALL FARMS AND FAMILY FARMERS.—In establishing the standards described in paragraph (2)(A)(ii), the Board shall include provisions that promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified loans.

"(4) CONGRESSIONAL REVIEW.—No standard prescribed under this subsection shall take effect before the later of—

"(A) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to Congress; or

"(B) the end of a period consisting of 90 calendar days and beginning on such date.

"(d) OTHER RESPONSIBILITIES OF AND LIMITATIONS ON CERTIFIED FACILITIES.—As a condition for providing any guarantees under this section for securities issued by a certified facility that represent interests in, or obligations backed by, any pool of qualified loans, the Corporation shall require such facility to agree to comply with the following requirements:

"(1) LOAN DEFAULT RESOLUTION.—The facility shall act in accordance with the standards of a prudent institutional lender to resolve loan defaults.

"(2) SUBROGATION OF UNITED STATES AND CORPORATION TO INTERESTS OF FACILITY.—The proceeds of any collateral, judgments, settlements, or guarantees received by the facility with respect to any loan in such pool, shall be applied, after payment of costs of collection—

"(A) first, to reduce the amount of any principal outstanding on any obligation of the Corporation that was purchased by the Secretary of the Treasury under section 8.13 to the extent the proceeds of such obligation were used to make guarantees in connection with such securities; and

"(B) second, to reimburse the Corporation for any such guarantee payments.

"(3) LOAN SERVICING.—The originator of any loan in such pool shall be permitted to retain the right to service the loan.

"(4) LOANS WITH RECOURSE TO ORIGINATOR PROHIBITED.—Each loan in the pool shall have been sold to the certified facility without recourse to the originator of such loan (other than recourse to any interest of such originator in a reserve established in connection with such loan or any subordinated participation interest of such originator in such loan).

"(5) COMPLIANCE WITH DIVERSIFIED POOL STANDARDS.—The facility shall comply with the standards adopted by the Board under subsection (c) in establishing and maintaining the pool.

"(6) MINORITY PARTICIPATION IN PUBLIC OFFERINGS.—The facility shall take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

"(7) NO DISCRIMINATION AGAINST STATES WITH BORROWERS RIGHTS.—The facility may not refuse to purchase qualified loans originating in States that have established borrowers rights laws either by statute or under the constitution of such States, except that the facility may require discounts or charge fees reasonably related to costs and expenses arising from such statutes or constitutional provisions.

"(e) ADDITIONAL AUTHORITY OF THE BOARD.—To ensure the liquidity of securities for which guarantees have been provided under this section, the Board shall adopt appropriate standards regarding—

"(1) the characteristics of any pool of qualified loans serving as collateral for such securities;

"(2) registration requirements (if any) with respect to such securities; and

"(3) transfer requirements.

"(f) AGGREGATE PRINCIPAL AMOUNTS OF QUALIFIED LOANS.—

"(1) INITIAL YEAR.—During the first year after the effective date of this title, the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an aggregate principal amount in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all Farmers Home Administration agricultural real estate debt.

"(2) SECOND YEAR.—During the year following the year referred to in paragraph (1), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(3) THIRD YEAR.—During the year following the year referred to in paragraph (2), the Corporation may not provide guarantees for securities representing interests in, or obligations backed by, qualified loans (other than loans which back securities issued by Farm Credit System institutions for which the Corporation provides a guarantee) in an additional principal amount in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all Farmers Home Administration agricultural real estate debt.

"(4) SUBSEQUENT YEARS.—In years subsequent to the year referred to in paragraph

(3), the Corporation may provide guarantees without regard to the principal amount of the qualified loans guaranteed.

"SEC. 8.7. RESERVES AND SUBORDINATED PARTICIPATION INTERESTS OF CERTIFIED FACILITIES.

"(a) CASH CONTRIBUTIONS.—

"(1) CONTRIBUTIONS BY ORIGINATORS.—For each pool of loans, a certified facility and the participating originators may each contribute a share of the minimum reserve required under section 8.6(b)(2).

"(2) COMPOSITION OF RESERVES.—The reserves required under this section, other than retained subordinated participation interests, shall be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency or instrumentality of the United States Government.

"(3) USE AND DISPOSITION OF ASSETS IN RESERVE.—Subject to the requirements of subsection (c), any certified facility that establishes a reserve pursuant to this subsection shall be required by the Corporation to maintain such reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on such amounts) to ensure the repayment of principal of, and the payment of interest on, the securities representing an interest in, or obligations backed by, the pool of qualified loans with respect to which such reserve is established.

"(b) RETENTION OF SUBORDINATED PARTICIPATION INTERESTS.—

"(1) IN GENERAL.—A certified facility may meet the requirements of section 8.6(b)(2) with respect to any pool of qualified loans by retaining a subordinated participation interest in each loan included in each such pool in an amount not less than the amount that is equal to 10 percent of the principal amount of such loan.

"(2) RETENTION OF SUCH INTERESTS BY LOAN ORIGINATORS.—Under the terms of the sale of any qualified loan by the originator of such loan to a certified facility, the originator of such loan may agree to retain a subordinated participation interest in such loan and the amount of the subordinated interest so retained by such loan originator shall be attributed to the facility for purposes of determining whether the requirements of paragraph (1) have been met.

"(3) DISTRIBUTION RIGHTS OF HOLDERS OF SUBORDINATED INTERESTS.—The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"(c) ADDITIONAL REQUIREMENTS RELATING TO SECTION 8.6(b)(2) RESERVES.—

"(1) DISTRIBUTION OF EARNINGS ACCRUING IN SECTION 8.6(b)(2) RESERVES.—In the case of each applicable loan pool, a certified facility shall distribute to originators, at least semiannually, any earnings on the contributions of the originators to the reserve.

"(2) EXCEPTION FOR WITHDRAWALS THAT WOULD DECREASE RESERVE LEVELS BELOW RESERVE REQUIREMENT.—No withdrawal and distribution authorized under paragraph (1) may be made to the extent such withdrawal would cause the reserve to fall below the amount required to be held in such reserve under section 8.6(b)(2).

"(3) SEPARATE LOAN LOSS ACCOUNTING.—Any certified facility that maintains a reserve (pursuant to section 8.6(b)(2)) to which any originator has contributed shall maintain separate loan loss accounting for each loan for which a contribution was made by such originator to such reserve.

"(4) LOAN LOSS ATTRIBUTION RULE.—Except for that portion of losses absorbed by a contribution of a certified facility to the reserve as provided in subsection (a)(1), each originator participating in the pool shall absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool.

"(d) AUTHORITY OF BOARD TO ESTABLISH OTHER POLICIES AND PROCEDURES.—The Board may establish such other policies and procedures with respect to—

"(1) the establishment of reserves and the retention of subordinated participation interests under this section; and

"(2) the manner in which such reserves or interests shall be available to make payments of interest on, and repayments of principal of, securities for which the Corporation has provided guarantees, as the Board determines to be necessary or appropriate to carry out the purposes of this title.

"SEC. 8.8. STANDARDS FOR QUALIFIED LOANS.

"(a) STANDARDS.—Not later than 120 days after the appointment and election of the Board, the Corporation, in consultation with originators, shall establish uniform underwriting, security appraisal, and repayment standards for qualified loans. In establishing standards for qualified loans, the Corporation shall confine corporate operations, so far as practicable, to mortgage loans that are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors.

"(b) MINIMUM CRITERIA.—To further the purpose of this title to provide a new source of long-term fixed rate financing to assist farmers and ranchers to purchase agricultural real estate, the standards established by the Board pursuant to subsection (a) shall, at a minimum—

"(1) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

"(2) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

"(3) contain sufficient documentation standards;

"(4) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans;

"(5) contain adequate standards to ensure that the borrower is or will be actively engaged in agricultural production, and require the borrower to certify to the originator that the borrower intends to continue agricultural production on the site involved;

"(6) minimize speculation in agricultural real estate for nonagricultural purposes; and

"(7) in establishing the value of agricultural real estate, consider the purpose for which the real estate is taxed.

"(c) LOAN AMOUNT LIMITATION.—

"(1) IN GENERAL.—A loan may not be treated as a qualified loan if the principal amount of such loan exceeds $2,500,000, adjusted for inflation, except as provided in paragraph (2).

"(2) ACREAGE EXCEPTION.—Paragraph (1) shall not apply with respect to any agricultural mortgage loan described in such paragraph if such loan is secured by agricultural real estate that, in the aggregate, comprises not more than 1,000 acres.

"(d) CONGRESSIONAL REVIEW.—No standard prescribed under subsection (a) shall take effect before the later of—

"(1) the end of a period consisting of 30 legislative days and beginning on the date such standards are submitted to the Congress; or

"(2) the end of a period consisting of 90 calendar days and beginning on such date.

"(e) NONDISCRIMINATION REQUIREMENT.—The standards established under subsection (a) shall not discriminate against small originators or small agricultural mortgage loans that are at least $50,000.

"SEC. 8.9. EXEMPTION FROM RESTRUCTURING AND BORROWERS RIGHTS PROVISIONS FOR POOLED LOANS.

"(a) RESTRUCTURING.—Notwithstanding any other provision of law, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply to ajy loan included in a pool of qualified loans backing securities or obligations for which the Corporation provides guarantee. The loan servicing standards established by the Corporation shall be patterned after similar standards adopted by other federally sponsored secondary market facilities.

"(b) BORROWERS RIGHTS.—At the time of application for a loan, originators that are Farm Credit System institutions shall give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice shall include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37 shall not apply. This notice also shall inform the applicant that he or she has the right not to have the loan pooled. Within 3 days from the time of commitment, an applicant has the right to refuse to allow the loan to be pooled, thereby retaining rights under sections 4.14, 4.14A, 4.14B, 4.14C, and 4.37, if applicable.

"SEC. 8.10. FUNDING FOR GUARANTEE; RESERVES OF CORPORATION.

"(a) GUARANTEE.—The Corporation shall provide guarantees for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantees.

"(b) GUARANTEE FEES.—

"(1) INITIAL FEE.—At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than 1/2 of 1 percent of the initial principal amount of each pool of qualified loans.

"(2) ANNUAL FEES.—Beginning in the second year after the date the guarantee is issued under paragraph (1), the Corporation may, at the end of each year, assess the certified facility an annual fee of not more than 1/2 of 1 percent of the principal amount of the loans then constituting the pool.

"(3) DETERMINATION OF AMOUNT.—The Corporation shall establish such fees on the amount of risk incurred by the Corporation in providing the guarantees with respect to which such fee is assessed, as determined by the Corporation. Fees assessed under paragraphs (1) and (2) shall be established on an actuarially sound basis.

"(4) ANNUAL REVIEW BY GAO.—The Comptroller General of the United States shall annually review, and submit to the Congress a report regarding, the actuarial soundness and reasonableness of the fees established by the Corporation under this subsection.

"(c) CORPORATION RESERVE AGAINST GUARANTEES LOSSES REQUIRED.—

"(1) IN GENERAL.—So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as a reserve against losses arising out of the guarantee activities of the Corporation.

"(2) EXHAUSTION OF RESERVE REQUIRED.—The Corporation may not issue obligations to the Secretary of the Treasury under section 8.13 in order to meet the obligations of the Corporation with respect to any guarantees provided under this title until the reserve established under paragraph (1) has been exhausted.

"(d) FEES TO COVER ADMINISTRATIVE COSTS AUTHORIZED.—The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this title to recover its costs for performing such administration.

"SEC. 8.11. SUPERVISION, EXAMINATION, AND REPORT OF CONDITION.

"(a) REGULATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation shall be confined to—

"(A) providing for the examination of the condition of the Corporation; and

"(B) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by this title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V.

"(2) CONSIDERATIONS.—In exercising its authority pursuant to this section, the Farm Credit Administration shall consider—

"(A) the purposes for which the Corporation was created;

"(B) the practices appropriate to the conduct of secondary markets in agricultural loans; and

"(C) the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) EXAMINATIONS AND AUDITS.—

"(1) IN GENERAL.—The financial transactions of the Corporation shall be examined by examiners of the Farm Credit Administration in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Administration.

"(2) FREQUENCY.—The examinations shall occur at such times as the Farm Credit Administration Board may determine, but in no event less than once each year.

"(3) ACCESS.—The examiners shall—

"(A) have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit; and

"(B) be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

"(c) ANNUAL REPORT OF CONDITION.—The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each report shall contain financial statements prepared in accordance with generally accepted accounting principles and contain such additional information as the Farm Credit Administration may by regulation prescribe. The financial statements of the Corporation shall be audited by an independent public accountant.

"(d) FCA ASSESSMENTS TO COVER COSTS.—The Farm Credit Administration shall assess the Corporation for the cost to the Administration of any regulatory activities conducted under this section, including the cost of any examination.

"SEC. 8.12. SECURITIES IN CREDIT ENHANCED POOLS.

"(a) FEDERAL LAWS.—

"(1) APPLICABILITY OF CERTAIN FEDERAL SECURITIES LAWS.—For purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified loans for which guarantees have been provided by the Corporation shall be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No such security shall be deemed to be a 'government security' for purposes of the Securities Exchange Act of 1934 or for purposes of the Investment Company Act of 1940.

"(2) NO FULL FAITH AND CREDIT OF THE UNITED STATES.—Each security for which credit enhancement has been provided by the Corporation shall clearly indicate that the security is not an obligation of, and is not guaranteed as to principal or interest by, the Farm Credit Administration, the United States, or any other agency or instrumentality of the United States (other than the Corporation).

"(b) STATE SECURITIES LAWS.—

"(1) GENERAL EXEMPTION.—Any security or obligation that has been provided a guarantee by the Corporation shall be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States.

"(2) STATE OVERRIDE.—The provisions of paragraph (1) shall not be applicable to any State that, during the 8-year period beginning on the effective date of this title, enacts a law that—

"(A) specifically refers to this subsection; and

"(B) expressly provides that paragraph (1) shall not apply to the State.

"(c) AUTHORIZED INVESTMENTS.—

"(1) IN GENERAL.—Securities representing an interest in, or obligations backed by, pools of qualified loans with respect to which the Corporation has provided a guarantee shall be authorized investments of any person, trust, corporation, partnership, association, business trust, or business entity created pursuant to or existing under the laws of the United States or any State to the same extent that the person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States. Such securities or obligations may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any State or any officers of either.

"(2) STATE LIMITATIONS ON PURCHASE, HOLDING, OR INVESTMENT.—If State law limits the purchase, holding, or investment in obligations issued by the United States by the person, trust, corporation, partnership, association, business trust, corporation, partnership, association, business trust, or business entity, securities or obligations of a certified facility issued on which the Corporation has provided a guarantee shall be considered to be obligations issued by the United States for purposes of the limitation.

"(3) NONAPPLICABILITY OF PROVISIONS.—

"(A) SUBSEQUENT STATE LAW.—Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, in any State that, prior to the expiration of the 8-year period beginning on the date of the enactment of this title, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in the securities by any person, trust, corporation, partnership, association, business trust, or business entity, or class thereof, than is provided in paragraphs (1) and (2).

"(B) EFFECT OF SUBSEQUENT STATE LAW.—The enactment by any State of a law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to the effective date of the law and shall not require the sale or other disposition of any securities acquired prior to the effective date of the law.

"(d) STATE USURY LAWS SUPERSEDED.—Any provision of the constitution or law of any State which expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities shall not apply to any agricultural loan made by an originator or a certified facility in accordance with this title that is included in a pool for which the Corporation has provided a guarantee.

"SEC. 8.13. AUTHORITY TO ISSUE OBLIGATIONS TO COVER GUARANTEE LOSSES OF CORPORATION.

"(a) SALE OF OBLIGATIONS TO TREASURY.—

"(1) IN GENERAL.—Subject to the limitations contained in sections 8.6(b) and 8.10(c) and the requirement of paragraph (2), the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation solely for the purpose of fulfilling the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(2) CERTIFICATION.—The Secretary of the Treasury may purchase obligations of the Corporation under paragraph (1) only if the Corporation certifies to the Secretary that—

"(A) the requirements of sections 8.6(b) and 8.10(c) have been fulfilled; and

"(B) the proceeds of the sale of such obligations are needed to fulfill the obligations of the Corporation under any guarantee provided by the Corporation under this title.

"(b) EXPEDITIOUS TRANSACTION REQUIRED.—Not later than 10 business days after receipt by the Secretary of the Treasury of any certification by the Corporation under subsection (a)(2), the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the guarantee liabilities of the Corporation.

"(c) LIMITATION ON AMOUNT OF OUTSTANDING OBLIGATIONS.—The aggregate amount of obligations issued by the Corporation under subsection (a)(1) which may be held by the Secretary of the Treasury at any time (as determined by the Secretary) shall not exceed $1,500,000,000.

"(d) TERMS OF OBLIGATION.—

"(1) INTEREST.—Each obligation purchased by the Secretary of the Treasury shall bear

interest at a rate determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation.

"(2) REDEMPTION.—The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time.

"(e) COORDINATION WITH TITLE 31, UNITED STATES CODE.—

"(1) AUTHORITY TO USE PROCEEDS FROM SALE OF TREASURY SECURITIES.—For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale by the Secretary of any securities issued under chapter 31, of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases.

"(2) TREATMENT OF TRANSACTIONS.—All purchases and sales by the Secretary of the Treasury of obligations issued by the Corporation under this section shall be treated as public debt transactions of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Treasury $1,500,000,000, without fiscal year limitation, to carry out the purposes of this title.

"SEC. 8.14. FEDERAL JURISDICTION.

"Notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

"(1) The Corporation shall be considered an agency under sections 1345 and 1442 of such title.

"(2) All civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States and, to the extent applicable, shall be deemed to be governed by Federal common law. The district courts of the United States shall have original jurisdiction of all such actions, without regard to amount of value.

"(3) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party may at any time before trial be removed by the Corporation, without the giving of any bond or security—

"(A) to the District Court of the United States for the district and division embracing the place where the same is pending; or

"(B) if there is no such district court, to the District Court of the United States for the district in which the principal office of the Corporation is located;

by following any procedure for removal for causes in effect at the time of such removal.

"(4) No attachment or execution shall be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court.".

SEC. 703. GAO AUDIT OF FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 9105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) FEDERAL AGRICULTURAL MORTGAGE CORPORATION.—

"(A) AUDITS AUTHORIZED.—Notwithstanding any other provision of law and under such regulations as the Comptroller General may prescribe, the Comptroller General shall perform a financial audit of the Federal Agricultural Mortgage Corporation on whatever basis the Comptroller General determines to be necessary.

"(B) COOPERATION OF CORPORATION REQUIRED.—The Federal Agricultural Mortgage Corporation shall—

"(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

"(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depositary, fiscal agent, or custodian.".

SEC. 704. GAO STUDIES.

(a) STUDIES REQUIRED.—The Comptroller General of the United States shall conduct studies of the following:

(1) The implementation of the amendments made by this title by the Federal Agricultural Mortgage Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and other lenders, and the capital markets.

(2) The feasibility and appropriateness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which a guarantee has not been provided by the Federal Agricultural Mortgage Corporation.

(3) The feasibility of expanding the authority granted under the amendments made by this title to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses. For purposes of the preceding sentence, the term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers.

(b) SUBMISSION OF REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report on the studies required by subsection (a), including therein such recommendations for administrative action and legislation as may be appropriate.

SEC. 705. CONFORMING AMENDMENTS.

(a) FEDERAL LAND BANKS.—Section 1.4 (12 U.S.C. 2012) is amended by adding at the end thereof the following new paragraph:

"(23) Operate as an originator and to become certified as a certified facility under title VIII.".

(b) FEDERAL LAND BANK ASSOCIATIONS.—Section 1.15 (12 U.S.C. 2033) is amended by adding at the end thereof the following new paragraph:

"(22) Operate as an originator and to become certified as a certified facility under title VIII.".

(c) FEDERAL INTERMEDIATE CREDIT BANKS.—Section 2.1 (12 U.S.C. 2072) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

(d) PRODUCTION CREDIT ASSOCIATIONS.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end thereof the following new paragraph:

"(21) Operate as an originator and to become certified as a certified facility under title VIII.".

Subtitle B—Farmers Home Administration Loans

SEC. 711. IMPROVEMENT OF SECONDARY MARKET OPERATIONS FOR LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end thereof the following:

"(f)(1)(A) The guaranteed portion of any loan made under this title may be sold by the lender, and by any subsequent holder, in accordance with regulations governing such sales as the Secretary shall establish, subject to the following limitations:

"(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

"(ii) The loan is to have been fully disbursed to the borrower before the sale.

"(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

"(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

"(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this title, or to impede or extinguish the rights of any party under any provision of this title.

"(2)(A) The Secretary may, directly or through a market maker approved by the Secretary, issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this title. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

"(B) The Secretary may, on such terms and conditions as the Secretary deems appropriate, guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

"(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection. The Secretary may expend amounts in the Agricultural Credit Insurance Fund to make payments on such guarantees.

"(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

"(E) Within 30 days after a borrower of a guaranteed loan is in default of any principal or interest payment due for 60 days or more, the Secretary shall—

"(i) purchase the pool certificates representing ownership of the guaranteed portion of the loan; and

"(ii) pay the registered holder of the certificates an amount equal to the guaranteed portion of the loan represented by the certificate.

"(F)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment, as may be provided by the Secretary.

"(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

"(3) On the adoption of final rules and regulations, the Secretary shall do the following:

"(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

"(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this title and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term 'seller' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

"(C) Provide for adequate custody of any pooled guaranteed loans.

"(D) Take such actions as are necessary, in restructuring pools of the guaranteed portion of loans, to minimize the estimated costs of paying claims under guarantees issued under this subsection.

"(E) Require each market maker—

"(i) to service all pools formed, and participations sold, by the market maker; and

"(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

"(E) Regulate market makers in pool certificates sold under this subsection.

"(4)(A) Not later than March 31 of each year, the Secretary shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the secondary market operations under this subsection during the preceding calendar year.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market and the distribution of such loans by size of loan, interest rate, and premiums;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed or variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess farmers' access to capital at reasonable rates and terms as a result of secondary market operations.".

(b) REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Secretary shall develop and promulgate final regulations to implement this section and the amendment made by this section.

(c) POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT.—The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) of the Consolidated Farm and Rural Development Act, as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.

TITLE VIII—MISCELLANEOUS

SEC. 801. OWNERSHIP REQUIREMENT UNDER THE CONSERVATION RESERVE PROGRAM.

Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or" and

(3) by adding at the end thereof the following new subparagraph:

"(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.".

SEC. 802. REPEAL OF PREAPPROVAL AND RELATED AUTHORITIES.

(a) APPROVAL OF AMENDMENTS TO FEDERAL LAND BANK CHARTERS.—Section 1.3 (12 U.S.C. 2011) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal land banks.".

(b) FEDERAL LAND BANK POWERS.—Section 1.4 (12 U.S.C. 2012) is amended—

(1) in paragraph (15), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of";

(2) in paragraph (21), by striking out "as" and by inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be"; and

(3) in paragraph (22), by striking out "and approved by the Farm Credit Administration".

(c) LAND BANK STOCK.—Section 1.5 (12 U.S.C. 2013) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (f), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors of the bank".

(d) SECURITY FOR FEDERAL LAND BANK LOANS.—Section 1.9 (12 U.S.C. 2017) is amended—

(1) in the first sentence, by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in the second sentence, by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(e) FCA AUTHORITY OVER FEDERAL LAND BANK ASSOCIATIONS.—The last sentence of section 1.13 (12 U.S.C. 2031) is amended—

(1) by striking out "or by approving bylaws of the association,";

(2) by striking out "direct at any time changes in" and inserting in lieu thereof "approve amendments to"; and

(3) by striking out "as" and all that follows through "Act".

(f) LAND BANK RESERVES.—Section 1.17 (12 U.S.C. 2051) is amended—

(1) in subsection (a), by inserting "regulations of" before "the Farm Credit Administration"; and

(2) in subsection (b)—

(A) by striking out "(1)"; and

(B) by striking out "hereof, and (2) the approval of the Farm Credit Administration".

(g) ASSOCIATION RESERVES.—Section 1.18(a) (12 U.S.C. 2052(a)) is amended by inserting "regulations of" before "the Farm Credit Administration".

(h) FEDERAL INTERMEDIATE CREDIT BANK, ESTABLISHMENT.—Section 2.0 (12 U.S.C. 2017) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal intermediate credit banks.".

(i) FEDERAL INTERMEDIATE CREDIT BANK, CORPORATE POWERS.—Section 2.1 (12 U.S.C. 2018) is amended—

(1) in paragraph (13), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of"; and

(2) in paragraph (18), by striking out "and approved by the Farm Credit Administration".

(j) FEDERAL INTERMEDIATE CREDIT BANK, STOCK.—Section 2.2 (12 U.S.C. 2019) is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,"; and

(C) in the first sentence of the fourth paragraph, by striking out "under" and inserting in lieu thereof "in accordance with".

(k) NET EARNINGS.—The second sentence of section 2.6(c) (12 U.S.C. 2077(a)) is amended—

(1) by striking out "approved" and inserting in lieu thereof "established"; and

(2) by inserting after "Administration" the following "in regulations".

(l) PRODUCTION CREDIT ASSOCIATIONS, CHARTER.—The last sentence of section 2.10 (12 U.S.C. 2019) is amended—

(1) by striking out "or by approval of bylaws of the association,"; and

(2) by striking out "direct" and all that follows through the period and inserting in lieu thereof "approve amendments to the charter of such association.".

(m) BANKS FOR COOPERATIVES, ESTABLISHMENT.—Section 3.0 (12 U.S.C. 2121) is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters and organizational certificates of banks for cooperatives.".

(n) BANKS FOR COOPERATIVES, CORPORATION.—Section 3.1 (12 U.S.C. 2122) is amended by striking out "and approved by the Farm Credit Administration" each place it appears.

(o) BANKS FOR COOPERATIVES, STOCK.—Section 3.3 (12 U.S.C. 2124) is amended—

(1) in subsection (a), by striking out ", with the approval of the Farm Credit Administration,";

(2) in subsection (b), by striking out "with the approval of the Farm Credit Administration"; and

(3) in subsection (e), by striking out "and approved by the Farm Credit Administration".

(p) BANKS FOR COOPERATIVES, RETIREMENT OF STOCK.—Section 3.5 (12 U.S.C. 2125) is amended by striking out "with approval of the Farm Credit Administration".

(q) OWNERSHIP OF STOCK.—Section 3.9(a) (12 U.S.C. 2130(a)) is amended—

(1) in the first sentence, by striking out "with the approval of the Farm Credit Administration";

(2) in the second sentence, by striking out ", with the approval of the Farm Credit Administration,"; and

(3) in the third sentence, by striking out "as may be approved by the Farm Credit Administration".

(r) EARNINGS AND RESERVES.—Section 3.11 (12 U.S.C. 2131) is amended—

(1) in subsection (b), by striking out "as may be approved by the Farm Credit Administration";

(2) in subsection (c), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors"; and

(3) in subsection (d), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors".

(s) POWERS OF THE FARM CREDIT ADMINISTRATION.—Section 4.26 (12 U.S.C. 2212) is amended—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation";

(2) by striking out "direct at any time" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "approve amendments consistent with this Act to charters or articles of service corporations."; and

(3) by striking out the second sentence.

(t) SUPERVISION.—The heading of section 4.27 (12 U.S.C. 2213) is amended by striking out "SUPERVISION" and inserting in lieu thereof "REGULATION".

(u) DISTRICT ELECTIONS.—Section 5.2 (12 U.S.C. 2223) is amended—

(1) in subsection (b)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held"; and

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee";

(2) in subsection (c)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held";

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee"; and

(C) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following:

"(b) Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this section.".

(v) FARM CREDIT ADMINISTRATION, POWERS.—Section 5.17 (12 U.S.C. 2251) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof "approve amendments to"; and

(B) in paragraph (5), by striking out "that meet standards and criteria" and all that follows through "refunds by Farm Credit System institutions"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following:

"(b) The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.".

(w) TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.—Part D of title V (12 U.S.C. 2001 note, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 5.45. TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.

"(a) IN GENERAL.—Any approvals granted by the Farm Credit Administration before the date of the enactment of this section shall remain in effect on and after such date.

"(b) AUTHORITY TO ISSUE REGULATIONS.—

"(1) IN GENERAL.—Any approval authority of the Farm Credit Administration that, under the amendments made by section 802 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regulations under such authority, or 1 year after the date of the enactment of this section.

"(2) ENFORCEMENT ACTIONS.—At the close of the 1-year period referred to in paragraph (1), the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision.

"(c) EFFECT OF SECTION.—This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 5.17(a)(5).".

SEC. 803. SALE OF RURAL DEVELOPMENT NOTES.

Section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929a note) is amended by adding at the end thereof the following new subsections:

"(f) RIGHT OF FIRST REFUSAL.—

"(1) IN GENERAL.—Before conducting a sale of a portfolio of notes or other obligations under this section, the Secretary of Agriculture shall—

"(A) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

"(B) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under paragraph (2).

"(2) DETERMINATION OF OFFERING PRICE.—

"(A) AUTHORITY.—The Secretary of Agriculture shall determine, in accordance with subparagraph (B), the price at which a note or other obligation shall be offered for sale under this subsection.

"(B) PRICE.—Such price shall be determined by discounting the payment stream of such note or other obligation at the yield on the then most recent sale of the portfolio, adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of such note.

"(3) PROHIBITIONS.—

"(A) PURCHASE OF OBLIGATION NOT TIED TO PURCHASE OF OTHER OBLIGATIONS.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this subsection to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

"(B) OFFER TO BE MADE WITHOUT REGARD TO FINANCING.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this subsection without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations. However, the price of sale to any issuer using tax exempt financing shall be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury.

"(g) APPLICABILITY OF PROHIBITION ON CURTAILMENT OR LIMITATION OF SERVICE.—Section 306(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(b)) shall be applicable to all notes or other obligations sold or intended to be sold under this section.".

SEC. 804. OTHER CONFORMING AMENDMENTS.

(a) JURISDICTION AND ENFORCEMENT; PENALTIES.—

(1) JURISDICTION AND ENFORCEMENT.—Section 5.31 (12 U.S.C. 2267) is amended by adding at the end thereof the following: "For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an effective and outstanding order issued under section 5.25 that has become final.".

(2) PENALTIES.—Section 5.32 (12 U.S.C. 2268) is amended by adding at the end thereof the following:

"(h) For purposes of this section, any directive issued under section 4.3(b)(2), 4.3A(e), or 4.14A(i) shall be treated as an order that has become final and was issued under section 5.25.".

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 4.3(b) (12 U.S.C. 2154(b)(2)) is amended—

(1) by striking out "(A)"; and

(2) by striking out subparagraph (B).

(b) AMENDMENT TO PART HEADING.—The part heading of part C of title IV is amended to read as follows:

"PART C—RIGHTS OF BORROWERS; LOAN RESTRUCTURING".

SEC. 805. TECHNICAL AMENDMENTS.

(a) Section 1.2 is amended by striking out "the regulation" and inserting in lieu thereof "regulation".

(b) Section 1.15(12) is amended by striking out "or delegated to".

(c) Section 1.20 is amended by striking out "by or other" and inserting in lieu thereof "by other".

(d) Section 2.1(18) is amended by striking out the comma at the end and inserting in lieu thereof a period.

(e) Section 2.2 is amended—

(1) in subsection (d), by striking out "be issued to" the first place it appears;

(2) in subsection (f)—

(A) by striking out "other"; and

(B) by inserting "of" after "with regard to the payment";

(3) in the second sentence of the fourth undesignated paragraph of subsection (g)—

(A) by striking out "other" the first place it appears; and

(B) by inserting "the" before "Farm Credit Administration"; and

(4) in subsection (h), by striking out "the Farm Credit Administration or".

(f) Section 2.6 is amended—

(1) in subsection (c), by striking out the last sentence; and

(2) by redesignating subsections (c) and (d), as subsections (a) and (b), respectively.

(g) The last sentence of section 2.10 is amended by inserting "the" before "Farm Credit Administration" the second place it appears.

(h) Section 2.13 is amended—

(1) in subsection (c), by striking out "to other"; and

(2) in subsection (d)—

(A) by striking out "other" the first place it appears; and

(B) by inserting a comma after "noncumulative)".

(i) The section heading for section 2.15 is amended by striking out the comma and inserting in lieu thereof a semicolon.

(j) Section 2.17 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

(k) Section 3.3(d) is amended by striking out "by" the first place it appears.

(l) Section 3.4 is amended by striking out "other than stock held by the Farm Credit Administration,".

(m) Section 3.8 is amended—

(1) by redesignating subsection (1) as subsection (a);

(2) by redesignating paragraphs (a), (b), (c), and (d) of the subsection redesignated by paragraph (1) of this subsection, as paragraphs (1), (2), (3), and (4), respectively;

(3) by redesignating clauses (1), (2), and (3) of the paragraph redesignated as paragraph (4) by paragraph (2) of this subsection, as clauses (A), (B), and (C), respectively;

(4) in the clause redesignated as clause (C) by paragraph (4), by striking out "(2)" and inserting in lieu thereof "(B)".

(n) Section 3.11 is amended—

(1) in subsection (b)—

(A) by striking out "(c) and (d)" and inserting in lieu thereof "(b) and (c)"; and

(B) by striking out the last sentence;

(2) in subsection (c)—

(A) by striking out "(b) of this section, whichever is applicable," and inserting in lieu thereof "(a)"; and

(B) by striking out "(d)" and inserting in lieu thereof "(c)";

(3) in subsection (d), by striking out "(b) whichever is applicable," and inserting in lieu thereof "(a)";

(4) in subsection (g)—

(A) by striking out "or (b)"; and

(B) by striking out "For any year that a bank for cooperatives is subject to Federal income tax, it" and inserting in lieu thereof "A bank for cooperatives"; and

(5) by redesignating subsections (b), (c), (d), (e), (f), and (g), as subsections (a), (b), (c), (d), (e), and (f), respectively.

(o) Section 3.12 is amended by inserting "the" before "Farm Credit Administration".

(p) Section 3.13 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

(q) Section 4.3(c) is amended by striking out "direct of fully guaranteed" and inserting in lieu thereof "direct or fully guaranteed".

(r) Section 4.12(b) is amended by striking out "court, shall" and inserting in lieu thereof "court shall,".

(s) Section 4.14 is amended—

(1) by striking out "committee(s)" and inserting in lieu thereof "committees";

(2) by striking out "4.13" and inserting in lieu thereof "4.13B"; and

(3) by striking out "reviews" and inserting in lieu thereof "review".

(t) Title IV is amended—

(1) by inserting above and before section 4.15 the following:

"PART D—ACTIVITIES OF INSTITUTIONS OF THE SYSTEM"; and

(2) by redesignating part D as part E.

(u) Title IV is amended by redesignating parts E and F, as parts G and H, respectively.

(v) Section 5.0 is amended by striking out "5.17(2)" and inserting in lieu thereof "5.17(a)(2)".

(w) The section heading of section 5.9 is amended by striking out "; CIVIL PROCEEDINGS".

(x) Section 5.11 is amended by striking out the last sentence.

(y) Section 5.16 is amended by transferring the 4 sentences immediately following paragraph (4) to just before the last sentence of such section.

(z) Section 5.17(a) is amended—

(1) by striking out paragraph (13); and

(2) by redesignating paragraphs (14) and (15), as paragraphs (13) and (14), respectively.

(aa) Section 5.28 is amended—

(1) by inserting "(a)" before "Whenever" the first place it appears; and

(2) in subsection (e), by striking out "(d)(3)" and inserting in lieu thereof "(c)".

(bb) Section 5.29 is amended—

(1) in subsection (a)—

(A) by striking out "interest" and inserting in lieu thereof "interests";

(B) by striking out "the investors in the" and inserting in lieu thereof "investors in"; and

(C) by inserting "the" before "Farm Credit System" the third place it appears.

(2) in subsection (b), by striking out "in Farm Credit System obligations" and inserting in lieu thereof "of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System".

(cc) Section 5.30 is amended by striking out "subsection (g)" and inserting in lieu thereof "section".

(dd) Section 5.32(f) is amended by striking out "sections 5.31 and 5.32" and inserting in lieu thereof "section 5.31 and this section".

(ee) Section 5.37 is amended by striking out "claims,".

(ff) Section 5.41 is amended—

(1) by striking out subsection (a); and

(2) by striking out "(b)".

TITLE IX—REGULATIONS

SEC. 901. EFFECTIVE DATES.

(a) ISSUANCE OF REGULATIONS.—

(1) AUTHORITY.—The Farm Credit Administration Board shall issue such regulations as the Board considers necessary for the orderly and efficient implementation of the provisions of, and the amendments made by, this Act relating to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(2) TIMING.—To the extent the Farm Credit Administration is required to issue regulations to implement this Act and the amendments made by this Act, the Farm Credit Administration shall issue such regulations as expeditiously as possible, and, except as otherwise provided in this Act, not later than 180 days after the date of the enactment of this Act.

(b) TEMPORARY RETENTION OF CERTAIN REGULATIONS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the regulations issued by the Farm Credit Administration before the date of the enactment of this Act under provisions amended by this Act shall remain in effect, notwithstanding such amendments, until the Farm Credit Administration issues regulations to implement such amendments, but in no event later than 180 days after such date of enactment.

(2) CERTAIN REGULATIONS RELATING TO BORROWERS' RIGHTS.—The regulations implementing, interpreting, or applying part C of title IV (12 U.S.C. 2201) (other than section 4.13(a)) (in effect immediately before the date of the enactment of this Act), to the extent that such regulations are not contrary to this title, and the amendments made by this title, shall remain in effect until January 1, 1989.

(3) REGULATIONS RELATING TO DISCLOSURE BY BANKS AND ASSOCIATIONS.—Any regulation issued or approved by the Farm Credit Administration that implements, interprets, or applies section 4.13(a) (12 U.S.C. 2201(a)) (in effect immediately before the date of the enactment of this Act) shall remain in effect for 120 days after such date of enactment.

And the Senate agree to the same.

From the Committee on Agriculture, for consideration of title I of the House bill, and titles I-IV, and VIII (except section 801) of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
STEVE GUNDERSON,
JIM JEFFORDS,
SID MORRISON,
CLYDE C. HOLLOWAY,

For consideration of title I (except sections 103-105) of the House bill, and titles II, III, and VIII (except section 801) and section 101 of the Senate amendment:

FRED GRANDY,

For consideration of section 103 of the House bill, and section 402 of the Senate amendment:

RON MARLENEE,

For consideration of section 104 of the House bill, and title IV (except section 402) of the Senate amendment:

BILL SCHUETTE,

For consideration of section 105 of the House bill and title I of the Senate amendment:

LARRY COMBEST,

From the Committee on Agriculture, for consideration of title II of the House bill, and titles V and VI (except section 611) and section 801 of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
RON MARLENEE,
JIM JEFFORDS,
SID MORRISON,
STEVE GUNDERSON,
CLYDE C. HOLLOWAY,

From the Committee on Agriculture, for consideration of title III of the House bill (except insofar as section 301 would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and section 611 of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
JIM JEFFORDS,
SID MORRISON,
STEVE GUNDERSON,
BILL SCHUETTE,
CLYDE C. HOLLOWAY,

From the Committee on Agriculture, for consideration of title IV of the House bill, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLE,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
STEVE GUNDERSON,
BILL SCHUETTE,
LARRY COMBEST,
FRED GRANDY,
JIM JEFFORDS,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 301 (except insofar as that section would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971) of the House bill, and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971) of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
CARROLL HUBBARD,
MARY ROSE OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, JR.,
RICHARD LEHMAN,
BRUCE A. MORRISON,
MARCY KAPTUR,
CHALMERS WYLIE,
JIM LEACH,
DAVID DREIER,
DOUG BEREUTER,
TOBY ROTH,
ALEX MCMILLAN,

From the Committee on Energy and Commerce, solely for consideration of section 301 of the House bill (insofar as it would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and for section 702 of the Senate amendment (insofar as it would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and modifications committed to conference:

JOHN D. DINGELL,
ED MARKEY,
TERRY L. BRUCE,
NORMAN F. LENT,
MATT RINALDO,

Managers on the Part of the House.

PATRICK J. LEAHY,
DAVID L. BOREN,
TOM HARKIN,
TOM DASCHLE,
JOHN BREAUX,
JOHN MELCHER,
RICHARD S. LUGAR,
RUDY BOSCHWITZ,
JESSE HELMS,
THAD COCHRAN,
DAVE KARNES,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

ASSISTANCE TO FCS BORROWERS

(1) Five-year guarantee of borrower stock

The *House* bill provides that, during the five-year period beginning on the date of enactment of the bill, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with the Farm Credit Act of 1971, must retire the stock at par value. (Sec. 102.)

The *Senate* amendment contains a similar provision, except that—

(i) it applies specifically to stock *that is security for a loan that is repaid in full;*

(ii) The guarantee will apply to (A) certain frozen stock described in item (4)(a) below, (B) stock outstanding on the date of the enactment of the bill, and (C) stock required to be purchased as a condition of obtaining a loan made after enactment of the bill, but prior to the earlier of—

(I) the date of the approval, by an institution's stockholders, of the institution's capitalization requirement in accordance with section 4.9B, or

(II) nine months after the enactment of the bill. (Sec. 204.)

The *Conference* substitute adopts the *Senate* provision.

(2) Stock guarantee—coordination with FCS assistance program

The *House* bill provides that—

(i) for any FCS institution whose *capital* stock is impaired under generally accepted accounting principles, the retirement of stock at par, as required under the bill, must be coordinated with the activities of the Temporary Assistance Corporation (which has a five-year term concurrent to the length of the stock guarantee) (sec. 102); and

(ii) an institution whose *borrower* stock is so impaired must apply to the Temporary Assistance Corporation for assistance (sec. 105).

The *Senate* amendment provides that, during the five-year period following enactment of the bill, if an FCS institution is unable to retire eligible stock at par, the institution must apply to the assistance Board *for certification of eligibility to issue stock under section 6.4* (described in the section of this Statement dealing with assistance to FCS institutions). The Assistance Board will certify the issuance of stock by the institution in an amount sufficient to ensure redemption of the stock. The *Senate* amendment provides that, if the institution is unable to retire stock at par during that five-year period, the FCS Central Reserve Account must provide financial assistance sufficient to ensure redemption at par. (Sec. 204.)

The *Conference* substitute adopts the *Senate* provision.

(3) Stock guarantee—associations with "frozen" stock

The *Senate* amendment requires the Assistance Board to develop and implement procedures under which the Financial Assistance Corporation must provide funds to stockholders or receivers of Federal land bank associations or production credit associations whose stock is "frozen," to carry out the stock guarantee. Such funds must be made available not later than 30 days after the first issuance of obligations by the Financial Assistance Corporation under section 6.26 (described in the section of this Statement dealing with assistance to FCS institutions). (Sec. 204.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(4) Stock guarantee—technical provisions

(a) The *House* bill provides that the stock guarantee provisions do not affect the authority of an FCS institution to (i) cancel borrower stock for application against a loan in default, (ii) cancel borrower stock as provided with respect to restructuring of loans, or (iii) apply—against an outstanding indebtedness to a production credit association in the Spokane or Omaha district arising out of or in connection with a liquidation of the association—the par value of the stock frozen in the liquidation. (Sec. 102.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with a modification to make it applicable to any FCS institution that was liquidated or whose stock was frozen any time after January 1, 1983, through the date of enactment.

(b) The *House* bill provides that, if an FCS institution cannot retire stock at par due to the freezing of the stock during a liquidation of the institution, the receiver of

the institution will be required to honor the guarantee. (Sec. 102.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(c) The *House* bill provides that the stock guarantee will apply to borrower stock "that was frozen by the Spokane, Washington, or Omaha, Nebraska, district after January 1, 1983, in connection with the liquidation of certain Farm Credit System institutions". (Sec. 102).

The *Senate* amendment provides that the guarantee will apply to borrower stock "that was frozen, or retired at less than par value, by an association after January 1, 1983, in connection with the liquidation of the association". (Sec. 204.)

The *Conference* substitute adopts the *Senate* provision with a modification to make it applicable to any FCS institution that was liquidated or whose stock was frozen any time after January 1, 1983, through the date of enactment.

(d) In defining the term "borrower stock," the *House* bill specifically includes voting and nonvoting stock (including preferred stock), equivalent contributions to a guarantee fund, participation certificates, and equities that are subject to retirement under a revolving cycle. (Sec. 102.)

The *Senate* amendment specifically refers to borrower stock, participation certificates, or other similar equities. (Sec. 204.)

The *Conference* substitute adopts the *House* provision with an amendment adding allocated equities in the definition of "borrower stock," and a modification clarifying that "preferred stock" issued in conjunction with Federal assistance is not included in the definition for purposes of defining stock that is guaranteed.

(5) Restructuring under section 4.14A

Both the *House* bill (in section 103(a)) and the *Senate* amendment (in section 402(d)) will add a new section 4.14A to the Farm Credit Act of 1971 providing for restructuring of distressed loans held by FCS borrowers. The *Senate* amendment (in section 101) also will provide for the establishment of special asset groups to review, for restructuring, all nonaccrual loans in districts receiving financial assistance under the bill.

The *House* bill, in new section 4.14A, will require *all* FCS farm lenders to review *all* distressed loans for restructuring. (Sec. 103(a).)

The *Senate* amendment, in new section 4.14A, will require *all* Federal land banks and production credit associations to review loans for restructuring *on application*. (Sec. 402(d).) *All* nonaccrual loans would be reviewed only in districts receiving financial assistance under the bill. (Sec. 101.)

The *Conference* substitute adopts the *Senate* provision with amendments in the section describing the "application for restructuring". The reference to nonaccrual is deleted, and the term "restructuring plan" is modified to read "preliminary restructuring plan".

(6) Restructuring—definitions

(a) The *House* bill defines the term "restructuring" to mean an action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable. (Sec. 4.14A(a)(1).) [1]

The *Senate* amendment provides a definition that does not contain the "financially viable" standard, but does—

(i) include "refraining from exercising a right with respect to a loan that is granted by the loan agreement or law", and

(ii) specifically exclude normal servicing actions (such as reschedulings, renewals, extensions, partial releases of collateral, or changes in interest rate pricing) on loans that are nonaccrual or distressed loans. (Sec. 4.14A(e)(5).)

The *Conference* substitute adopts the *House* provision. The Managers emphasize that debt write-off is only one of several restructuring alternatives.

(b) The *House* bill defines the term "distressed loan" to mean high risk loans and loans in nonaccrual status.

The *House* bill defines "high risk loan" to mean a loan—

(i) that borrower probably will not be able to fully repay due to adverse financial and repayment trends, as determined by the institution, or

(ii) the value of the security for which is less than the amount required under the loan. (Secs. 4.14A(a)(2) and 4.14A(a)(3).)

The *Senate* amendment does not specifically include nonaccrual loans in its definition of "distressed loans". It defines the term to mean a loan that the borrower does not have the financial capacity to pay according to its terms, but that is not yet subject to a foreclosure or bankruptcy proceeding, and that exhibits one or more of the following characteristics:

(i) The borrower is demonstrating adverse financial and repayment trends.

(ii) The loan is delinquent or past due under the terms of the loan contract.

(iii) One or both of such factors, together with inadequate collateralization, present a high probability of loss to the institution. (Sec. 4.14A(e)(3).)

The *Conference* substitute adopts the *Senate* provision

(c) The *House* bill, in defining "qualified lender", for purposes of applying the provisions of new section 4.14A, makes the Temporary Assistance Corporation and "other financing institutions" (OFIs) subject to the section 4.14A restructuring requirements. (Sec. 4.14A(a)(4).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment deleting the reference to the Temporary Assistance Corporation.

(d) The *House* bill specifically defines the term "loan" to restrict it to farm, ranch, or aquaculture loans. (Sec. 4.14A(a)(5).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(e) The *Senate* amendment defines the term "application for restructuring" to mean a written request—

(i) from a borrower for the restructuring of a nonaccrual distressed loan in accordance with a restructuring plan proposed by the borrower as a part of the application;

(ii) submitted on the appropriate forms prescribed by the bank or association; and

(iii) accompanied by sufficient financial information and repayment projections, where appropriate, required by the institution to support a sound credit decision. (Sec. 4.14A(e)(1).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the word "nonaccual" before "distressed loan", and an amendment adding the word "preliminary" before "restructuring plan".

(f) The *Senate* amendment defines the term "cost of foreclosure" to include—

(i) the difference between the outstanding amount of principal due on a loan and the value of the collateral used to secure the loan;

(ii) the estimated cost of maintaining a loan as a nonperforming asset;

(iii) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure;

(iv) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of an action to forecose or liquidate the loan and ending on the date of the disposition of the collateral; and

(v) all other costs incurred as the result of the foreclosure or liquidation of a loan. (Sec. 4.14A(e)(2).)

The *House* bill contains no comparable provision.

(NOTE.—See also the criteria used under the *House* bill in determining whether to restructure a loan, as described in item (8) below.)

The *Conference* substitute adopts the *Senate* provision with an amendment clarifying that all sources of a borrower's income and all assets may be considered in determining the "cost of foreclosure".

(g) The *Senate* amendment defines the term "foreclosure proceeding" to mean—

(i) a foreclosure or similar legal proceeding to enforce a lien on property, whether real or personal, that secures a nonaccrual or distressed loan; or

(ii) the seizing of and realizing on nonreal property collateral, other than collateral subject to a statutory lien arising under the Farm Credit Act of 1971, to effect collection of a nonaccrual or distressed loan. (Sec. 4.14A(e)(4).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) Section 4.14A restructuring—preliminary procedure

(a) The *House* bill provides that, on determination by a qualified lender that a loan is a distressed loan, the lender must provide written notice to the borrower that the loan may be suitable for restructuring or preventive action, and include with the notice—

(i) a copy of the lender's restructuring policy, and

(ii) all materials necessary to enable the borrower to submit a proposal for restructuring or preventive action. (Sec. 4.14(b)(1).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) Under the *House* bill, at least 75 days prior to foreclosure on a loan, the lender must notify the borrower as described in item (a) above. The *House* bill also specifically will prohibit a qualified lender from foreclosing on a distressed loan before the lender has completed consideration of the loan for restructuring or preventive action. (Secs. 4.14A(b)(2) and 4.14A(g).)

The *Senate* amendment requires FCS institutions, at least 14 days before accelerat-

[1] The section references in this and following items are to section 4.14A of the Farm Credit Act of 1971, to be added by section 103(a) of the *House* bill or section 402(d) of the *Senate* amendment.

ing a distressed loan of a borrower who is a family farmer (or otherwise commencing foreclosure on the loan), to notify the borrower in writing of the borrower's right to submit an application for restructuring. (Sec. 402(b).)

The *Conference* substitute adopts the *House* provision with an amendment changing the notification time-frame from 75 to 45 days prior to foreclosure. The *Conference* substitute also adopts an amendment to clarify that no adverse action may be taken while restructuring is still a pending consideration, and an amendment deleting the refernece to "preventive action".

(c) Under the *House* bill, a qualified lender must provide the borrower of a distressed loan a reasonable opportunity to personally meet with a representative of the lender to—

(i) review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring or preventive action, and

(ii) with respect to a nonaccrual loan, develop a plan for restructuring the loan if the loan is suitable for restructuring. (Sec. 4.14A(c)(1)(A).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(d) Under the *House* bill, as soon as practicable after a qualified lender has offered to meet with the borrower on any distressed loan, the lender must review the loan to determine—

(i) in the case of a *nonaccrual loan*, whether it is suitable for restructuring, and

(ii) in the case of a *high risk loan*, whether steps (including restructuring) consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status. (Sec. 4.14A(c)(2).)

The *Senate* amendment provides that when a Federal land bank or production credit association receives an application for restructuring from a borrower, the institution must determine whether the loan is to be restructured, taking into consideration—

(i) whether the cost to the institution of restructuring the loan is equal to or less than the cost of foreclosure;

(ii) whether the borrower is applying all income over and above necessary and reasonable living and operating expenses to the payment of primary obligations;

(iii) whether the borrower has the financial capacity and the management skills to protect the collateral from diversion, dissipation, or deterioration; and

(iv) whether the borrower is capable of working out existing financial difficulties, reestablishing a viable operation, and repaying the loan on a rescheduled basis.

The *Senate* amendment since states that nothing in this provision is to prevent a bank or association from proposing a restructuring plan for a borrower in the absence of an application for restructuring from the borrower. (Secs. 4.14A(b)(1) and 4.14A(a)(4).)

The *Conference* substitute adopts the *Senate* provision with an amendment adding the requirement that "distressed loans" be reviewed to determine if, consistent with sound lending practices, they can be kept from becoming nonaccrual.

(8) Required restructuring under section 4.14A

(a) The *House* bill will require a qualified lender to restructure a *nonaccrual* loan if, after review—

(i) the lender determines that the present value of the restructured loan exceeds the liquidation value of the loan, and

(ii) the borrower has acted responsibly in the management of the borrower's business affairs, has pledged or agreed to pledge all available assets of more than nominal value to the extent required to increase the value of the collateral for the loan to the amount required under the loan, and has acted in good faith with the lender. (Sec. 4.14A(c)(3).)

The *Senate* amendment will require the FCS lender to restructure a loan, in accordance with the restructuring plan submitted by the borrower, if the institution determines that the potential cost of restructuring is less than or equal to the potential cost of foreclosure. (Sec. 4.14A(b)(2).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that, in making the determination described in item (a) above, the qualified lender is to take into consideration the borrower's repayment capacity and the liquidation value of any interests in property securing the loan less the reasonable and necessary costs and expenses (including attorneys' fees, court costs, collateral asset depreciation, and other commonly incurred costs) that would be incurred by the lender to obtain payment on the loan of title to such interests, to preserve the value of any interests that may depreciate, and to dispose of such interests in the course of a liquidation. (Sec. 4.14A(c)(3)(A).)

The *Senate* amendment contains no comparable provision, but prescribes similar criteria in the definition of "cost of foreclosure" described in item (6)(a) above.

The *Conference* substitute adopts the *Senate* provision with an amendment to include "attorneys' fees and court costs" to the definition of "cost of foreclosure".

(c) The *Senate* amendment provides that, in making the determination described in item (a) above, the institution must consider all relevant factors, including—

(i) the present value of interest income and principal forgone by the institution in carrying out the restructuring plan;

(ii) reasonable and necessary administrative expenses involved in working with the borrower to finalize and implement the restructuring plan;

(iii) whether the borrower has presented a restructuring plan and cash-flow analysis taking into account income from all sources proposed to be applied to the debt and all assets intended to be pledged, showing a reasonable probability that orderly debt retirement will occur as a result of the proposed structuring; and

(iv) whether the borrower has furnished or is willing to furnish complete and current financial statements in a form acceptable to the institution. (Sec. 4.14A(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The Managers note that included in the definition of "cost of foreclosure" is the difference between the balance due on a loan and the value of the collateral securing the loan. In determining this amount it is intended that System lenders would fully take into account the borrower's repayment capacity, including income from every source and other unencumbered assets. Only by taking into consideration all of the borrower's sources of repayment can a true comparison be made of the potential cost of restructuring and the potential cost of foreclosure.

(9) High-risk loans under section 4.14A

The *House* bill provides that, after review of a *high-risk* distressed loan and after consideration of the proposals, if any, put forth by the borrower of the loan to reasonably ensure that the loan will not become a loan necessary to place a nonaccrual status, a qualified lender must take steps (including restructuring) consistent with sound lending practices the lender deems necessary to reasonably ensure that the loan is not placed in nonaccrual status, if the borrower has acted responsibly in the management of the borrower's business affairs and has acted in good faith with the lender. (Sec. 4.14A(c)(4).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(10) Section 4.14A—least cost alternatives

The *House* bill provides that, if two or more restructuring or preventive action (as that action is described in item (9) above) alternatives are available to a qualified lender with respect to to a distressed loan, the lender must restructure or take preventive action in conformity with the alternative that results in the least cost to the lender. (Sec. 4.14A(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments deleting all references to "preventive action."

(11) Restructuring policy under section 4.14A

(a) The *House* bill will require each qualified lender to develop a written policy governing the treatment of distressed loans under section 4.14A. (Sec. 4.14A(e).)

The *Senate* amendment will require each farm credit district board of directors—within 60 days after enactment of the bill—to develop such a policy. The *Senate* amendment states that the policy is to constitute the restructuring policy of each Federal land bank and production credit association in the district. (Sec. 4.14A(a)(1).)

The *Conference* substitute adopts the *Senate* provision.

(b) Both the *House* bill and the *Senate* amendment will require that the policy include provisions addressing appeal rights of farmers denied restructuring.

The *House* bill contains provisions, not in the *Senate* amendment, requiring the policy to address—

(i) The criteria used by the lender to place a loan in nonaccrual status, classify a loan as high risk, and determine whether a loan is suitable for restructuring or preventive action;

(ii) The nature and timing of communications that the lender will provide to any borrower with respect to—

(A) consideration of the borrower's proposal for restructuring or preventive action;

(B) the decision to accept or reject such proposal, the decision whether to restructure or take preventive action with respect to the loan, and the reasons for such decisions;

(C) the nature and duration of the restructuring or preventive action alternative selected by the lender; and

(D) any change in the decision to restructure or take preventive action, or in the selection of a restructuring or preventive action alternative. (Sec. 4.14A(e).)

The *Senate* amendment contains a provision, not in the *House* bill, requiring that

the policy include an explanation of the procedure for submitting an application for restructuring. (Sec. 4.14A(a)(2).)

The *Conference* substitute adopts the *Senate* provision. The Managers encourage FCS lenders to include, in the restructuring policies, criteria similar to that which is contained in clauses (i) and (ii) in the description of the *House* provision.

(c) The *House* bill will require each qualified lender to submit its restructuring policy to the Farm Credit Administration for approval. (Sec. 4.14A(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment deleting the authority for Farm Credit Administration approval, and instead provide that the policy must be submitted to the FCA. The *Conference* substitute also changes the entity that submits the policy to FCA from the qualified lender to the district board.

(d) The *House* bill will require each qualified lender to make a copy of the restructuring policy available to borrowers of loans that become distressed loans. (Sec. 4.14A(h).)

The *Senate* amendment will require that each Federal land bank and production credit association—

(i) post the restructuring policy in each loan office; and

(ii) provide a copy of the policy to each borrower at the time of loan closing and (unless previously furnished) at the time the borrower applies for restructuring. (Sec. 4.14A(a)(3).)

The *Conference* substitute deletes both *House* and *Senate* provisions.

(12) Section 4.14A reports to the Farm Credit Administration

The *House* bill will require each qualified lender to submit quarterly reports to the Farm Credit Administration containing—

(a) the results of the review of distressed loans of the lender;

(b) the results of monitoring restructured loans to assess the success of restructuring; and

(c) the financial effect of loan restructurings and liquidations on the lender. (Sec. 4.14A(i).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments deleting the requirement that the report contain the results described in item (b) above, changing the reporting cycle from quarterly to semiannual, and sunsetting the reporting requirement at five years from date of enactment.

(13) Section 4.14A—compliance

The *House* bill will authorize the Farm Credit Administration to issue directives and assess penalties against qualified lenders that fail to comply with section 4.14A. (Sec. 4.14A(j). See also sec. 103(b)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(14) Nonapplicability of section 4.14A

The *House* bill provides that the restructuring procedure under section 4.14A is not to apply to a loan that became a distressed loan prior to enactment of the bill if the borrower and FCS lender are in the process of negotiating loan restructuring or the taking of preventive action on the loan. (Sec. 4.14A(k).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments deleting the words "or the taking of preventive action", and clarifying that this provision only applies to the requirements regarding the timeframe for notice of restructuring availability and the requirements for a personal meeting between the lender and the borrower.

(15) Sense of Congress

The *Senate* amendment contains a sense of Congress that Federal land banks and production credit associations should administer distressed loans to family farmers with the objection of using the loan guarantee programs of the Farmers Home Administration and other loan restructuring measures, including participation in interest rate buy-down programs that are federally or State funded, and other Federal and State sponsored financial assistance programs that offer relief to financially distressed family farmers, as alternatives to foreclosure, considering the availability and appropriateness of such programs on a case-by-case basis. (Sec. 402(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) Required restructuring review under the Senate amendment

(a) The *Senate* amendment, in section 101, will require each FCS institution that is certified to issue preferred stock as a form of financial assistance under the bill (as described in the section of this Statement dealing with financial assistance to the Farm Credit System) to review each non-restructured loan that is in nonaccrual status on the certification date and determine whether the loan will be restructured. The *Senate* amendment also provides that, whenever an FCS institution's loan is placed in nonaccrual status after the institution's certification date, the institution must determine, within six months, whether the loan will be restructured. (Sec. 6.7(d).) [2]

The *House* bill contains no comparable provision, but see the House restructuring review requirements in the context of section 4.14A, described in item (5) above.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will require the establishment of a special asset group by the FCS district board in a district in which an FCS institution is certified to issue preferred stock as a form of financial assistance under the bill, within 30 days after such certification. The special asset group would review each determination by the institution that a loan will not be restructured. If the special asset group determines that a loan under its review should be restructured, the group will prescribe a restructuring plan for the loan, and the FCS institution involved will be required to implement it. (Secs. 6.7(b)(1) and 6.7(b)(2).)

The *House* bill will require each FCS district board to appoint one officer to supervise all loan restructuring activity under section 4.14A in the district, and to establish a special credit unit to provide expert assistance to FCS institutions in the district to implement the restructuring. (Sec. 103(b).)

[2] The section citations following the description of the *Senate* provisions in this item are to sections in title VI of the Farm Credit Act of 1971, to be added by section 101 of the *Senate* amendment.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment provides for the establishment, by the Assistance Board, of a National Special Asset Council to monitor compliance with restructuring requirements under this provision by FCS institutions certified to receive financial assistance under the bill and by special asset groups. The National Council would review a sufficient number of foreclosure decisions by special asset groups, to assure the Council of such compliance. If, with respect to a particular loan, the Council is more advantageous to the FCS institution involved than foreclosure, the Council is to prepare a restructuring plan that the institution would be required to implement. If the Council determines that a special asset group is not in substantial compliance with its obligations, the Council would notify the group of its determination and take such other action as the Council considered necessary. (Sec. 6.7(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification of the role of the National Special Assets Council to remove its authority to take direct actions involving individual loans.

(d) If a special asset group determines that a loan is ineligible for restructuring, the group must submit a report to the National Council evaluating the loan and the basis for the determination against restructuring. If, within 30 days, the group has not received notification from the National Council that the loan must be restructured, the determination of the group will be considered affirmed. (Sec. 6.7(b)(3).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the language regarding the impact of failure of the National Council to respond.

(e) In determining whether a loan should be restructured under section 6.7, FCS institutions, special assets groups, and the National Council must take into consideration the restructuring standards specified in proposed new section 4.14A. (Sec. 6.7(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(17) House restructuring management provisions

(a) The *House* bill will require each FCS district board to develop a system to monitor loans restructured under section 4.14A and determine whether the restructuring has been successful. (Sec. 103(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *House* bill will permit each Federal intermediate credit bank, on request of a production credit association, to assist the association in restructuring loans under section 4.14A. (Sec. 103 (b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(18) Effect of restructuring on borrower stock

The *House* bill provides that if a Federal land bank or production credit association forgives and writes off principal on a loan under section 4.14a, the association of which

the loan borrower is a member and stockholder must cancel the same dollar amount of stock held by the borrower with respect to the loan, up to the total amount of the stock. (Sec. 103 (a).)

The *Senate* amendment also provides for cancellation of stock on restructuring of any land bank or PCA loan and forgiveness of principal on the loan. However, the *Senate* provision differs in that—

(1) the cancellation would be done pro rata, that is, by cancelling the same percentage of the borrower stock on the loan by the same percentage as loan principal is reduced; and

(2) in any case, the borrower would be entitled to retain one share of stock in order to maintain membership and a voting interest in the association. (Sec. 6.7(e) of the Farm Credit Act of 1971, to be added by sec. 101.)

The *Conference* substitute adopts the *House* provision with an amendment to ensure that the borrower is entitled to retain one share of stock in order to maintain membership and voting interest in the institution.

(19) Borrower rights—disclosure by FCS institutions

The *Senate* amendment will amend section 4.13 of the Farm Credit Act of 1971, relating to disclosure by FCS institutions. The changes to be made in section 4.13 are as follows:

(a) The banks for cooperatives specifically are exempted from the disclosure requirements;

(b) language is added to require the disclosure of interest rates and other loan terms required of FCS institutions under section 4.13 "not later than the time of the loan closing"; and

(c) new disclosure will be required—

(i) regarding the effect of any loan origination charges on the effective rate of interest;

(ii) (except with respect to borrower stock guaranteed under the bill) in the form of a statement that stock is purchased at risk; and

(iii) in the form of a statement indicating the various types of loan options available to borrowers, with an explanation of the terms and rights that apply to each type of loan.

The *Senate* amendment also provides that FCA regulations currently in effect regarding FCS institution forbearance under subsection (b) of section 4.13 (which both the *House* bill and the *Senate* amendment repeal in favor of the restructuring program described above) will remain in effect for 120 days after enactment of the bill. (Secs. 401(a) and 401(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Borrower rights—access to documents

The *Senate* amendment will exempt banks for cooperatives from the access to documents provisions of section 4.13A of the Farm Credit Act of 1971. (Secs. 401(c) and 406.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Borrower rights—notice of action on applications

(a) The *House* bill will add new provisions to section 4.13B of the Farm Credit Act of 1971 (which currently requires FCS institutions to give notice to loan applicants of the institution's action on the application). The new provisions will require that similar notice be given by institutions to farm borrowers of distressed loans as to actions taken with respect to restructuring or preventive action under section 4.14A. (Sec. 104(b)(1).)

The *Senate* amendment will add similar new provisions to section 4.13B, except that—

(i) the notice requirement applies only to family farmers who submit an application for restructuring; and

(ii) there is no reference to decisions made with respect to taking preventive action. (Sec. 402(b).)

The *Conference* substitute adopts the *House* provision with an amendment deleting the words "or preventive action".

(b) The *Senate* amendment generally will exempt banks for cooperatives from the notice requirements of section 4.13B. (Sec. 402(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(22) Borrowers rights—reconsideration of action

(a) The *House* bill will add new provisions to section 4.14 of the Farm Credit Act of 1971 (which currently requires FCS institutions to establish credit review committees, which include farmer board representations, to review denials by FCS institutions of applications for loans). The new provisions will give, to farmer borrowers of distressed loans, the right to review of denials of loan restructuring or preventive action. To obtain such review, the borrower must request it in writing within seven days after receiving notice of the denial. (Sec. 104(b)(2).)

The *Senate* amendment will add similar new provisions to section 4.14, except that—

(i) the review requirement applies only to family farmers who submit an application for restructuring; and

(ii) there is no reference to decisions made with respect to taking preventive action. (Sec. 402(c).)

The *Conference* substitute adopts the *House* provision with an amendment deleting the words "or preventive action".

(b) The *Senate* amendment generally will exempt banks for cooperatives from the review requirements of section 4.14. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment, in lieu of the requirement of current law that there be farmer representation on the review committee, will require that there be at least one representative of producers in the area served by the bank or association on the committee. The producer representation requirement will be satisfied if—

(i) as to associations, a member of the committee is a stockholder-member of an advisory or similar board of the association who is elected by stockholders of the association; and

(ii) as to banks, at the option of the bank, a member of the committee is also a board member of the appropriate Federal land bank or intermediate credit bank. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(d) The *Senate* amendment (in lieu of the current law requirement that a majority of the persons on the review committee must be persons who were not involved in making the adverse decision against the borrower) will prohibit a loan officer involved in the initial decision on a loan from serving on the committee reviewing the loan. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(e) The *Senate* amendment will add a new provision to section 4.14 to provide that an FCS borrower entitled to review under section 4.14 will be allowed to appear before the review committee in person, and accompanied by a representative, to seek a reversal of the decision being reviewed. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *Senate* amendment will add a new provision to section 4.14 to permit a person seeking review of a decision to deny or reduce a loan to request an independent appraisal, by an accredited appraiser, of property securing the loan. The FCS institution involved would present the borrower with a list of three appraisers to choose from and the borrower would bear the cost of the appraisal. The institution would be required to consider the results of the appraisal in any final determination with respect to the loan and provide a copy to the borrower. (Sec. 402(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment adding to the instances when a borrower may seek an independent appraisal the case of dispute over collateral value when additional collateral is demanded to secure the loan.

(23) Borrowers rights—acceleration and related action

(a) The *House* bill will add a new provision to the Farm Credit Act of 1971 to prohibit an FCS institution holding a farm loan to foreclose the loan on the failure of the borrower to post additional collateral, if the borrower has made all principal, interest, and penalty payments on the loan. (Sec. 104(c).)

The *Senate* amendment contains a similar provision except that—

(i) the provision applies to all loans of all FCS institutions and to liquidations of loans other than foreclosure;

(ii) it also will prohibit the institution from requiring a borrower to provide additional collateral on a loan if the borrower is current on the loan; and

(iii) it makes no reference to payments of penalties. (Sec. 405.)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will permit a borrower of a farm loan held by an FCS institution who has received notice that he must post additional collateral on his loan to obtain an appraisal of the market value of the collateral securing the loan. The borrower could obtain the appraisal if he notifies the FCS institution involved that he disputes a value placed on the loan collateral by the institution that is not based on an appraisal. If the borrower obtains the appraisal, the institu-

tion could not enforce any additional collateral requirement using a value for the loan collateral not based on the appraisal, and would be required to reconsider any decision made based on the value of the collateral. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill will prohibit an FCS institution from requiring a farm loan borrower to reduce the principal on the loan beyond that required under the agreed-on payment schedule except when the borrower sells or otherwise disposes of all or part of the loan collateral. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill will prohibit the enforcement of any contract provision that results in acceleration by an FCS institution of a borrower's repayment schedule under a farm loan on account of missed loan payments, once the borrower has made all accrued principal, interest, and penalty payments without regard to acceleration. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* report adopts the *House* provision with an amendment deleting the provisions authority to affect the enforcement of contract provisions.

(24) Nonaccrual status

The *House* bill will add a new provision to the Farm Credit Act of 1971 to require any FCS institution holding a farm loan to take certain action if the institution places the loan in nonaccrual status. The institution will be required to document the change in status and notify the borrower in writing of the actions and the reasons for it. If the borrower's account is not delinquent at the time of the action and his request to have the loan placed back in accrual status is denied, the borrower can obtain a review of the decision before the institution's credit review committee under section 4.14 of the Act. (Sec. 104(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment clarifying that this provision is effective only in cases where a loan being placed in nonaccrual status results in an adverse action being taken against the borrower.

(25) Homestead protection

The *House* bill will add a new provision to the Farm Credit Act of 1971 to require each FCS institution to allow an agricultural borrower it forecloses on (or who files chapter II bankruptcy and conveys property to the institution, or who liquidates property to avoid foreclosure or bankruptcy) to purchase or lease homestead property to maintain the borrower's family. Homestead property would consist of the borrower's home and up to 10 acres of adjoining land, and homestead conveyances would be on terms that offer reasonable protection to the lender. In the event a State homestead law offers greater protection to the borrower, the State law will prevail over this provision. (Sec. 104(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(26) Right of first refusal

Both the *House* bill and the *Senate* amendment will add provisions to the Farm Credit Act of 1971 to establish a right of first refusal for foreclosed FCS borrowers, under which the borrower would have the first option to reacquire the foreclosed property when the FCS institution disposes of it.

(a) Under the *House* bill, the new first refusal provision would—

(i) apply to each FCS institution *holding a farm loan;*

(ii) apply to any real property acquired by the institution as the result of foreclosure, bankruptcy, or liquidation of a borrower of an agricultural loan;

(iii) permit lease-back of the land for a lease period of not to exceed ten years; and

(iv) apply for up to 60 days after the institution acquires the property. (Sec. 104(d).)

Under the *Senate* amendment, the provision would—

(i) apply to any FCS institution;

(ii) apply to *agricultural* real estate acquired by the institution as the result of loan foreclosure or voluntary conveyance by a borrower who, as determined by the institution, does not have the financial resources to avoid foreclosure;

(iii) no maximum lease-back period is specified; and

(iv) is triggered at the time the institution first elects to sell or lease the property.

The *Conference* substitute adopts the *Senate* provision with an amendment to provide that the right of first refusal is also triggered when the institution first elects to sell or lease any portion of the real estate property.

(b) Under the *House* bill, the right of first refusal would be available, first, to the person from whom the FCS institution acquired title, second, to members of that person's immediate family, and, third, to family farm operators in the community in which the property is located. (Sec. 104(d).)

Under the *Senate* amendment, the right of first refusal would be available only to the previous owner. (Sec. 404.)

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill specifies the following procedure for implementing the right of first refusal: The FCS institution, before offering the property to another person, must—

(i) ascertain, if possible, whether the person from whom it acquired the property, or the immediate family of that person, desired to purchase or lease the property; and

(ii) hold open (for at least 60 days beginning on the date the institution acquires the property) an offer to sell or lease the property to the eligible persons (in the priority order described in item (b) above), at a price equal to the market value of the property (as determined by an independent appraisal) or at fair rental value, as the case may be, after the foreclosure, bankruptcy, or liquidation. (Sec. 104 (d).)

The *Senate* amendment specifies a more detailed procedure for implementing the right of first refusal, which is summarized as follows:

(i) When the FCS institution elects to sell or lease the property, it must (within 15 days) notify the previous owner of that person's right to buy or rent the property at the market value or at less than market value.

(ii) To exercise his first refusal right, the previous owner must submit a purchase or rent offer within 15 days after receiving notice.

(iii) If the institution receives an offer that is at the market value, within 15 days the institution must accept the offer and convey the property, except that the institution does not have to *lease* the property if the previous owner—

(A) does not have the resources to conduct a successful farming or ranching operation, or

(B) cannot meet the terms of the lease.

(iv) If the offer from the previous owner is at less than market value, the institution can, but is not required to, accept the offer. Notice of the institution's decision must be given to the previous owner within 15 days.

(v) If the institution rejects an offer at less than market value, it cannot sell or lease the property to another person—

(A) at the same or a lower price offered by the previous owner; or

(B) on different terms than those extended to the previous owner,

without first offering the property to the previous owner at that price or under those terms. The previous owner will have 15 days in which to accept the offer.

(vi) If the institution elects to sell or lease the property through public auction or a similar public offering, the institution must notify the previous owner by certified mail, stating the minimum bid and the terms to which the sale or lease will be subject. If the previous owner is one or two or more who submit the highest bid, the institution must accept the bid of the previous owner.

The *Senate* amendment also states that no FCS institution could discriminate against a previous owner in any auction or public offering of the person's former property. (Sec. 404.)

The *Conference* substitute adopts the *Senate* provision with an amendment increasing the length of time during which the previous owner may submit an offer to purchase the property from 15 days to 30 days.

(d) The *House* bill will require each FCS institution holding farm loans, under FCA regulations, to establish a policy governing the disposition of real property under the right of the first refusal provisions described above. (Sec. 104(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(e) The *House* bill provides that, in the event of a conflict between the right of first refusal provisions described above and any State or local law relating to corporate ownership of farmland, the State law will prevail. (Sec. 104(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

The Managers intend that FCS institutions develop and implement a "right of first refusal" policy that encompasses not only agricultural real estate generally, but portions thereof as well. As soon as practicable before or after acquisition, the Farm Credit System should decide whether to offer property for sale or lease, or to hold such property for some interim period. If an FCS institution decides to hold the property in its inventory for an interim period, the institution should offer to lease the residence and outbuildings necessary for family maintenance, to the previous owner for the interim period at fair market rent. If, upon a decision to lease or sell the property, the lender decides to separate the residence

from the other property, the institution should offer to lease or sell the residence and outbuildings necessary for family maintenance, to the previous owner for fair market value. The Managers clearly intend that "right of first refusal" programs implemented by FCS institutions embody the spirit generally expressed in the term "homestead protection".

(27) Borrower's right to sue

The *House* bill will add a new provision to the Farm Credit Act of 1971 to give to borrowers the right to sue any FCS institution for violation of any duty, standard, or limitation prescribed under the Act and owing to the borrower, or of any FCA order issued with respect to such duty, standard, or limitation. A borrower will have standing to sue if the borrower suffers a legal wrong or is adversely affected by the institution's violation. The U.S. district courts will have jurisdiction over suits under this provision, without regard to the amount in controversy. (Sec. 104(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(28) Differential interest rates

The *Senate* amendment will add a provision to the Farm Credit Act of 1971 to prohibit Federal land banks from implementing a differential interest rate program for members of a Federal land bank association unless the association's board of directors approve the program. Also, any Federal land bank or production credit association offering more than one rate of interest to borrowers must, at a borrower's request—

(a) review the loan to determine if the proper interest rate has been established; and

(b) explain to the borrower, in writing (i) the basis for the interest rate change and (ii) how the credit status of the borrower can be improved so he can get a lower interest rate on his loan. (Sec. 403.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the authority for FLBA boards of directors to exercise approval authority over the decision about whether a differential interest rate program is implemented.

(29) Application of uninsured accounts

The *Senate* amendment will add a new provision to the Farm Credit Act of 1971, to provide as follows: A borrower's money held by an FCS institution in an uninsured voluntary or involuntary account (including accounts known as "advance payment accounts" or "future prepayment accounts"), immediately prior to the capital depletion or insolvency of the institution, must be applied as payment against the indebtedness of any outstanding loans of the borrower. The FCA must promulgate regulations to define the term "uninsured voluntary or involuntary account" and otherwise effectively to carry out the above-described provision. (Sec. 407.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(30) Borrower rights—transitional authority

The *Senate* amendment provides that, between the date of enactment of the bill and January 1, 1989, current FCA regulations implementing the borrower rights and restructuring provisions of title IV of the Farm Credit Act of 1971 will remain in effect, to the extent they are not contrary to the borrower rights and restructuring provisions of the bill. (Sec. 408.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

ASSISTANCE TO THE FARM CREDIT SYSTEM

(1) Application for assistance

The *House* bill provides that Farm Credit System institutions with impaired borrower stock, based on generally accepted accounting principals (GAAP), must apply to the Temporary Assistance Corporation for financial assistance during the five-year period beginning on the date of the enactment of the bill. Other institutions could apply during the five-year period. (NOTE: in both the *House* bill and the *Senate* amendment, the term stock, for purposes of the guarantee, also includes participation certifications and other similar equities.) (Sec. 105(a).)

The *Senate* amendment provides that, when the book value of stock of an FCS institution is less than face value, the institution can apply for assistance (which would be provided through approval by the Assistance Board for the institution to issue preferred stock to the Financial Assistance Corporation). The Assistance Board is to consider the request taking into account the purposes of title VI, and would be authorized to grant the request. (Sec. 6.4.) [3]

The *Conference* substitute adopts the *Senate* provision with an amendment clarifying that when an institution applies for assistance from the Assistance Board—including a request for funds to retire borrower stock at par—the institution will be subject to the Assistance Board's special powers under section .

(2) Purpose of assistance provisions

The *House* bill states that the purpose of the FCS assistance provisions is to carry out a program of financial and technical assistance to FCS institutions experiencing financial difficulties and to ensure that borrower stock (if retired within five years after enactment of the bill) will be retired at par value, in an efficient and cost-effective manner that ensures the long-term financial health of the Farm Credit System and the ability of FCS institutions to provide efficient credit services to borrowers at competitive interest rates. (Sec. 105(b)(1).)

The *Senate* amendment states that the purpose of the Assistance Board is to carry out a program to provide assistance to, and protect the stock of, borrowers of FCS institutions, and to assist in restoring the institutions to economic viability and permitting the institutions to continue to provide credit to farmers, ranchers, and cooperatives at reasonable and competitive rates. (Sec. 6.1.)

The *Conference* substitute adopts the *Senate* provision.

(3) Conforming amendments

The *Senate* amendment will repeal section 4.36 of the Farm Credit Act of 1971, which provides that no FCS institution can sell any real property that previously had served as security for a loan in a tract larger than a family farm for less than it can receive from the Capital Corporation (Sec. 106(a)(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(4) Establishment of assistance entity

The *House* bill will create the FCS Temporary Assistance Corporation and, in connection with that, will require the Farm Credit Administration to revoke the Charter of the FCS Capital Corporation not later than 60 days after the enactment of the bill. (See. 4.28A.) [4] All Temporary Assistance Corporation authorities will expire five years after enactment. (Sec. 4.28A.)

The *Senate* amendment will require the Farm Credit System, on the fifteenth day after enactment of the bill, to revoke the charter of the Capital Corporation and charter of the FCS Assistance Board. (Sec. 6.0.) The Assistance Board and the authority provided by title I would terminate on December 31, 1992. (Sec. 6.12.)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the Assistance Board may employ Capital Corporation employees for 90 days to effectuate the transition after revoking the Capital Corporation's charter.

(5) Board of directors

(a) The *House* bill will create a five-member board of directors of the Temporary Assistance Corporation. Three members are to be appointed by the Secretary of Agriculture—

(i) one of whom is a farm credit district board member;

(ii) one of whom is a director of an FCS association;

(iii) one of whom is a U.S. citizen not a borrower from, shareholder in, or a director, officer, employee, or agent of, any FCS institution, and also not an officer or employee of the Federal Government or a member of the board of, the FCS Capital Corporation, but who is experienced in financial services and credit.

The *House* bill also includes one appointee of the Secretary of the Treasury and one appointee of the Farm Credit System Board, both of whom must meet the requirements set forth in clause (c) above. (Secs. 4.28B(a)(a) and 4.28(a)(2).)

The *Senate* amendment will create a five-person board of directors of the Assistance Board, composed of the Secretary of Treasury, the Secretary of Agriculture, the Federal Reserve Chairman, and two persons experienced in financial matters appointed by the President, by and with the advice and consent of the Senate, who could not be members of the same political party. (Sec. 6.2(a).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing for a three-member Assistance Board composed of the Secretary of Agriculture, the Secretary of the Treasury, and an agricultural producer with experience in financial matters appointed by the President.

(b) The *House* bill provides that the members of the board of directors of the Temporary Assistance Board are to be appointed within 60 days after enactment of the bill. (Sec. 4.28B(a)(3).)

The *Senate* amendment contains no comparable provision.

[3] Certain section references in this and following descriptions of the *Senate* provisions are to sections 601 to 6.30 of title VI of the Farm Credit Act of 1971, to be added by section 101 of the *Senate* amendment.

[4] Certain section references in this and following descriptions of the House provisions are to sections 4.28A to 4.28M of the Farm Credit Act of 1971, to be added by section 105 of the *House* bill.

The *Conference* substitute adopts the *Senate* provision. It is the intent of the conferees that the President should appoint the public member of the Assistance Board as soon as possible after enactment of the legislation. This will help to ensure that the Assistance Board will be able to assist certified Farm Credit System institutions in a timely fashion, thus forestalling future financial problems and minimizing the costs of the assistance package.

(c) The *House* bill provides that the appointee of the Secretary of Agriculture meeting the requirements listed in item (a)(ii) above, and the appointee of the Secretary of Treasury, are to serve for a term of three years beginning on the date of enactment of the bill. Thereafter, they would serve for a term of two years. The *House* bill provides that the other appointees of the Secretary of Agriculture would serve an initial term of two years, and thereafter, three years. (Sec. 4.28B(b).)

The *Senate* amendment provides that each member of the board of directors is to serve until such time as the Assistance Board is terminated. (Sec. 6.2(c)(1).)

The *Conference* substitute adopts the *Senate* provision. The conferees anticipate that there will be no disruption in the activities and operation of the Assistance Board during a change in administration since it is clear that those who hold the office of Secretary of the Treasury and Secretary of Agriculture would serve on this board.

(d) The *House* bill provides that, once three or more members have been appointed to the board of directors, a majority of members then appointed would constitute a quorum. (Sec. 4.28B(f)(1).)

The *Senate* amendment provides that a quorum would consist of three members of the board of directors. All decisions of the board would require an affirmative vote of at least a majority of the members voting. (Sec. 6.2(f).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that a quorum would consist of two members of the board.

(e) The *House* bill provides that the members of the board of directors could elect a member to serve as temporary chairman until five members have been appointed to the board and a permanent chairman has been elected. The five members of the board would elect from among themselves a permanent chairman of the board of directors who would serve as chairman until the expiration of the term for which the member so elected is appointed to the board. (Secs. 4.28B(f)(2) and 4.28B(g).)

The *Senate* amendment provides that the board of directors are to elect, on an annual basis, a chairman from among the members of the board. (Sec. 6.2(b).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill provides that each member of the board of directors is to receive compensation at a level not in excess of the level set by the Farm Credit Administration. (Sec. 4.28C(a).)

The *Senate* amendment provides that members of the board of directors are to receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Assistance Board, as set forth in the bylaws issued by the board of directors, except that such levels could not be in excess of the maximum fixed for officers and employees of the United States. (Sec. 6.2(d).)

The *Conference* substitute adopts the *Senate* provision.

(6) Transition provisions

(a) The *House* bill provides that, until three or more members of the Temporary Assistance Corporation Board have been appointed, the Secretary of the Treasury could take any action authorized by the FCS assistance provisions of the bill. (Sec. 4.28B(d).)

The *Senate* amendment states that the powers of the Assistance Board will be exercised by the Farm Credit Administration Board until the issuance of the charter of the Assistance Board, or such later date not to exceed 30 days thereafter, as may be requested by the Assistance Board. Any interim assistance provided to FCS institutions by the Farm Credit Administration would be provided from, and could not be in excess of, the amounts contained in the revolving fund established under section 4.0. (Sec. 6.13(a).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that each institution that receives interim assistance from the Farm Credit Administration described in item (a) above would issue preferred stock to the Financial Assistance Corporation in an amount equal to such assistance. The Financial Assistance Corporation would pay the Farm Credit Administration the full amount of such financial assistance provided by the Farm Credit Administration from the proceeds from the sale of the first issue of debt obligations by the Financial Assistance Corporation. Payments by the Financial Assistance Corporation to the Farm Credit Administration would be considered to be payments to each such institution for such stock. (Sec. 6.13.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) Procedure for provision of assistance to FCS institutions

The *House* bill provides that, as soon as is practicable after an FCS institution applies for financial assistance, the Temporary Assistance Corporation must complete a review of the institution's business plan.

The Temporary Assistance Corporation is to require any institution seeking financial assistance to revise the institution's business plan, as the Corporation in its sole discretion deems necessary, before providing or making a commitment to provide financial assistance to the institution. Whenever an institution is receiving assistance from the Corporation, the Corporation must review the institution's business plan on an annual basis, and could require revisions in the business plan (based on such annual review) as a condition of providing further assistance. (Secs. 4.28E(a)(1) and 4.28E(a)(2).)

The *Senate* amendment provides that the Assistance Board must determine whether to certify an FCS instituiuion as eligible to issue preferred stock to the Financial Assistance Corporation (in order to obtain financial aid) if the institution requests such certification, the book value of the stock of the institution (based on generally accepted accounting principles) has declined to 75 percent of the par value of the stock, and the institution agrees to meet the terms and conditions specified by the Assistance Board. However, institutions may request certification when the book value of the stock (based on generally accepted accounting principles) is less than par value.

The *Senate* amendment also provides that, in the case of an FCS institution that requests certification, the Assistance Board could require approval of the business, operating, and investment plans and policies for the institution. (Secs. 6.4(a)(2) and 6.4(b).)

The *Conference* substitute adopts the *Senate* provision with the following amendment: When an institution's stock is impaired (based on generally accepted accounting principles), the FCA must notify the Assistance Board, and the Board must begin monitoring the institution's financial condition and business and operating plans. The institution may apply for assistance when the book value of stock is below par value (based on generally accepted accounting principles). When the institution's book value of stock has declined to 75 percent (based on generally accepted accounting principles) of par value, the institution must apply for assistance, and the board must make a decision whether or not to provide assistance. The board must act promptly to assist those institutions that may need assistance immediately after enactment of this bill. To ensure that the preferred stock can be classified as equity for financial reporting purposes, there would be no mandatory redemption requirement for the preferred stock. However, to provide an incentive for the institutions to redeem the preferred stock at par value, institutions electing not to redeem stock would be required to pay dividends on such stock until it is retired.

(8) Terms of assistance

The *House* bill provides that the Temporary Assistance Corporation is to provide (or make a commitment to provide) financial assistance to any FCS institution under the institution's approved business plan, on such terms and subject to conditions that the Corporation in its sole discretion deems necessary to ensure that such assistance is provided and used in an efficient and cost-effective manner. After the establishment of Farm Credit System Service Banks (as described in the section of this Statement dealing with FCS reorganization), the Corporation could coordinate assistance to each institution through the Service Bank serving the region in which the System institution is located.

The Corporation could provide (or make a commitment to provide) financial assistance to any institution to address, among other types of problems, one or more of the following types of financial problems facing the institution:

(i) The impairment of the institution's stock, as determined in accordance with generally accepted accounting principles.

(ii) The inability of the institution to maintain capital at or above the minimum permanent capital adequacy level established for the institution by the Farm Credit Administration.

(iii) The danger that the institution will default on its obligations.

(iv) The financial burden placed on the institution due to high interest rates payable on obligations of the institution.

The Corporation is to provide (or make a commitment to provide) financial assistance to any System institution for which the Farm Credit Administration has appointed a receiver or conservator to the extent necessary to enable the institution to meet its insured oblig ations in a timely manner and retire borrower stock at par value. (Sec. 4.28E(a)(3).)

The *Senate* amendment provides that when an institution has been certified to issue preferred stock, the Assistance Board may provide assistance by one or more of the following:

(a) authorizing the institution to issue preferred stock in amounts necessary to maintain the book value of stock at the 75 percent level;

(b) in the case of high-cost debt for which the institution is primarily liable, authorizing the institution tk issue preferred stock in an amount equal to the premium that would be required by the holder of the debt for the institution to retire the debt at current market value;

(c) at the request of the institution, authorizing the issuance of preferred stock to facilitate the merger of the requesting institution with one or more other System institutions if such merger is approved by the stockholders of the merging institutions; and

(d) providing assistance by such other methods as the Assistance Board determines appropriate.

The *Senate* amendment defines "high-cost debt" as securities or similar obligations issued prior to January 1, 1986, that have a maturity date of December 31, 1987, or later and bear a rate of interest in excess of the current market rate for similar securities or obligations.

The *Senate* amendment provides that the Assistance Board is to authorize the issuance (by institutions approved to issue preferred stock) of amounts of preferred stock sufficient to—

(a) maintain the value of stock at not less than 75 percent of the par value, as determined under generally accepted accounting principles; and

(b) strengthen the institution to a point where it is economically viable, and capable of delivering credit at reasonable and competitive rates. (Sec. 6.5.)

The *Conference* substitute adopts the *Senate* provision.

The conferees are concerned that the language of this provision could be read to mean that the certified institution is obligated to issue preferred stock to the Financial Assistance Corporation as soon as it is certified to do so by the Assistance Board and thus would incur the responsibility for repayment of the principal of the bonds issued in connection with the funds received from the Corporation. In other words, some have interpreted the provision as providing solely for "cash assistance" to a certified institution.

It is not the intent of the conferees that this provision be given such a narrow interpretation. The conferees read the provision to allow the certified institution to apply for assistance and to be certified by the Assistance Board under such terms and conditions as it may specify, but not to require the institution to then immediately, or for that matter to ever, issue preferred stock. That is, it could be agreed between the Assistance Board and the institution that the institution be certified to issue a certain amount of stock, but not required to do so unless certain events—for instance, a deterioration of its financial condition beyond a specified level—take place. In such a case the certification could take on the character of a "letter of credit," since the institution could at any time convert it to cash by issuing the preferred stock, which the Assistance Corporation is required to buy. This approach might be appropriate in the case of an institution that is facing a short-term financial crisis, such as a minor collateral deficiency, which could be corrected simply by having the certification but not actually issuing the preferred stock. In such a case, the certification would itself tend to represent an improvement in the equity position of the institution. The conferees urge the Assistance Board to work with the institutions seeking assistance to make available this "noncash assistance" as well as the cash assistance that is provided for in the bill. However, it is also the intent of the conferees that the Assistance Board may provide cash financial assistance to certified institutions whose stock is between 100 percent and 75 percent of par value (based on generally accepted accounting principles), while still allowing for mechanisms to minimize the draw on cash assistance at the option of the certified institution.

The need for noncash-type assistance was raised by the Treasury Department and is generally recognized to be a good tool for the Assistance Board and troubled institutions to have at their disposal.

However, the conferees intend that the decision for "cash" or "nor-cash" assistance rests with the institution, except when stock has fallen below 75 percent par value (based on generally accepted accounting principles) and the Assistance Board has decided to facilitate a merger or to recommend liquidation. In no event, however, should stock be allowed to be impaired below 75 percent of GAAP par value.

This approach will allow the Assistance Board to help certain institutions without actually necessitating the issuance of additional Government-guaranteed bonds. This will hold down the total amount of bonds that are issued and correspondingly the cost of the assistance package to the taxpayers and the system as a whole. It is the further intent of the conferees that cash financial assistance to institutions of the Farm Credit System shall be provided no later than when stock falls to 75 percent of par value (based on generally accepted accounting principles), unless that Assistance Board has decided to facilitate a merger or that it is less costly to liquidate the institution and has recommended such litigation to the FCA.

(9) Interim assistance

(a) The *House* bill provides that, during the 180-day period beginning on the date of the enactment of the bill, the Temporary Assistance Corporation could provide financial assistance to an FCS institution before approving the institution's business plan if the Temporary Assistance Corporation determines such assistance is necessary to ensure the continued operation of the institution and the continued provision of farm credit services to borrowers in the institution's territory, or to enable the institution to retire eligible borrower stock at par value. (Sec. 6.28E(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Temporary Assistance Corporation, as soon as is practicable within 180 days after the date of the enactment of the bill, is to—

(i) make financial assistance available to FCS institutions (whether or not the institution's business plan has been approved) in amounts adequate to ensure the implementation of the cancellation and refund of the Capital Corporation assessments, and to enable such institutions to return third-quarter 1986 loss-sharing agreement contributions; and

(ii) issue the Secretary of the Treasury an amount of stock or other obligation sufficient to enable the Corporation to provide the financial assistance, described above. (Sec. 4.28E(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(10) Special powers

The *Senate* amendment provides that in the case of an FCS institution that requests certification of eligibility to issue preferred stock, the Assistance Board could—

(a) require approval of the business, operating, and investment plans and policies for the institution;

(b) direct the FCA Board to liquidate the institution or appoint a conservator for the institution, acceptable to the Assistance Board, to evaluate the operations of the institution and report back to the FCA and the Assistance Board on the possibility of restoring the institution to sound financial condition;

(c) request that the FCA Board or the FCA, as appropriate:

(i) require a merger or consolidation of the institution;

(ii) initiate action to liquidate the institution or to appoint a receiver; or

(iii) exercise an enforcement power authorized under the Farm Credit Act of 1971;

(d) require approval of the terms and conditions of any debt issuances of the institution;

(e) require approval of the policies on credit standards and interest rates (including requiring that the institution set interest rates at levels that will ensure that the cost of money to the institution reflects the marginal cost to the institution of borrowing an additional amount of money at the time a new loan is made, and requiring that loans primarily secured by real estate mortgages not exceed 85 percent of the appraised agricultural value of the real estate security, or 75 percent of the current market value of the real estate security, whichever is greater);

(f) require approval of the design of management information and accounting systems, and the continued use of regulatory accounting procedures (RAP);

(g) require approval of the hiring policies of the institution; the salary scale for the chief executive officer, other managers, and directors of the institution (except where this overlaps FCA's authority); any change in the management of the institution; and policy decisions regarding continued employment and promotion of management officials; and

(h) take such other action as the Assistance Board determines necessary to establish prudent operating practices at the institution and to put the institution in a sound financial condition. (Sec. 6.6(a).)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision with an amendment. The Assistance Board would be allowed to authorize the issuance of preferred stock by an institution to facilitate a merger between a financially sound and a financially insecure institution. The Assistance Board would also be allowed to require approval of the compensation and retirement benefits of the chief executive officer and other managers and directors of the institution.

(11) Liquidation of System institutions

The *Senate* amendment provides that, if the Assistance Board determines that the cost of making assistance available to an FCS institution exceeds the costs of liquidating such institution, the Assistance Board could deny certification to issue preferred stock and ask the Farm Credit Administration to liquidate the institution. In the event an institution is to be liquidated, the Farm Credit Administration would (through the expansion of the territory of an existing FCS institution, the chartering of a new institution, or through some combination thereof) ensure that the credits needs of eligible persons in the territory formerly served by the liquidated institution are met.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment further provides that the cost of liquidating an FCS institution would include the following:

(a) the amount by which the par value of borrower stock exceeds its book or face value, under generally accepted accounting principles, at the time of liquidation;

(b) the difference between the outstanding amount of principal due on loans made by the institution (less the allowance for loan losses) and the amount at which such loans can be sold to third parties at the time of liquidation;

(c) the difference between the carrying values for financial reporting purposes, as defined under generally accepted accounting principles, of all other assets of the institution and the amount at which such assets can be sold to third parties at the time of liquidation;

(d) the amount in excess of the carrying values of liabilities of the institution for financial reporting purposes, as defined under generally accepted accounting principles, required to be paid to third parties at the time of liquidation for their agreement to pay or assume such liabilities;

(e) the estimated costs of holding assets and liabilities of the institution until they are disposed of;

(f) the estimated costs of terminating employees of the institution, including the costs of severance pay and benefit programs that are available to employees on termination;

(g) the estimated costs of terminating employee benefit plans of the institution;

(h) the estimated costs of terminating leases and other contractual obligations entered into by the institution;

(i) the estimated costs of administrative, legal, and all other actions necessary to dispose of all assets and liabilities of the institution; and

(j) all other costs reasonably expected to be incurred by the liquidated institution or by other System institutions as a result of the liquidation (Sec. 6.6(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(12) FCA monitoring

(a) The *House* bill provides that the Temporary Assistance Corporation is to keep the Farm Credit Administration fully informed with respect to financial assistance provided (or committed to be provided) to any FCS institution under this provision. (Sec. 4.28E(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Farm Credit Administration is to monitor the operations of each institution to which the Temporary Assistance Corporation provides (or makes a commitment to provide) financial assistance to ensure compliance with the business plan and any terms and conditions under which such assistance or commitment is provided. The Farm Credit Administration is to keep the Temporary Assistance Corporation fully informed of the progress made by the institution in implementing the institution's business plan. (Sec. 4.28E(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Suspension of aid

The *House* bill provides that the Temporary Assistance Corporation could suspend for any period of time, or terminate, any commitment to provide financial assistance to an FCS institution if the Farm Credit Administration notifies the Corporation that the institution has substantially deviated from the institution's approved business plan or has failed to comply with any term or condition governing the use of financial assistance. The Corporation is to promptly notify the Farm Credit Administration of any such action it takes (Sec. 4.28E(g)(1).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *House* provision, which will be included as a special power of the Assistance Board under section .

(14) Farm Credit Administration enforcement

The *House* bill provides that the Farm Credit Administration could use its enforcement powers, with respect to any institution to which the Temporary Assistance Corporation has provided (or has made a commitment to provide) financial assistance, to obtain compliance with the institution's business plan. (Sec. 4.28E.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(15) Assistance operations—resources

(a) The *House* bill provides that the Farm Credit Administration is to provide such personnel and facilities to the Temporary assistance Corporation as the Farm Credit Administration deems necessary to avoid unnecessary duplication and waste. (Sec. 4.28E.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *Senate* amendment will provide the Assistance Board authority to use information, services, staff, and facilities made available by any executive department or independent agency in carrying out FCS assistance operations. (Sec. 6.3(a)(6).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) Access to FCA documents

The *House* bill provides that the Farm Credit Administration must provide copies of reports of examinations of FCS institutions to the Temporary Assistance Corporation on request of the Corporation. (Sec. 4.28H(h).)

The *Senate* amendment provides that the Assistance Board is to have access to all reports of examination *and supervisory documents* of the Farm Credit Administration, as well as *relevant supporting material*, for the purpose of carrying out the special powers of the Assistance Board under terms and conditions (acceptable to the Farm Credit Administration board) necessary and appropriate to protect the confidentiality of the documents and materials. (Sec. 6.8(c).)

The *Conference* substitute adopts the *Senate* provision.

(17) General corporate powers

The *House* bill and the *Senate* amendment contain similar provisions specifying the general corporate powers of the assistance corporations. The differences between the two bills are described below.

(a) The *House* bill, but not the *Senate* amendment, provides that the bylaws of the Temporary Assistance Corporation are to provide for the manner in which the Corporation's loans, commitments, and other financial assistance are to be made. (Sec. 4.26F(a)(4)(B).)

The *Senate* amendment, but not the *House* bill, provides that the bylaws of the Assistance Board are to provide for the manner in which the Board's officers, employees, and agents are selected. (Sec. 6.3(a)(5)(A).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will authorize the Temporary Assistance Corporation to contract with FCS institutions for local administration, servicing, and restructuring of loan and loan-related assets and management of acquired properties of the Corporation. (Sec. 4.28(a)(6).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will authorize the Temporary Assistance Corporation to guarantee, sell, or exchange securities and obligations, and will require the Corporation (to the maximum extent practicable) to use the services of appropriate FCS institutions to dispose of noncash property acquired by the Corporation. (Sec. 4.28F(a)(8).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will authorize the Temporary Assistance Corporation to modify or consent to modification—*with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term*—of a contract or agreement to which it is a party or in which it has an interest. (Sec. 4.28F(a)(11).)

The *Senate* amendment will authorize the Assistance Board to modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest. (Sec. 6.3(a)(11).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will authorize the Temporary Assistance Corporation to provide, at the request of an FCS institution, technical assistance and related services to the institution in connection with the administration of the institution's loan portfolio. (Sec. 6.28F(a)(13).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will authorize the Temporary Assistance Corporation to purchase at fair market value from any FCS institution, on the request of the institution, loans (or interests in loans) that are in nonaccrual status and assets (or interest in assets) in the account for acquired properties. (Sec. 4.28F(a)(13).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill will authorize the Temporary Assistance Corporation to require any institution to which it has provided (or made a commitment to provide) financial assistance to sell to it nonaccrual loans and acquired properties the value of which exceeds $500,000. (Sec. 4.28F(a)(14).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(h) The *House* bill will authorize the Temporary Assistance Corporation to purchase, from FCS institutions undergoing liquidation, assets that are performing loans not purchased by other such institutions. (Sec. 4.28F(a)(16).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(i) The *House* bill will authorize the Temporary Assistance Corporation to assume debt or other liabilities of FCS institutions in connection with the acquisition of loans or interests therein or of other assets of such institutions. (Sec. 4.28F(a)(16).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill will authorize the Temporary Assistance Corporation to exercise all rights and privileges, and meet all obligations, of any institution with respect to any loan acquired from the institution or in which the Corporation has participated. (Sec. 4.28F(a)(17).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(k) The *House* bill will authorize the Temporary Assistance Corporation to hire, promote, compensate, and discharge officers and employees of the Corporation without regard to title 5 of the U.S. Code. (Sec. 4.28F(a)(18).)

The *Senate* amendment will authorize the Assistance Board to adopt a salary scale for officers and employees, in accordance with title 5 of the U.S. Code for officers and employees of the United States. (Sec. 6.3(a)(4).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that no officer or employee of the Assistance Board may be paid a salary above that provided by Executive Level III.

(18) Status of TAC officials

The *House* bill provides that officers or employees of the Temporary Assistance Corporation will not be considered officers or employees of the Federal Government. (Sec. 4.28F(b).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(19) Administrative Procedure Act

The *House* bill provides that the Administrative Procedure Act will not apply to the Temporary Assistance Corporation. (Sec. 4.28F(d).)

The *Senate* amendment contains no provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Powers to remove, and jurisdiction

The *Senate* amendment provides that any civil action, suit, or proceeding to which the Assistance Board is a party, will be deemed to arise under the laws of the United States, and the U.S. District Court for the District of Columbia will have original jurisdiction over such. The Assistance Board could, without bond or security, remove any such action, suit, or proceeding from a State court to the U.S. District Court for the District of Columbia. (Sec. 6.2(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Administrative funding—Assistance Board

(a) The *Senate* amendment provides that the administrative expenses of the Assistance Board, including the expenses of the National Special Asset Council, are to be paid for by the Financial Assistance Corporation from funds in the Assistance Fund, except that the total administrative expenses of the Assistance Board could not exceed—

(i) $2 million in fiscal year 1988, and

(ii) in each subsequent fiscal year, an amount equal to the ceiling for the prior fiscal year, increased by 5 percent. (Sec. 6.8(a).)

The *House* bill contains no comparable provision, but provides for the use of funds obtained from Treasury for operating expenses of the Temporary Assistance Corporation.

The *Conference* substitute adopts the *Senate* provision with an amendment which provides that (1) the "necessary and reasonable" expenses of the Assistance Board are to be paid for by the FAC, and (2) removing reference to a ceiling on the Board's total administrative expenses.

(b) The *Senate* amendment provides that, prior to the availability of funding from the Assistance Fund, the Assistance Board could use the revolving fund established under section 4.0 of the Farm Credit Act of 1971. Such amounts would be repaid to the revolving fund out of the Assistance Fund within the same fiscal year that the funds are received by the Assistance Board. This assumes that no Fiscal year 1988 cost will be attributed to the use of the revolving fun. (Sec. 6.8(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(22) Limitation of powers

(a) The *Senate* amendment provides that the powers of; the Assistance Board are to be exercised only for the purposes specified in the bill and are not to be exercised in a manner that would result in the Assistance Board supplanting the Farm Credit System lending institutions as the primary providers of credit and other financial services to farmers, ranchers, and cooperatives. (Sec. 6.9(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that the powers of the Assistance Board will not include the management, administration, or disposition of any loans or other assets owned by other FCS institutions, or the providing of technical assistance or other related services to other institutions in connection with the administration of loans owned by the other institutions, except as otherwise specifically provided for in the special power provisions. (Sec. 6.9(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(23) Succession to the Capital Corporation

(a) The *House* bill provides that the Temporary Assistance Corporation will succeed to the facilities and resources, and absorb the personnel, of the Capital Corporation. (Sec. 4.28G.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Temporary Assistance Corporation will not succeed to the management contracts of the Capital Corporation. (Sec. 4.28G.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Rules, regulations, policy statements, and guidelines

Both the *House* bill (sec. 4.28(b)) and the *Senate* amendment will require the board of directors of the FCS assistance entity to aodpt appropriate rules for the conduct of its business.

The *Senate* amendment also will authorize the Assistance Board to issue regulations, policies, procedures, guidelines, or statements necessary to carry out the FCS assistance program. The materials will not be subject to the Administrative Procedure Act. (Sec. 6.11(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Regulation by the Farm Credit Administration

The *Senate* amendment specifically provides that the Assistance Board will not be subject to regulation by the Farm Credit Administration. (Sec. 6.11(b).)

The *House* bill provides that the regulatory authority of the Farm Credit Administration with respect to the Temporary Assistance Corporation will be confined to providing for the examination of the condition of the Corporation. (Sec. 105(h).)

The *Conference* substitute adopts the *Senate* provision.

(26) Audits

The *Senate* amendment will prohibit the Assistance Board from requiring an audit or examination of an FCS institution that would be duplicative of an audit or examination conducted under other provisions of law. (Sec. 6.11(c).)

The *House* bill contians no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(27) Assistance funding under the House bill

Treasury purchase.—The *House* bill will require the Secretary of the Treasury, during fiscal years 1988 through 1992, to purchase the amount of stock or obligations issued by the Temporary Assistance Corporation that the board of directors of the

Corporation requests to be purchased. For such purpose, the Secretary of the Treasury could use as a public debt transaction the proceeds of the sale of securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities could be issued under such chapter would be extended to include such purchases. All redemptions, purchases, and sales by the Secretary of the Treasury of such stock or obligations would be treated as public debt transactions. (Sec. 4.28(a).)

In connection with this requirement, the board of directors of the Temporary Assistance Corporation would be authorized to issue TAC stock or obligations in amounts sufficient to provide financial assistance to the Farm Credit System and to cover reasonable and necessary operating expejses. (Sec. 4*28(a)(9).)

Payment.—The *House* bill provides that, not later than five years after the enactment of the bill or one year after the Insurance Fund is initially funded at the secure base amount (whichever is earlier), and annually thereafter, each FCS bank is to pay to the Federal Farm Credit Banks Funding Corporation an amount equal to one-fifth of 1 percent of the average principal outstanding during the preceding year on loans made by the institution (except, in the case of a Federal intermediate credit bank, the aggregate of loans made by the production credit associations of the district in which the bank is located) that are in accrual status. Payments would cease immediately after the aggregate of the amounts provided by the Secretary of the Treasury to the Temporary Assistance Corporation for FCS financial assistance. Any institution could pay any amount required to be paid before the date such payment is required. (Sec. 105(f).) The Temporary Assistance Corporation could not require any FCS institution to repay financial assistance provided to the institution under the bill, except as described above. Nor could the Temporary Assistance Corporation receive funds from the Insurance Corporation. (Sec. 4.28H.)

The *House* bill also provides that the stock or obligations acquired by the Secretary of the Treasury are to be retired and canceled in amounts equal to the amounts paid to the Secretary by the Federal Farm Credit Banks Funding Corporation at the time of such payment. (Sec 4.28I(a).)

Availability of funds.—The *House* bill will require the Secretary of the Treasury, in fiscal year 1988, to make $2.5 billion available to the Temporary Assistance Corporation through the purchase of stock or obligations as described above. (Sec. 4.28I(b).) The *House* bill also will authorize appropriations, in each of the 1989 through 1992 fiscal years, of such sums as are certified necessary by the Corporation (Sec. 4.28I(c).) The *House* bill also specifically will authorize the appropriation of such sums as are necessary to (a) provide the Corporation funds sufficient to ensure that each FCS institution will retire borrower stock at 100 percent of par value, as required under the bill, and (b) fund Treasury purchases of stock and obligations. (Sec. 4.28I.)

Offsetting receipts.—The *House* bill will authorize the Secretary of Agriculture, under terms prescribed by the Secretary, to sell notes and other obligations held in the Rural Development Insurance Fund in such amounts as to realize net proceeds to the Government of $2.5 billion. (Sec. 4.281(b).)

The *Senate* amendment provides for a different mechanism to fund FCS financial assistance by adding provisions to the Farm Credit Act of 1971 (subtitle B of title VI) to establish the Farm Credit System Financial Assistance Corporation to carry out a program to provide capital to FCS institutions that are experiencing financial difficulty. The program will be coordinated with the activities of the Assistance Board to be established under subtitle A of title VI.

ESTABLISHMENT.—Not later than five days after enactment of the bill, the Farm Credit Administration must charter the Financial Assistance Corporation, which is to be an institution of the Farm Credit System and a federally chartered instrumentality of the United States. (Sec. 6.20.)

Board of directors.—The board of directors of the Financial Assistance Corporation will consist of the board of directors of the FCS Funding Corporation. The Board would elect, on an annual basis, a Chairman from among the members of the Board.

FAC stock.—To provide for the ownership of the Financial Assistance Corporation, stock with a par value of $5.00 would be issued to System institutions. (Sec. 6.23.)

Corporate powers.—The Financial Assistance Corporation would be given the standard corporate powers needed to conduct business as a corporate entity, including the powers to—

(1) provide for staff and salaries, establish bylaws, enter into contracts, and sue and be sued;

(2) borrow on its own individual responsibility and on terms and conditions approved by the Farm Credit Administriaton; and

(3) deposit its securities and its current funds with any member bank of the Federal Reserve System or any insured State nonmember bank and pay fees therefor and receive interest thereon.

Accounts.—To facilitate the assistance flowing to ailing System institutions, the Financial Assistance Corporation would establish an account called the Farm Credit Assistance Fund to be available the Corporation as a revolving fund. The Assistance Fund would be funded through the issuance of 15-year debt obligations, through payments of interest from the Secretary of the Treasury, and through payments of interest by FCS institutions. Moneys in the Assistance Fund not needed for current operations would be invested in direct obligations of the United States or obligations guaranteed by the United States. The Financial Assistance Corporation also would establish an account called the Financial Assistance Corporation Trust Fund, which will be capitalized by funds received from the one-time assessments (the one-time stock purchase) made against System institutions under section 6.25.) These funds will be held for use in paying the defaults of System institutions repayments to the FAC.

Debt obligations.—During the period beginning 61 days after the enactment of the bill and ending September 30, 1992, the Financial Assistance Corporation could issue uncollateralized bonds and similar obligations guaranteed by the Secretary of the Treasury, with annual coupon payments and a maturity period of 15 years.

The aggregate amount of obligations that could be issued is $4 billion to be issued in two phases: The first phase is $2.8 billion. Then, after December 31, 1988, an *additional* amount, not to exceed $1.2 billion, could be issued if the intial $2.8 billion in obligations has been issued and if the Assistance Board determines additional funds are needed. A report must be sent to Congress at least 90 days prior to the issuance of any of those additional debt obligations, explaining the need for the additional issuance. The Corporation would establish the forms and denominations, the interest rates, the terms and conditions, the manner of issuance, and sales prices for the 15-year obligations. (Secs. 6.26(a) and 6.26(b).)

Interest payments.—During the fifteen years after the date of is suance of an obligation, the Financial Assistance Corporation would be responsible for the payment of the annual interest charges on debt obligations as follows:

—During the first five years, the Corporation would receive from Treasury, subject to appropriation, the full interest payment due.

—During the second five years, the Corporation would receive 50 percent of the interest due from the Treasury, with FCS institutions paying the other 50 percent. However, FCS institutions would pay an additional 10 percent of the interest expense for each 1 percent that the unallocated retained earnings of the System, under generally accepted accounting principles, exceed 5 percent of net assets for the preceding year.

—Each institution would pay a proportionate share of the interest due from the System according to the amount of the performing loan volume of the institution in relation to the total performing loan volume of the System.

—During the third five-year period, FCS institutions would pay to the FAC the entire amount of interest due on the obligations, based on the performing loan volume in the proportion described above.

Treasury recoupment.—FCS institutions would be required to repay Treasury, on a fair and equitable basis, any annual interest charges on the 15-year debt obligations that the institutions have not previouly paid (and the institutions will not be required to pay interest charges on those amounts). Such repayments would be as follows:

(1) Each institution would begin making payments when the Farm Credit Administration, in consultation with the Secretary of the Treasury, determines that the institution possesses the financial viability to do so, except that the payments would not begin until the institution's debt liability with respect to refinancing the guaranteed bonds has been fully repaid.

(2) The Farm Credit Administration would establish the payment schedule and payment levels so as to not jeopardize the financial viability of the institution.

(3) An institution would not be required to make repayments in a manner that would impair the capital stock of the institution or jeopardize the minimum capital requirements of the institution.

(4) Payment obligations would not require to be collateralized. (Sec. 6.26(c).)

Refinancing the guaranteed bonds.—When a 15-year debt obligation matures, it will be repaid by the Financial Assistance Corporation. So that the Corporation can repay those obligations, each FCS institution that issued preferred stock to the Corporation (to obtain financial assistance under the bill) would pay the Corporation, prior to the maturity of the obligation, the dollar value of such outstanding preferred stock at par value. To make these payments, institutions would be authorized to refinance the obligations without a collateral requirement and without any guarantee.

The payment of the principal and interest on the refinanced obligations would be solely assumed by each FCS institution issuing the debt and would not be paid, in any manner, by institutions not certified to issue

preferred stock. Each institution would be liable only for its own debt. (Secs. 6.26(d)(1) and 6.26(d)(2).)

Defaults on interest obligations.—If an FCS institution defaults on the payment of interest due during the first 15 years after obligations are issued, the Financial Assistance Corporation would be required to pay the amount of the interest due by the institution out of the Trust Fund, and would be required to recover the amount of interest due from the defaulting institution to repay the Trust Fund. If the Corporation has not recovered the full amount of interest due from the defaulting institution by the end of the 12-month period beginning on the date of the default, all uncollected interest due from the defaulting institution would be paid to the Trust Fund out of the Reserve Account set up in section 4.9A. If the Reserve Account is insufficient, the amount still due would be added to the amount of interest otherwise due by remaining FCS institutions. Each remaining System institution would pay a proportionate share of this uncollected interest based on the amount of performing loan volume of the institution in relation to the total performing loan volume of the System. Such amounts would be paid to the Trust Fund. A defaulting institution would be liable to the remaining FCS institutions for the amount of any interest paid by the other institutions. (Sec. 6.26(d) (3).)

Inability to repay preferred stock.—Not later than 90 days prior to the maturity of any of the 15-year obligations, the Financial Assistance Corporation would be required to evaluate the general financial condition of each FCS institution that issued preferred stock to the Corporation (to obtain financial assistance under the bill) to determine whether the institution will be able to redeem such stock at par value on the maturity of the obligation and continue to remain a viable institution capable of providing credit to eligible borrowers at equitable and competitive interest rates. A copy of the evaluation would be furnished to the Secretary of the Treasury and Congress. If the Corporation determines that an institution will be unable to redeem the preferred stock at par value in a timely manner (either directly or through the use of funds obtained by the institution through the issuance of uncollateralized and nonguaranteed obligations) and remain a viable and competitive institution, the Corporation would be required to withdraw funds from the Trust Fund in an amount equal to the par value of the preferred stock to enable the institution to repay the stock. At the same time, the Corporation would transfer to the Reserve Account an equal amount of preferred stock of the institution. To the extent the Trust Fund is insufficient to enable the Corporation to pay the full principal of the maturing obligation, the Reserve Account would be used by the Reserve Account Board to purchase the preferred stock issued by such institution to enable the Corporation to pay the principal of the maturing obligation. Any preferred stock transferred to, or purchased by, the Reserve Account would be retired by the issuing institution at such times and under such conditions as are agreed to between the Reserve Account and the institution. (Sec. 6.26(d)(3).)

Treasury assistance.—If the Reserve Account is insufficient for this purpose, the Secretary of the Treasury would be required to make up the difference by purchasing preferred stock issued by the institution. The Secretary of the Treasury could use, as a public debt transaction, the proceeds from the sale of any securities issued under chapter 31 of the title 31, United States Code. In each instance in which Treasury is required to purchase preferred stock because of a default on principal payments, the Reserve Account Board is to use funds deposited in the Reserve Account to repurchase, at par value, such stock from the Secretary of the Treasury as funds become available for such repurchase. (Secs. 6.26(d)(3) and 6.26(d)(4).)

However, in any case, if the Financial Assistance Corporation is unable to pay principal or interest on a 15-year debt obligation, the Secretary of the Treasury would be required to pay the amount due. Whenever Treasury is required to make a payment of interest (because of an interest default) to the Corporation, the Secretary is to recover the amount of such payments from such defaulting institution. If the full amount is not recovered in 12 months, the uncollected amount would be paid to the Secretary out of the Reserve Account. (Sec. 6.26(d)(3).)

Issuance of preferred stock.—The *Senate* amendment contains a provision in subtitle B, section 6.27, that is directly tied into the financial assistance program under subtitle A. Section 6.27 provides that each FCS institution that is certified as eligible to receive financial assistance under the bill could issue preferred stock to the Financial Assistance Corporation in return for the assistance. The stock would be a special class of preferred stock for which dividends will not be payable (except as described below) and no voting rights will exist. The stock may be retired at the time the debt obligation it is associated with is retired if the institution pays off the FAC in full. However, preferred stock which is acquired by either the Reserve Account or the Treasury will be retired on such terms or conditions as are set by the holders. In addition, the Secretary of the Treasury (with respect to any such stock the Secretary purchases) will be allowed to establish, for such stock, a stated dividend rate equal to the current market yield on outstanding marketable obligations of the United States with maturity of 30 years, and a premium to reflect the cost of capital for institutions in financial distress. The Financial Assistance Corporation must purchase shares of the stock issued by certified FCS institutions to the extent that the issuance of such stock is approved by the Assistance Board. (Sec. 6.27) The *Senate* amendment, in section 105(e), also provides that preferred stock will be subordinated to, and impaired prior to, other stock or equities of the institution.

Treasury responsibility (subject to appropriations).—The Secretary of the Treasury will be required to reimburse the Financial Assistance Corporation for any amounts that the Corporation has paid in interest charges subject to the provisions described earlier relating to servicing the 15-year obligations. (Sec. 6.28.)

One-time assessment.—For the purpose of obtaining funds to capitalize the Trust Fund, each FCS institution would be required to purchase, from the Financial Assistance Corporation, stock issued by that corporation in an amount equal to the amount by which the unallocated retained earnings of the institution (after taking into account any funds received from reversing the assessments of the Capital Corporation) exceeds, in the case of an FCS bank, 5 percent of assets, or in the case of a production credit association or a Federal land bank association, 13 percent of assets. These unallocated retained earnings and assets would be computed in accordance with generally accepted accounting principles on the basis of the financial statement of the institution on December 31, 1986. (Secs. 6.29(a)(1) and 6.29(b).)

Reallocation.—An FCS district board, subject to the unanimous consent of the institutions within the district that would be affected by a reallocation, could reallocate the amount of stock to be purchased by institutions in the district to equitably reflect the institutions' ability to pay. However, the total amount of stock purchased by institutions in the district must equal the total amount of stock required to be purchased in the district, and the district board could not impair the stock of an association in doing so. A district board's authority to reallocate stock purchases would be limited to (a) reallocation among like associations of the amount of stock required to be purchased by such associations; (b) reallocation of the amount of stock required to be purchased by production credit associations among such associations and the district Federal intermediate credit bank; and (c) reallocation of the amount of stock required to be purchased by Federal land bank associations among such associations and the district Federal land bank. Other reallocations would not be permitted. (Sec. 6.29(a)(2).)

Not later than 15 days after notifying FCS institutions of the amounts to be provided by the Capital Corporation assessment reversals (described in item (29) below), the Financial Assistance Corporation would notify each institution of the amount of the one-time stock purchase. Likewise, in districts in which the stock purchase obligation has been reallocated as described above, the district would notify each institution in the district of the amount of the purchase that will be required. Not later than 15 days after notification, each institution would have to buy such stock. (Secs. 6.29(c) and 6.29(d).)

Jurisdictions.—The U.S. district court for the District of Columbia will have exclusive jurisdiction over any action brought under or arising out of the stock purchase provisions of section 6.29. No suit could be filed challenging required stock purchases unless and until the stock has been purchased and paid for in full. (Sec. 6.29(e).)

(29a) Financial report

The *Senate* amendment will require the Farm Credit Administration to review and evaluate the financial condition of the Farm Credit System, during the period beginning September 30, 2001, and ending December 31, 2001, and to submit a report to the Secretary of the Treasury and to the appropriate committees of the Congress on: (1) the general financial condition of each FCS institution; (2) the total outstanding principal of the 15-year guaranteed financial assistance bonds issued by the Financial Assistance Corporation; and (3) the ability of each FCS institution to retire at par value the preferred stock it issued to the Financial Assistance Corporation in connection with the assistance provisions of the bill. (Sec. 104.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(a) The *House* provision requires the Capital Corporation to cancel all assessments against FCS institutions and to return any funds collected under the assessments. These funds are to be returned effective December 31, 1987. During the period between the date of enactment of the bill and De-

cember 31, 1987, the Temporary Assistance Corporation could use Capital Corporation funds to carry out the financial assistance program. (Sec. 4.28L.)

The *Senate* amendment also cancels all the Capital Corporation assessments, but does so 15 days after the date of enactment and does not allow the funds to be used for any other purpose.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that, if after the assessments are refunded, there remains surplus funds in the Capital Corporation, the Assistance Board will be required to distribute the surplus among the FCS institutions that contributed funds to the Capital Corporation on the basis of the relative percentages contributed. (Sec. 6.10(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(30) FCS Loss-Sharing Capital Preservation Agreements

The *House* bill will provide for the return to contributing FCS institutions of amounts provided or obligated under capital preservation agreements entered into by the institutions, and to provide for the suspension of such agreements in the future.

Specifically, the *House* bill provides that any amounts received, or that remain accrued, by the institution in accordance with the activation of any bank capital preservation agreement for the calendar quarter ending on September 30, 1986 (the so-called "third-quarter assessment"), must be repaid (or reversed) to the contributing institution by the institution that received or accrued such assistance at such time as the receiving institution is provided with an equivalent amount of assistance or a commitment for such amount of assistance by the Temporary Assistance Corporation.

During the five-year period beginning on the date of the enactment of the bill and thereafter whenever funds from the Insurance Fund are available for use in assisting FCS institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement will be suspended in exchange for the benefits flowing to the signatories to such agreements under the bill. (Sec. 4.28M.)

The *Senate* amendment provides that in consideration of the benefits, both direct and indirect, received by each FCS bank and association, individually and collectively, under the Farm Credit Act of 1971, any amount paid by an FCS bank to another FCS bank under the Federal Land Bank Capital Preservation Agreement and the Thirty-Seven Banks Capital Preservation Agreement will be retained by the recipient bank. Also, any obligation accrued by an FCS bank under such agreements on or before September 30, 1986, but not paid on or before the date of enactment of the bill, must be paid in accordance with such agreements by such contributing bank in the amount as stated in the 1986 audited financial reports of such banks, notwithstanding any reservation, qualification, or condition expressed by the bank accruing or reporting the obligation. (Sec. 6.10(e).)

The *Conference* substitute adopts the *House* provision with an amendment that provides that the accounts payable under the third quarter 1986 Capital Preservation Agreement will be transferred to the Financial Assistance Corporation 5 days after the date of enactment, and institutions which are to receive funds under the third quarter agreements shall continue to carry the receivables on their books as an asset until such time as they are cashed out.

The conferees are confident that passing the Agricultural Credit Act of 1987 will alleviate any uncertainty the System auditors or the financial community may have had concerning the integrity of the third quarter 1986 accruals. In particular, the mechanism established in section ——, whereby the responsibility for third quarter 1986 accruals is transferred from the contributing banks to the Financial Assistance Corporation, assures timely payment to the receiving banks. The conferees further intend that the Financial Assistance Corporation will pay in cash to receiving banks their actual net loan charge-offs reported on the books of those institutions before January 1, 1993, in a timely fashion, after the first qualifying payments to the receiving banks to be made as soon as funds are available, and quarterly thereafter.

The Farm Credit System institution's management, boards of directors, and their independent auditor may take comfort in the legislative resolution of these issues in preparing and certifying the System's year-end 1987 financial statements without the necessity of subjecting the third quarter 1986 accruals to valuation allowance. This legislation will also eliminate any uncertainty that the third quarter accruals of the receiving banks continue to serve as eligible collateral for regulatory purposes.

Moreover, the conferees, by the passage of this legislation, have provided a resolution, not only of the issues which underlie the complex litigation concerning the third quarter 1986 accruals, but also assured that this matter is resolved without additional future litigation.

(31) TAC exemption from taxation

The *House* bill provides that the Temporary Assistance Corporation and its capital, reserves, and surplus (and income derived therefrom) will, except as described below, be exempt from Federal, State, municipal, and local taxation. Real estate held by the Corporation will be taxable to the extent other similar property held by others is taxed.

Also, the obligations issued by the Corporation will be deemed to be instrumentalities of the United States; and they (and the income therefrom) will be exempt from all State, municipal, and local taxation. (Sec. 4.28J.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment providing that bonds issued by the Financial Assistance Corporation receive the same tax treatment as current System-wide obligations.

(32) TAC restructuring reveiw committee

The *House* bill will require the Temporary Assistance Corporation to establish a committee to review decisions of the Corporation with respect to restructuring or preventive action under the bill. (Sec. 4.28K.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(33) Unsafe and unsound practices

Both the *House* bill and the *Senate* amendment will add language to the definition of "unsafe and unsound practice" (provided for the purposes of the enforcement provisions of the Farm Credit Act of 1971), to include within the definition noncompliance with terms or conditions governing financial assistance provided under the bill.

(a) The *Senate* amendment specifies that noncompliance referred to in the provision is that *by an FCS institution*, and that noncompliance is to be determined *by the Assistance Board in consultation with the Farm Credit Administration*. (Sec. 103.)

The *House* bill does not specify the entities to which "noncompliance" applies, nor the entity that determines noncompliance. (Sec. 105(c).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will add language to the definition of "unsafe or unsound practice", to include within the definition the following: a substantial deviation (as determined by the Farm Credit Administration) by an FCS institution from the business plan under which the Temporary Assistance Corporation is providing financial assistance to the institution. (Sec. 105(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(34) Funding Corporation under the House bill

The *House* bill will combine the provisions of section 4.5 (finance committee for FCS banks) and section 4.9 (fiscal agency for FCS banks) of the Farm Credit Act of 1971 into section 4.9. It also will add new provisions establishing the combined fiscal agency and finance committee as the Farm Credit Banks Funding Corporation and providing for the handling of the repayments of Temporary Assistance Corporation financial assistance by the Funding Corporation. (Sec. 105(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to change the references to the Temporary Assistance Corporation to the Assistance Board.

Board of directors.—The board of directors of the Funding Corporation will be composed of nine voting members and one nonvoting member, as follows:

(a) Four voting members will be current or former directors of the FCS banks elected by the shareholders of the Funding Corporation.

(b) Three voting members will be chief executive officers or presidents of FCS banks elected by the shareholders of the Corporation.

(c) Two voting members will be appointed by the members described in clauses (1) and (2) after they have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Federal Reserve Chairman. The appointed members would be selected from U.S. citizens—

(i) who are not borrowers from shareholders in, or employees or agents, of any FCS institution, not affiliated with the Farm Credit Administration, and not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

(d) The president of the Corporation would serve as a nonvoting member of the board.

In selecting candidates for positions described in clauses (a) and (b) above, due consideration would have to be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

During the period in which the Temporary Assistance Corporation is in existence, the board of directors of the Temporary Assistance Corporation would designate one of its directors to serve as nonvoting representative to the board of directors of the Corporation. After such period, the board of directors of the Insurance Corporation (to be established under section 106 of the bill) could designate one of its directors to serve as a nonvoting representative to the board of directors of the Corporation. The persons so designated by the Temporary Assistance Corporation and by the Insurance Corporation could attend and participate in all deliberations of the board of directors of the Corporation.

Until a quorum of the board of directors of the Funding Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of the bill, and the fiscal agency established under section 4.9 in effect before such date of enactment, will continue to operate as if this section had not been enacted. (Secs. 4.9(d) and 4.9(e).)

Duties of the Funding Corporation.—The *House* bill will require the Funding Corporation to—

(1) issue, market, and handle the obligations of FCS banks, and interbank or intersystem flow of funds;

(2) acting for FCS banks and subject to approval of the Farm Credit Administration, determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations (NOTE.—similar to current provisions of section 4.5); and

(3) pay to the Secretary of the Treasury all amounts received from any FCS bank in repayment of the FCS financial assistance provided under the bill, until the aggregate of t he amounts so paid (plus the amounts, if any, paid by the Farm Credit Administration in liquidating the assets and liabilities of the Temporary Assistance Corporation) equals the aggregate of the amounts paid by the Secretary of the Treasury to the Temporary Assistance Corporation. (Sec. 4.9(b).)

Administrative provisions.—The *House* bill will authorize the board of directors of the Funding Corporation to designate officers and committees for terms and purposes that are agreed on by the board. Also, when appropriate to the board's functions, a committee of the board, or representatives thereof, could act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

The *Conference* substitute adopts the *House* provision and, as noted, changes all the references to the Temporary Assistance Corporation to Assistance Board.

(35) Finance Committee under the Senate amendment

The *Senate* amendment will delete a provision currently in the Farm Credit Act of 1971. The deleted language provides that, when appropriate to the performance of their functions, subcommittees of FCS banks (or representatives thereof) constitute the subcommittees of the Finance Committee in connection with System-wide issues of obligations. (Sec. 210(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(36) Winding up the assistance entities

The *House* bill will provide the Farm Credit Administration, beginning five years after enactment of the bill, all powers tk liquidate commitments and obligations of the Teiporary Assistance Corpkration. Any fujds remaining after the expejses of hiquidation would be paid into the U.S. Treasury. (Sec* 105(h)(2)*)

The *Senate* amejdiejt provides that the Financial Assistance Corporation is to terminate kn the maturity and full payment of the 15-year guaranteed bonds issued to fund financial assistance under the bill. Any funds in the Corporation's accounts would be transferred to the Reserve Account. (Sec. 6.30.)

The *Conference* substitute adopts the *Senate* provision.

(37) Regulatory accounting procedures

The *House* bill will sunset authority for the use of regulatory accounting procedures (RAP) under the Farm Credit Act of 1971 (including both the authority for capitalizing and amortizing interest costs on certain obligations and capitalizing and amortizing loan loss reserves) at the earlier of: (1) the time that an FCS institution first receives financial assistance under the bill; or (2) 180 days after enactment of the bill. (Sec. 105(i).)

The *Senate* amendment will extend the authority for the use of RAP through 1992. With respect to capitalizing loan loss reserves, the continued use of RAP would be in accordance with FCA regulations and the special powers of the Assistance Board. (Sec. 105.)

The *Conference* substitute adopts the *Senate* provision.

(38) Undated letters of resignation

The *House* bill will prohibit the Temporary Assistance Corporation from requesting or requiring a member of the board of directors of an FCS institution to submit to the Temporary Assistance Corporation an undated letter of resignation. The Corporation also would be required to destroy all such letters that already exist and are in its control. (Sec. 105(j).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(39) Reports

Both the *House* bill and the *Senate* amendment require the FCS financial assistance entity to report to the agriculture committees of Congress on how FCS financial assistance under the bill results in lower interest charges to FCS borrowers and restored financial solvency of FCS institutions.

The *House* bill will require annual reports. (Sec. 105(k).)

The *Senate* amendment will require semiannual reports. (Sec. 6.6(c).)

THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION

(1) Purposes

(a) The *House* bill provides that it is a purpose of section 301 to provide a secondary marketing arrangement for farm real estate mortgages which meet the corporation's underwriting standards. (Sec. 301(a)(3).)

The *Senate* amendment provides that it is a purpose of title VII to provide a secondary marketing arrangement for qualified agricultural mortgage loans. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision with an amendment that substitutes "agricultural real estate" for "farm real estate." (Sec. 701.)

(b) The *House* bill states that the secondary marketing arrangement is provided in order to increase the availability of long-term credit to farmers at stable interest rates. (Sec. 301(a).)

The *Senate* amendment states that the secondary marketing arrangement is provided to increase the availability of long-term credit for producers at stable interest rates. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to ranchers as well as farmers. (Sec. 701.)

(c) The *House* bill states that the secondary marketing arrangement is provided in order to provide greater liquidity and lending capacity in extending credit to farmers.

The *Senate* amendment states that the secondary marketing arrangement is provided to provide greater liquidity and lending capacity for agricultural lenders in extending credit to producers. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to ranchers as well as farmers. (Sec. 701.)

(d) The *House* bill states that the secondary marketing arrangement is provided in order to provide an arrangement for new lending to facilitate capital market investments in providing long-term agricultural funding. (Sec. 201(a).)

The *Senate* amendment provides that the secondary marketing arrangement is provided to provide an arrangement to facilitate long and intermediate-term agricultural funding. (Sec. 701(3).)

The *Conference* substitute adopts the *House* provision. (Sec. 701.)

(2) Definitions

(a) The *House* bill provides a definition for the term "agricultural mortgage loan originator" as used in new part F. (Sec. 5.81(1).)[5]

The *Senate* bill is the same except the definition would apply to the term "originator". (Sec. 8.0(7).)[5]

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.0.)

(b) The *Senate* amendment provides that the term "agricultural property" means an agricultural commodity or product, or personal property used in the production, storage, processing, marketing, or distrubution of an agricultural commodity or product. (Sec. 8.0(1).)[5]

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision. (Sec. 8.0.)[5]

(c) The *Senate* amendment provides that the term "agricultural real estate" means a building or structure affixed to a parcel of land that is used for the storage, processing, marketing, or distribution of one or more agricultural commodities or products. (Sec. 8.0(2).)[5]

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[5] (Note.—Section references are to sections to be added to the Farm Credit Act of 1971.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(d) The *Senate* amendment provides that the term "agricultural real estate" means a principal residence that is a single family, moderate-priced residential dwelling located in a rural area, excluding any community having a population in excess of 2,500 inhabitants. (Sec. 8.0(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. The amendment provides that, in addition to land or buildings used in the production of agricultural products, the term "agricultural real estate" also means a principal residence that is a single family, moderately priced residential dwelling, with a purchase price no greater than $100,000, as adjusted for inflation, located in a rural area excluding any community for more than 2,500 persons.

The conferees permitted the inclusion of residential mortgages in pools guaranteed by the Corporation in order to provide rural residents greater access to residential mortgages. The conferees intend that the Corporation increase the availability of residential mortgage financing in those areas not adequately served by other residential secondary markets.

The conferees intend, that in establishing standards for the residential mortgages that can be placed in pools guaranteed by the Corporation, the standards be similar to current regulations of the Farm Credit System regarding loans to rural residents. The conferees intend that the residence be used as a permanent, year-round home by the borrower, and not for rental or immediate resale. The conferees intend that a moderately priced home is one that provides adequate housing not in excess of living standards of persons in the middle range of income, and not inconsistent with the general quality and standards of housing in that area. In addition, the conferees do not intend that the Corporation guarantee pools which contain mortgages on residences in congested, high density, residential areas or villages which are part of an urbanizing area surrounding or immediately adjoining an urban area of a larger population center. The conferees expect that the Corporation will establish standards that minimize the potential for real estate speculation by persons obtaining mortgages placed in pools guaranteed by the Corporation.

(e) The *House* bill provides that the term "board" means the interim board of directors or the permanent board of directors, as the case may be. (Sec. 5.81(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.)

(f) The *House* bill provides a definition for the term "certified agricultural mortgage marketing facility." (Sec. 5.81(4).)

The *Senate* amendment is the same except the definition would apply to the term "certified facility." (Sec. 8.0(4).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.0.)

(g) The *House* bill provides a definition for the term "Corporation." (Sec. 5.81(5).)

The *Senate* amendment is the same except the definition would apply to the term "Mortgage Corporation." (Sec. 8.0(6).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.)

(h) The *House* bill provides a definition for the term "credit enhancement." (Sec. 5.81.6).

The *Senate* amendment is the same except the definition would apply to the term "guarantee." (Sec. 8.0(5).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.0.)

(i) The *House* bill provides that the term "interim board" means the interim board of directors established under section 5.82(c). (Sec. 5.81(7).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.).

(j) The *House* bill provides that the term "permanent board" means the permanent board of directors established under section 5.82(d). (Sec. 5.81(8).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(k) The *Senate* bill provides that an obligation will not meet the requirement of the definition provided for the term "qualified loan" unless the obligation is—

(i) secured by a fee-simple or leasehold mortgage with status as a first lien or agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

(ii) secured by a first lien on agricultural property located in the United States; or

(C) a loan made by a bank for cooperatives. (Sec. 8.0(8).)

The *House* bill provides that an obligation will not meet the requirements of the definition provided for the term "qualified agricultural mortgage loan" unless the obligation is—

(i) secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States; and

(ii) approved by a certified facility as meeting the standards established by the corporation under section 5.87. (Sec. 5.81(9).)

The *Conference* substitute adopts the *House* provision with an amendment to provide that loans made by cooperatives (pursuant to Section 3.7(a) of the Farm Credit Act) may not be considered a "qualified loan" for purposes of the Act.

(l) The *House* bill provides that, to be considered a qualified loan, an obligation must be an obligation of a citizen of the United States, or a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are citizens of the United States. (Sec. 5.81(9).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to provide that in requiring that a qualified loan be an obligation of a citizen of the United States, such loans may also be an obligation of a U.S. national or an alien lawfully admitted for permanent residence in the U.S.

(m) The *Senate* amendment provides that, to be considered a qualified loan, an obligation must be an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to assure a reasonable likelihood that the loan will be repaid according to its terms, or is a cooperative meeting the eligibility standards in section 3.7(a) of the Farm Credit Act. (Sec. 8.0(8).)

The *House* bill provides that, to be considered to be a qualified loan, an obligation must be an obligation of a person, corporation, or partnership that has training or farming experience, and meets the criteria established by the Corporation under proposed section 5.87, including underwriting standards. (Sec. 5.81(9).)

(NOTE.—The criteria under section 5.87 includes a standard, to be established by the Board, that would require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan.)

The *Conference* substitute adopts the *Senate* provision with an amendment. (Sec. 8.0.)

(n) The *House* bill provides that the term "State" has the same meaning as given the term in section 5.51(1) of the Act. (Sec. 5.81(10).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.0.)

(3) Establishment and purposes of the corporation

(a) The *House* bill provides that there is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation. (Sec. 5.82(a).)

The *Senate* amendment provides that there is created the Federal Agricultural Mortgage Corporation. The Corporation will be a body corporate under the direction of a Board of Directors.

The *Senate* amenn. (Sec. 8.1.(a).)

(c) The *House* bill provides that the Corporation will be the only institution of the Farm Credit System liable for the credit enhancement provided under section 5.85. (Sec. 5.82(a).)

The *Senate* amendment provides that the Farm Credit System and System institutions (other than the Mortgage Corporation) will not be liable for any debts or obligations of the Corporation. (Sec. 8.1(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.1(a).)

(d) The *House* bill provides that the Corporation must, in consultation with originators, develop uniform underwriting and other necessary standards for qualified agricultural mortgage loans. (Sec. 5.82(b).)

The *Senate* amendment provides that the corporation must, in consultation with originators, develop uniform underwriting, security appraisal, and repayment standards for qualified loans. (Sec. 8.1(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.1(b).)

(e) The *House* bill provides that the Corporation must provide credit enhancement for the timely repayment of principal and interest on securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans. (Sec. 5.82(b).)

The *Senate* amendment provides that the Corporation must provide guarantee for the repayment of principal and interest due on pools of qualified loans. (Sec. 8.1(b).)

The *Conference* substitute adopts the *House* provision with an amendment to require that the Corporation provide guarantees for timely repayment. The Corporation may refuse such guarantees if underwriting standards are not met or for other reasons where in its judgement, an unreasonable risk exists.

(4) Interim board of directors

(a) The *House* bill provides that until the permanent board of directors first meets

with a quorum of its members present, the Corporation will be under the management of an interim board of directors. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(b) The *House* bill provides that the interim board of directors will be composed of 9 members. (Sec. 5.82(c).)

The *Senate* amendment provides that the interim Board will consist of 15 members.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(c) The *House* bill provides that the members of the interim board are to be appointed by the President within 60 days after enactment of the bill. (Sec. 5.82(c).)

The *Senate* amendment provides that not later than 90 days after the date of enactment of the bill, the interim Board of Directors must be appointed by the President. (Sec. 8.2(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(a).)

(d) The *House* bill provides that the members of the interim board must be appointed by the President by and with the advise and consent of the Senate. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. (Sec. 8.2(a).)

(e) The *House* bill provides that 3 of the 9 members of the interim board are to be appointed from among persons who are representatives of banks, other financial institutions, and insurance companies. (Sec. 5.82(c).)

The *Senate* amendment provides that 5 of the 15 members of the interim Board must be representatives of banks, other financial institutions, and insurance companies. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision with an amendment to change the reference from financial institutions to financial entities so as to cover all of the type of entities that can be originators or qualified facilities. (Sec. 8.2(a).)

(f) The *House* bill provides that 3 of the 9 members of the interim board are to be appointed from among persons who are representatives of Farm Credit System institutions. (Sec. 5.82(c).)

The *Senate* amendment provides that 5 of the 15 members of the interim Board must be representatives of System institutions. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(g) The *House* bill provides that 2 members of the interim board must be appointed from among persons who are farmers and have not served as directors or officers of any financial institution. (Sec. 5.92(c).)

The *Senate* amendment provides that 5 of the 15 members of the interim Board must be farmers or ranchers, who are not presently, and who have not been, officers or directors of any financial institution. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to ranchers and farmers, and to restrict service on the interim board by persons who are not presently, and who have not been directors or officers of any financial institution. There are no time limits on the application of the prior service prohibition. (Sec. 8.2(a).)

(h) The *Senate* amendment provides that the 5 members of the interim Board that are farmers or ranchers must be experienced in financial matters. (Sec. 8.2(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(i) The *Senate* amendment provides that no more than 3 of the 5 members of the interim Board that are farmers or ranchers may be members of the same political party. (Sec. 8.2(a).)

The *House* bill provides that not more than 5 of the 9 members of the interim board may be of the same political party. (Sec. 5.82(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(j) The *Senate* amendment provides that not more than 2 of the 5 members of the interim Board who are farmers or ranchers may be stockholders of any System institution. (Sec. 8.2(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to apply the proscription to not more than one of the two members of the interim Board who are farmers or ranchers. This is consistent with the reduction of the number of public members of the interim board to three from five. (Sec. 8.2(a).)

(k) The *House* bill provides that a vacancy in the interim board will be filled in the manner in which the original appointment was made. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(l) The *House* bill provides that if any member of the interim board appointed from among person who are representatives of banks, other financial institutions, insurance companies or Farm Credit System institutions ceases to be such a representative; or if any member appointed from among persons who are not or have not been directors or officers of any financial institution becomes a director or an officer of any institution, then the member may continue as a member for not longer than 45-days after the member ceases to be a representative or becomes a director or officer, as the case be. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(m) The *House* bill provides that—

(i) The members of the interim board will be appointed for the life of the board;

(ii) 5 members of the interim board will constitute a quorum; and

(iii) The interim board will meet at the call of the chairperson or a majority of its members. (Sec. 5.82(c).)

The *Senate* amendment contains not comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(n) The *House* bill provides that on the appointment of sufficient members of the interim board to convene a meeting with a quorum present, the interim board must arrange for an initial offering of common stock and take whatever other actions are necessary to proceed with the operations of the Corporation. (Sec. 5.82(c).)

The *Senate* amendment provides that the interim Board must arrange for an initial offering of voting common stock and take whatever other actions are necessary to proceed with the operations of the Mortgage Corporation. (Sec. 8.2(a).)

The *Conference* substitute adopts the *House* provision. The Conferees intend that the interim board perform only a basic role analogous to incorporators under State business corporation laws. (Sec. 8.2(a).)

(o) The *Senate* amendment provides that—

(i) the voting common stock must be offered to banks, other financial entities, insurance companies, and System institutions under such terms and conditions as the interim Board may adopt; and

(ii) the voting stock must be fairly and broadly offered to assure that no institution or institutions acquire a disproportionate amount of the total amount of voting common stock outstanding of a class, and that capital contributions and issuances of voting common stock for the contributions are fairly and broadly distributed between entities eligible to hold class A and class B stock. (Sec. 8.2(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(a).)

(p) The *House* bill provides that the interim board will terminate when the permanent board of directors first meets with a quorum present. (Sec. 5.82(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(a).)

(5) Permanent board of directors.

(a) The *House* bill will provide that when banks, other financial institutions, insurance companies, and Farm Credit System institutions have fully paid in $20,000,000 in capital contributions in return for common stock of the Corporation, the interim board must arrange for the organization of a permanent board of directors. (Sec. 5.82(d).)

The *Senate* amendment provides that immediately after the date that banks, other financial institutions, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock, the Corporation must arrange for the election and appointment of a board of directors. (Sec. 8.2(d).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(b) The *House* bill provides that after the termination of the interim board the Corporation will be under the management of the permanent board of directors. (Sec. 8.2(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(c) The *House* bill provides that the permanent board of directors will be composed of 13 members. (Sec. 5.82(d).)

The *Senate* amendment provides that the board will consist of 15 members. (Sec. 8.2(d).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(d) The *House* bill provides that 3 of the 13 members of the board are to be elected by the holders of the class of common stock issued to insurance companies, banks, and other financial institutions. At least 1 of the members must be actively engaged in the production of 1 or more agricultural commodities at the time of appointment. (Sec. 5.82(d).)

The *Senate* amendment provides that 5 of the 15 members of the board must be elected by holders of common stock that are insurance companies, banks, or other financial entities. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(e) The *House* bill provides that 3 of the 13 members of the board are to be elected by the holders of the class of common stock issued to Farm Credit System institutions. At least 1 of these members must be actively engaged in the production of one or more agricultural commodities at the time of appointment. (Sec. 5.82(d).)

The *Senate* amendment provides that 5 of the 15 members of the board must be elected by holders of common stock that are System institutions. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(f) The *House* bill provides that 6 of the 13 members of the board must be appointed by the President. (Sec. 5.82(d).)

The *Senate* amendment provides that 5 of the 15 members of the board must be appointed by the President. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision with an amendment to require that the President's appointments to the permanent board be with the advice and consent of the Senate. (Sec. 8.2(b).)

(g) The *House* bill provides that the 6 members of the Board appointed by the President are to be appointed with the advise and consent of the Senate. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment. (Sec. 8.2(b).)

(h) The *House* bill provides that, of the 6 members of the board appointed by the President, 2 members must be farmers who have not served as a director or an officer of any financial institution. (Sec. 5.82(d).)

The *Senate* amendment provides that, of the 5 members of the board appointed by the President, at least 2 must be experienced in farming or ranching, and are not, and have not been, officers or directors of any financial institutions. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(i) The *House* bill provides that 1 of the 6 members of the board appointed by the President must represent the interests of the general public and not have served as a director or officer of any financial institution. (Sec. 5.82(d).)

The *Senate* amendment provides that the 5 members appointed by the President must be representatives of the general public, and not, and not have been, officers or directors of any financial institutions. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill provides that 1 of the 6 members of the board appointed by the President must be appointed from among persons that represent the interests of the general public; are specially qualified to serve on the Board by virtue of their education, training or experience in secondary financial markets; and are not directors or officers of any financial institution. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(k) The *Senate* amendment provides that the 5 members of the board appointed by the President must be experienced in financial matters. (Sec. 8.2(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(l) The *House* bill provides that the board will include the Secretary of Treasury or the Secretary's designee. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. (Sec. 8.2(b).)

(m) The *House* bill provides that not more than 4 of the 6 members of the board appointed by the President including the Secretary of the Treasury or the Secretary's designee, may be of the same political party. (Sec. 5.82(d).)

The *Senate* amendment provides that no more than 3 of the 5 members of the board appointed by the President may be members of the same political party. (Sec. 8.2(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2(b).)

(n) The *Senate* amendment provides that the President must appoint the 5 appointed members of the board not later than the later of the date—

(i) that banks, other financial institutions, insurance companies, and System institutions have subscribed and fully paid for at least $20,000,000 of common stock of the Mortgage Corporation; or

(ii) 270 days after the date of enactment of the amendment. (Sec. 8.2(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.2.)

(o) The *House* bill provides a vacancy among the members elected to the board must be filled by the Board from among persons eligible for election to the position. (Sec. 5.82(d).)

The *Senate* amendment provides that any seat on the board that becomes vacant after the annual election of the directors must be filled by members of the board from the same category of directors. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(p) The *House* bill provides that a vacancy in the board among members appointed by the President must be filled in the manner in which the original appointment was made. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(q) The *House* bill provides that if—

(1) any member of the board who is appointed or elected to the board from among persons who are representative of banks, other financial institutions, insurance companies or Farm Credit System institutions, or are officers or employees of the United States, ceases to be such a representative, officer, or employee, or

(2) any member who was appointed from persons who are not or have not been directors or officers of any financial institution becomes a director or an officer of any financial institution.

the member may continue for not longer than the 45-day period beginning on the date the member ceases to be a representative, officer, or employee or becomes a director or officer, as the case may be. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to include financial entities, and to delete the language "or are officers or employees of the United States". (Sec. 8.2(b).)

(r) The *House* bill provides that members of the board appointed by the President will serve at the pleasure of the President. (Sec. 5.82(d).)

The *Senate* amendment provides that the term of office of members appointed by the President will be 3 years and until their successors have been appointed and qualified. With regard to the initial appointments of members, the terms of two of the members will expire 2 years after the date of appointment and the term of one of the members will expire 1 year after the date of appointment. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(s) The *House* bill provides that the stockholder-elected members of the board will be elected for a term ending on the date of the first annual meeting of the common stockholders of the Corporation which convenes after the member is elected. (Sec. 5.82(d).)

The *Senate* amendment provides that the stockholder-elected members will each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation and will serve until their successors are elected and qualified. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(t) The *House* bill provides that any member appointed to fill a vacancy before the expiration of the term for which the new member's predecessor was appointed will be appointed only for the remainder of the term. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(u) The *House* bill provides that a member may serve after the expiration of the member's term until the member's successor has taken office. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(v) The *House* bill provides that members of the board who are full-time officers or employees of the United States will receive no additional pay by reason of the member's service on the board. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(w) The *House* bill provides that the President will designate one of the members of the board, from among those members appointed by the President, as the Chairperson of the board. (Sec. 5.82(d).)

The *Senate* amendment provides that the board of directors will elect, on an annual basis, a chairman from among the members of the board. (Sec. 8.2(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(x) The *House* bill provides that the board will meet at the call of the chairperson or a majority of its members. (Sec. 5.82(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(b).)

(y) The *House* bill provides that the board may appoint, employ, fix the pay of, and provide other allowances and benefits for such officers and employees of the Corporation as the board determines to be appropriate. (Sec. 5.82(e).)

The *Senate* amendment provides that the Board will select, appoint, and determine the compensation of qualified persons to fill

such offices as may be provided for in the bylaws of the Corporation. (Sec. 8.3(b).)

The *Conference* substitute adopts the *House* provision. (8.2(c).)

(z) The *House* bill provides that the board may establish and enforce such bylaws, and prescribe such other policies, as the board determines to be necessary or appropriate to carry out the provisions of the part F. (Sec. 5.82(d).)

The *Senate* amendment provides that the Mortgage Corporation will be a body corporate and will have power to prescribe bylaws, through the board of directors, not inconsistent with law, that provide for the classes of the stock of the Corporation, and the manner in which (i) the stock will be issued, transferred, and retired; (ii) the officers, employees, and agents of the Corporation are selected; (iii) the property of the Corporation is acquired, held, and transferred; (iv) the commitments and other financial assistance of the Corporation are made; (v) the general business of the Corporation is conducted; and (vi) the privileges granted by law to the Corporation are exercised and enjoyed. (Sec. 8.3(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(6) Powers and duties of the Mortgage Corporation and Board

(a) The *Senate* amendment provides that after the board has been duly constituted, subject to the other provisions of title VII and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation to securities issued on the security of, or in participation in, pooled interests in qualified loans. (Sec. 8.3(a).)

The *House* bill provides that the Corporation will have the power to provide credit enhancement in the manner provided under section 5.85. (Sec. 5.82(g).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(a).)

(b) The *Senate* amendment provides that the board must—

(i) determine the general policies that will govern the operations of the Corporation; and

(ii) assign to persons filling offices of the Corporation executive functions, powers, and duties as may be prescribed by the bylaws of the Corporation or the Board.

The *Senate* amendment also provides that the persons so elected or appointed will be the executive officers of the Corporation and must discharge the executive functions, power, and duties of the Corporation. (Sec. 8.3(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(b).)

(c) The *House* bill provides that the Corporation will have the power to issue common stock in the manner provided in section 5.83. (Sec. 5.82(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.2(c).)

(d) The *Senate* amendment provides that the Corporation will be a body corporate with the power to operate under the direction of its Board. (Sec. 8.3(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(e) The *Senate* amendment provides that the Corporation will have the power to provide for a president, one or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to title 5, United States Code, and require surety bonds or make other provisions against losses occasioned by acts of the persons. (Sec. 8.3(c).)

The *House* bill provides that the Corporation will have the power to require surety bonds or make other provisions against losses occasioned by acts of officers or employees of the Corporation. (Sec. 5.82(g).)

(NOTE: Also see Sec. 5.82(e) regarding the board's authority to appoint officers and staff. Sec. 5.82.(e) is compared with Sec. 8.3(b) on page).

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill provides that the Corporation will have the power to have succession until dissolved by Act of Congress. (Sec. 5.82(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(c).)

(g) The *Senate* amendment provides that the Corporation will have the power to—

(i) prescribe the standards as may be necessary to carry out title VII; and

(ii) make and perform contracts, agreements and commitments with persons and entities both inside and outside the Farm Credit System. (Sec. 8.3(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(h) The *House* bill provides that the Corporation will have power to enter into contracts. (Sec. 5.82(g).)

The *Senate* amendment provides that the Corporation will have the power to enter into contracts and make payments with respect to contracts. (Sec. 8.3(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.3(c).)

(i) The *House* bill provides that the Corporation will have power to sue and be sued in its corporate capacity and to complain and defend in any action brought by or against the Corporation in any State or Federal court of competent jurisdiction. (Sec. 5.82(g).)

The *Senate* amendment provides that the Corporation will have power to sue and be sued in its corporate name and complain and defend in a court of competent jurisdiction. (Sec. 8.3(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(c).)

(j) The *Senate* amendment provides that the Corporation will have power to sell or exchange any securities or obligations. (Sec. 8.3(c).).

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. The Senate amendment provided that the Corporation has power to "sell or exchange" any securities or obligations. The conferees adopted an amendment that modified this language to "purchase or sell" any securities or obligations. The Corporation's powers to purchase or sell securities or obligations are limited to doing so on its own account for investment purposes and will not include the power to set up a securities exchange for the purpose of obtaining commissions or consideration of any kind.

(k) The *Senate* amendment provides that the Corporation will have power to exercise such other incidental powers as necessary to carry out the duties of the Corporation in accordance with title VII. (Sec. 8.3(c).)

The *House* bill provides that the Corporation will have power to exercise such other incidental powers as are necessary to carry out the Corporation's purpose in accordance with part F. (Sec. 5 .82(g).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(c).)

(l) The *House* bill provides that the Federal Reserve banks may act as depositaries for, or as fiscal agents or custodians of, the Corporation. (Sec. 5.82.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(d).)

(m) The *House* bill provides that the Secretary of the Treasury may authorize the Corporation to use the book-entry system of the Federal Reserve System. (Sec. 5.82.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.3(e).)

(7) Voting common stock of the Corporation

(a) The *House* bill provides that the Corporation may issue common stock with par value in an amount to be determined by the Board. (Sec. 5.83(a).)

The *Senate* amendment provides that the Corporation must issue voting common stock having such par value as may be fixed by the Board from time to time* (Sec. 8.4(a).)

(NOTE.—The *House* bill provides that each share of common stock will entitle the holder to 1 vote. (Sec. 5.83(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(a).)

(b) The *House* bill provides that after the date the permanent board first meets with a quorum present, the common stock may be issued only to lone originators and certified facilities. (Sec. 5*83(a).)

The *Senate* amendment provides that *voting* common stock may only be issued to originators and certified facilities. (Sec. 8.4(a).)

The *Conference* substitute adopts the *House* provision. The Conferees intend that entities which, prima facie, meet the eligibility standards for originators and facilities will be entitled to participate in the initial subscription and sale of Class A and Class B stock, subject to adjustment of ownership when qualification standards are adopted by the permanent board. This will facilitate the election of two classes of members of the permanent board which can then develop underwriting, servicing, appraisal, and qualification standards. (Sec. 8.4(a).)

(c) The *Senate* amendment designates the two classes of stock as "Class A" and "Class B". (Sec. 8.4(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(a).)

(d) The *House* bill provides that the Board must adopt such terms, conditions, and procedures with regard to the issue of stock under section 5.83 as may be necessary. (Sec. 5.83(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.4(a).)

(e) The *House* bill provides that subject to such limitations as the Board may impose, any share of any class of common stock issued under 5.83 will be transferable among

the institutions to which shares of the class of common stock may be offered. (Sec. 5.83(a).)

The *Senate* amendment provides that a common share issued will be fully transferable except as the Corporation may restrict in its bylaws. (Sec. 8.4(b).)

The *Conference* substitute adopts the *House* provision with an amendment to refer to institutions and entities. (Sec. 8.4(a).)

(f) The *Senate* amendment provides that no stockholder, other than a holder of class B stock (stock issued to System institutions), may own, directly or indirectly, more than 10 percent of the outstanding shares of class B voting common stock of the Corporation. (Sec. 8.4(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to increase the maximum permitted ownership from 10 to 33 percent of the outstanding shares of the Class A stock. (Sec. 8.4(a).)

(g) The *House* bill provides that the corporation may require capital contributions to meet the administrative expenses of the corporation. (Sec. 5.83(b).)

The *Senate* amendment provides for capital contributions to carry out title VII of the amendment. (Sec. 8.4(c).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.4(b).)

(h) The *House* bill provides that the Corporation must issue common stock commensurate with any required capital contribution. (Sec. 5.83(b).)

The *Senate* amendment provides that the Corporation must issue voting common stock evidencing any required capital contribution. (Sec. 8.4(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(b).)

(i) The *House* bill provides that the Corporation may pay to the holders of common stock such reasonable dividends as the Board may declare from time to time. (Sec. 5.83(b).)

The *Senate* amendment provides that such dividends as may be declared by the board, in the discretion of the board, must be paid by the Corporation to the holders of the voting common stock pro rata based on the total number of shares of both classes of stock outstanding. (Sec. 8.4(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.4(c).)

(j) The *House* bill provides that no dividend may be declared or paid by the board unless the board determines the adequate provision has been made for the Corporation's reserve against losses required under section 5.88(b)(1).

The *House* bill also provides that no dividend may be declared or paid by the board while any obligation issued by the Corporation to the Secretary of the Treasury under section 5.91 remains outstanding. (Sec. 5.83(b).)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute adopts the *House* provision. (Sec. 8.4(c).)

(k) The *Senate* amendment provides that the Corporation is authorized to issue nonvoting common stock having such par value as may be fixed by the board from time to time. The nonvoting common stock will be freely transferable, except that, as to the Corporation, the stock will be transferable only on the books of the Corporation. (Sec. 8.4(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to permit the board to declare dividends on nonvoting stock subject to the determination that must be made in order for dividends to be paid to voting stock. (Sec. 8.4(d).)

(l) The *Senate* amendment provides that the Corporation is authorized to issue nonvoting preferred stock having such par value as may be fixed by the Board from time to time. Preferred stock will be freely transferable, except that, as to the Corporation, the stock will be transferred only on the books of the Corporation.

Holders of preferred stock will be entitled to a rate of cumulative dividends and redemption or other conversion provisions as may be provided for at the time of issuance. No dividends will be payable on any share of common stock at any time when any dividend is due on any share of preferred stock.

In the event of any liquidation, dissolution, or winding up of the business of the Corporation, the holders of the preferred shares of stock will be paid in full at par value, plus all accrued dividends, before the holders of the common shares receive any payment. (Sec. 8.4(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendment to provide that with regard to dividends for the holders of preferred stock, it is within the discretion of the Board of Directors of the Corporation to declare dividends. The amendment also provides that no dividend may be declared or paid to preferred stockholders unless the Board determines that adequate reserved required under section 8.10 have been made, or while any of the Corporation's obligations or those of the U.S. Treasury under section 8.13 remain outstanding. This is similar to the treatment of dividends to the holders of voting common stock as well.

(8) Certification of facilities

(a) The *House* bill provides that within 120 days after the permanent board first meets with a quorum present, the Corporation must issue standards for the certification of agricultural mortgage marketing facilities. (Sec. 5.84.)

The *Senate* amendment provides that no later than 120 days after the appointment and election of the board, the Corporation must issue standards for certification of agricultural mortgage marketing facilities.

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(b) The *House* bill provides that to be eligible to be certified, the facility must be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State. (Sec. 5.84(a).)

The *Senate* amendment provides that to be eligible, the facility must be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of any State or the District of Columbia. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(c) The *House* bill will require the facility to meet or exceed capital standards established by the Board. (Sec. 5*84(a).)

The *Senate* amendment will require the facility to have adequate capitalization. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(d) The *House* bill will require the facility to demonstrate managerial ability that is acceptable to the Corporation. (Sec. 5.84(a).)

The *Senate* amendment is the same except the facility must demonstrate acceptable managerial ability. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(e) The *House* bill will require the facility to adopt appropriate loan underwriting, appraisal, and servicing standards and procedures that meet or exceed the standards established by the board. (Sec. 5.84(a).)

The *Senate* amendment is the same except the standards and procedures must be in conformity with uniform standards established by the Corporation. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(f) The *House* bill will require that for purposes of enabling the Corporation to examine the facility, the facility must allow officers or employees of the Corporation to have access to all books, accounts, financial records, reports, files, and all other papers, things, or property, of any type whatsoever, belonging to or used by the Corporation which are necessary to facilitate an examination of the facility's operations in connection with securities, and the pools of qualified agricultural mortgage loans which back securities for which the Corporation has provided credit enhancement. (Sec. 5.84(a).)

The *Senate* amendment requires that the facility must permit the Corporation to examine the books, records, and loan files of the facility with respect to the operations of the facility and enhancement of pools of the facility. (Sec. 8.5(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(g) The *Senate* amendment requires the facility to adopt appropriate minimum standards and procedures relating to loan administration and disclosure to borrowers concerning the terms and rights applicable to loans for which guarantee is provided, in conformity with uniform standards established by the Corporation. (Sec. 8.5(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(a).)

(b) The *House* bill provides that the facility must be certified if the facility meets the standards established by the Corporation. (Sec. 5.84(b).)

The *Senate* amendment is the same except the application of the facility must meet the standards established by the Corporation. (Sec. 8.5(b).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.5(b).)

(i) The *House* bill provides that any certification of a facility will be effective for a period determined by the Corporation at the time of certification but in no event for any period greater than 5 years. (Sec. 5.84(c).)

The *Senate* amendment is the same except the Corporation is not required to make the determination of the period at the time of certification. (Sec. 8.5(c).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.5(c).)

(j) The *House* bill provides that revocation of a facility's certification will not affect any commitment issued by the Corporation providing credit enhancement for securities representing interests in, or obligations backed by, any pool of qualified loans. (Sec. 5.84(d).)

The *Senate* amendment provides that revocation of a certification will not affect any

pool guarantee that has been issued by the Corporation. (Sec. 8.5(c).).

The *Conference* substitute adopts the *Senate* provision (Sec. 8.5(d).)

(9) Affiliation of FCS institutions

(a) The *House* bill provides that notwithstanding any other provision of the Farm Credit Act of 1971, any Farm Credit System institution (other than the Corporation), acting for such institution alone or in conjunction with 1 or more other such institutions, may establish and operate, as an affiliate, an agricultural mortgage facility if, within a reasonable time after establishment, the facility obtains and thereafter retains certification. (Sec. 5.84(e).)

The *Senate* amendment would amend the Farm Credit Act of 1971 to allow system institutions to operate as an originator and to become a certified facility. (Sec. 703.)

The *Conference* substitute adopts both the *House* and *Senate* provisions. (Sec. 8.5(e).)

(b) The *House* bill provides that any number of Farm Credit System institutions (other than the Corporation) may enter into an agreement with any certified facility (including an affiliate) to sell the qualified agricultural mortgage loans of such institutions exclusively to or through the facility. (Sec. 5.84(e).)

The *Senate* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The Conferees intend that associations will be free to contract exclusively with other FCS institutions notwithstanding any other relationship between the parties or among FCS institutions. (Sec. 8.5(e).)

(10) Credit enhancement (guarantee) for securities backed by pools of qualified loans.

(a) The *House* bill provides that subject to the requirements of section 5.85 and section 5.86, the Corporation must carry out a program of credit enhancement and may provide such credit enhancement only for securities issued by a certified facility which represent interests in, or obligations backed by, any pool of qualified loans which is held by the facility. (Sec. 5.85(a).)

The *Senate* amendment provides that on such terms and conditions as the Corporation may consider appropriate, the Corporation must guaranty the timely payment of principal and interest on the securities issued by a certified facility that represents interests in, or obligations backed by, any pool of qualified loans held by such facility. (Sec. 8.6(a).)

The *Conference* substitute adopts the *Senate* provision. The section provides that Corporation guarantee is subject to certain conditions and only where appropriate. It is intended that the Corporation be given flexibility to refuse such guarantees where underwriting standards are not met or for other reasons where in its judgment, an unreasonable risk exists.

(b) The *Senate* amendment provides that if the facility is unable to make any payment of principal or interest on any security for which a guaranty has been provided, the Corporation must make such payment as and when due in cash, and on payment will be subrogated fully to the rights satisfied by such payment.

The *Senate* amendment also provides that notwithstanding any other provision of law, the Corporation is empowered, in connection with any guaranty under section 8.6(a), whether before or after any default, to provide by contract with the facility for the extinguishment, on default by the facility, of any redemption, equitable, legal, or other right, title, or interest of the facility in any mortgage or mortgaged constituting the pool against which the guaranteed securities are issued. With respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute the pool will become the absolute property of the Corporation subject only to the unsatisfied rights of the holders of the securities based on and backed by the pool. (Sec. 8.6(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.67(a).)

(c) The *House* bill provides that the Corporation may not provide credit enhancement under section 5.85 with respect to securities which represent interests in, or obligations backed by, any pool of qualified agricultural mortgages loans unless—

(i) a reserve which meets the requirements of section 5.86(a) has been established, with respect to the loans constituting the pool, in the manner and in an amount described in the section; or

(ii) subordinated participation interests in the loans which meet the requirements of section 5.86(b) have been retained in the manner and in amounts described in the section (Sec. 5.85(b).)

The *Senate* amendment provides that the Corporation may provide guarantee only if a reserve in an amount equal to at least 10 percent of the principal amount of the loans constituting the pool has been established in accordance with title VII. (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.6(b).)

(d) The *Senate* amendment provides that the Corporation must provide guarantee only with respect to an individual pool of qualified loans on application of a certified facility. (Sec. 8.6(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to include guidelines conditioning the guarantees for securities that represent interest in a pool of qualified loans issued by certified facilities. Consistent with the Act, it is intended that the Corporation be given flexibility to refuse such guarantees, where appropriate.

(d) The *House* bill provides that the Corporation will not be liable for any payment of any amount of the principal of, or interest on, any security for which credit enhance-ment has been provided under section 5.85 until—

(i) all amounts in the reserve established with respect to the pool of qualified loans in connection with which the security was issued have been exhausted; and

(ii) the aggregate amount of subordinated participations in such loans which have been retained by the facility or the originator of any such loan (and the amount in any reserve established by the facility with respect to any such interest have been surrendered or otherwise transferred to the Corporation. (Sec. 5.85(b).)

The *Senate* amendment provides that the Corporation must—

(i) require that reserves and retained subordinated interests must be first exhausted before any demand be made by the certified facility with respect to the guarantee of the Corporation;

(ii) assure the timely receipt of principal and interest due to security or obligation holders only after exhaustion of the reserves and retained subordinated participating interests; (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision with an amendment. In authorizing the establishment of subordinated participation interests to back the securities, the Managers intend to provide facilities with flexibility in the design of those subordinated participation interests rather than restrict the facilities to a particular design. The Managers further intend to allow reserves, and including subordinated interests to be reduced over time in a reasonable manner to reflect reduction in risk to the senior security holders and to reflect unreimbursed payments by the subordinated interest to the senior security holders.

(e) The *House* bill provides that to reduce the risks incurred by the Corporation in providing credit enhancement, and to further the purposes of Part F, the Board must establish standards governing the composition of each pool of qualified agricultural mortgage loans (in connection with which such credit enhancement is provided) over the period during which the commitment to provide credit enhancement is effective.

The standards established by the Board must, at a minimum, require that each pool consist of loans which are secured by agricultural real estate which is widely distributed geographically; vary widely in terms of amounts of principal; and are secured by agricultural real estate which, in the aggregate, is used to produce a wide range of agricultural commodities. (Sec. 5.85(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. Pools composed solely of residential real estate mortgages would not be required to meet the commodity diversity standard. The conferees do intend that these pools be secured by residential real estate which is widely distributed geographically and vary widely in the amount of principal.

(f) The *House* bill provides that the standards established by the Board for pools of qualified loans must, at a minimum, prohibit the inclusion in any pool of any loan the principal amount of which exceeds 2 percent of the aggregate amount of principal of all loans in the pool; and prohibit 2 or more loans to related borrowers. (Sec. 5.85(c).)

The *Senate* amendment provides that the Corporation may not provide guarantee with respect to a pool if the pool contains any single loan the principal amount of which exceeds 5 percent of the total principal amount of the pool at the time the application for guarantee is submitted. (Sec. 8.6.(b).)

The *Conference* substitute adopts the *House* provision with an amendment to increase the maximum aggregate principal amount of any single loan in a pool from 2.0% to 3.5% of the aggregate principal of all loans in the pool. The amendment would prohibit the Corporation from providing guarantees any pool if it contains less than 50 loans.

The amendment also prohibits the inclusion in any pool of loans to two or more related borrowers. The intent of this provision is to provide the authority to the Corporation to enforce the loan size limitations contained in this and other sections of the legislation. The conferees intend that the Corporation adopt standards and procedures which will prevent persons or Corporations

from evading the loan limits by having two or more loans in the same pools which individually do not exceed the limitations but, taken together, would exceed the limitation. The purpose of this provision is to reduce the pool risk by mandating that no more than 3.5% of the principal amount of any pool would be tied to one entity's ability to service the loan. For example, the pool could contain loans from two brothers or other relatives if the borrowers who did not have a common interest in the property securing the loan, or a common interest in the sources of income which provide debt service for the loan. However, the provisions would prohibit inclusion in a pool of loans made to subsidiaries or affiliates of a corporation or partnership or of loans to entities which share common control.

(g) The *House* bill provides that in establishing the standards for pools of qualified loans, the Board must include provisions that promote and encourage the inclusion of loans for small farms and family farmers in pools of qualified agricultural mortgage loans.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(c).)

(h) The *House* bill provides that the standards established by the board for pools of qualified loans will not take effect before the later of—

(i) the end of a period consisting of 30 legislative days and beginning on the date the standards are submitted to the Congress; or

(ii) the end of a period consisting of 90 calendar days and beginning after submission to Congress. (Sec. 8.6(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(c).)

(i) The *House* bill provides that the Corporation must require a facility to agree to act in accordance with the standards of a prudent institutional lender to resolve any default on any loan in a pool. (Sec. 5.85 (d).)

The *Senate* amendment provides that the Corporation must require that a certified facility act in accordance with the standards of a prudent institutional lender to resolve loan defaults. (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.6(d).)

(j) The *House* bill provides that the Corporation must require a facility to agree that the originator of any loan in a pool will be permitted to retain the right to service the loan. (Sec. 5.85(d).)

The *Senate* amendment provides that the Corporation must, in the case of each loan originated for a pool, provide guarantee only if the originator may retain the servicing of the mortgage in connection with the borrower. (Sec. 8.6(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.6(d).)

(k) The *House* bill provides that the Corporation must require a facility to agree that each loan in the pool must have been sold to the certified facility without recourse to the originator of the loan (other than recourse to any interest of the originator in a reserve established in connection with the loan or any subordinated participation interest of the originator.) (Sec. 5.85(d).)

The *Senate* amendment provides that the Corporation must provide guarantee only if each qualified loan has been sold to the certified facility without recourse to the originator. (Sec. 8.6(b).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(d).)

(l) The *House* bill provides that the Corporation must require a facility to agree that—

(i) the facility will comply with the standards adopted by the Board in establishing and maintaining a pool;

(ii) the facility will take such steps as may be necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities; and

(iii) the facility may not refuse to purchase qualified agricultural mortgage loans originating in States' which have established borrowers' rights laws either by statute or under the constitution of the State. (Sec. 5.85(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to provide that facilities may not refuse to purchase qualified loans originating in States that have established borrowers' rights laws either by statute or under the constitution of the State. However, the facility may require discounts or charge fees reasonably related to the costs and expenses occuring from the statutes or constitutional provisions.

The conferees understand that in some cases a facility or originator may require reasonable fees or discounts for loans secured by agricultural real estate in States with borrowers' rights. These fees should not be permitted if they are set at such a level as to unfairly penalize borrowers in such States. The Corporation should review the incidence of such fees or discounts and determine whether originators or poolers are requiring discounts or fees in exceeds of what is actuarily sound.

The conference-reported bill contains a provision that requires the facility to take such steps as necessary to ensure that minority owned or controlled investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of securities.

(m) The *House* bill provides that to ensure the liquidity of securities for which credit enhancement has been provided, the Board must adopt appropriate standards regarding—

(i) the characteristics of any pool of qualified agricultural mortgage loans serving as collateral for the securities;

(ii) registration requirements with respect to the securities; and

(iii) transfer requirements. (Sec. 5.85(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 8.6(e).)

(11) Reserve and retained subordinated participation interest requirements

(a) The *House* bill provides that under the terms of the sale of any qualified loan by the originator to a facility, the originator may agree to contribute to an amount to a reserve established by the facility for the pool in which the loan is included. (Sec. 5.86(a).)

The *Senate* amendment provides that for each pool of loans, a certified facility and the participating originators may each contribute a share of the 10 percent minimum reserve. (Sec. 8.7(a).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.7(a).)

(b) The *House* bill provides that any facility which establishes a cash contribution reserve for a pool of qualified loans must maintain the reserve as a segregated account consisting of the amounts contributed (but not the earnings accruing on the amounts) to assure the repayment of principal and interest on securities backed by the pool of qualified loans. (Sec. 5.86(a).)

The *Senate* amendment provides that the Corporation must require that a facility must cause the reserves, exclusive of the earnings on the reserve, to be held for the benefit of the holders of securities to assure the timely receipt of principal and interest. (Sec. 8.7(a).)

The *Conference* substitute adopts the *House* provision. (Sec. 8.7(a).)

(c) The *House* bill provides that under the terms of the sale of any loan by the originator to a certified facility, the originator may agree to retain a subordinated participation interest that will be attributed to the facility for purposes of determining whether reserve requirements have been met. (Sec. 5.86(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. the Conferees intend that a subordinated participation interest may be retained by any originator or qualified facility, at its option, subject to safety and soundness considerations and satisfaction of the relevant requirements set out in the section. (Sec. 8.7(a).)

(d) The *House* bill provides that in order for any interest in a qualified loan to be treated as a subordinated participation interest, the instrument creating the subordination of the interest to other interests in the loan must provide that the right of the holder of the subordinated interest to receive any distribution of principal of, or interest on, the loan will be subordinate to the rights of any holder of any other participation interest (other than another subordinated participation interest) in the loan (including any holder of any security representing an interest in, or an obligation backed by, a pool which includes the loan) to receive full and timely payments of principal and interest with respect to the loan (or the security). (Sec. 5.86(b).)

The *Senate* amendment provides that the rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool will be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the other holders of interests in the pool of the full amount of scheduled payments of principal and interest on loans constituting the pool. (Sec. 8.7(d).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.7(c).)

(e) The *House* bill provides that certified facilities may withdraw, from a cash contribution reserve, the amounts accruing on the amount held in the reserve and distribute the accrued amounts to each contributor to the reserve (including the facility) in an amount which bears the same proportion to the total amount of such distribution as the amount each contributor's to the reserve bears to the total amount of the contributions. (Sec. 5.86(c).)

The *Senate* amendment provides that in the case of each applicable loan pool, a certified facility must distribute to originators

any earnings on the contributions of the originators to the reserve. (Sec. 8.76(b).)

The *Conference* substitute adopts the *Senate* provision. (Sec. 8.7(c).)

(f) The *House* bill provides that in the case of any loan with respect to which the originator has contributed to a reserve maintained by a certified facility that holds the loan, any loss on the loan will be counted against the originator's contribution before the contribution of any other originator may be withdrawn to cover the loss. (Sec. 5.86(c).)

The *Senate* amendment provides that except for that portion of losses absorbed by a contribution of a certified facility to the reserve, each orignator participating in the pool will absorb any losses on loans originated up to the total amount the originator has contributed to the reserve before the losses are absorbed by the contributions of other originators who are participating in the pool. (Sec. 8.7(c).)

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill provides that the Board may establish any other policies and procedures with respect to—

(i) the establishment of reserves and the retention of subordinated participation interests; and

(ii) the manner in which reserves or interests will be available to make payments of interest on and repayments of principal of, securities for which the Corporation has provided credit enhancement,

as the Board determines to be necessary or appropriate to carry out the purposes of part F. (Sec. 5.86(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(h) The *Senate* amendment provides that the reserves required, other than retained subordinated participation interests, must be held in the form of United States Treasury securities or other securities issued, guaranteed, or insured by an agency of the United States Government. (Sec. 8.7(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to allow reserves to be held in securities of instrumentalities of the United States Government.

(i) The *House* bill provides that any certified agricultural mortgage marketing facility that maintains a cash contribution reserve may withdraw from the reserve the amounts accruing on the amount held in the reserve and distribute the accrued amounts to each contributor to the reserve (including the facility) in an amount that bears the same proportion to the total amount of the distribution as the amount of each contributor's contribution to the reserve bears to the total amount of the contributions. (Sec. 5.86(c).)

The *Senate* amendment provides that in the case of each applicable loan pool, a certified facility must distribute to originators any earnings on the contributions of the originators to the reserve. (Sec. 8.7(b).)

The *Conference* substitute adopts the *Senate* provision.

(12) Aggregate principal amounts of qualified loans

The *Senate* amendment provides that during the first year after the date of enactment of the amendment the Corporation may provide guarantee for securities representing interest in, or obligations backed by, qualified loans with an aggregate principal amount not in excess of 2 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year (as published by the Board of Governors of the Federal Reserve System), less all FmHA agricultural real estate debt.

During the year following the first year after the date of enactment of the amendment, the Corporation may provide guarantee for securities representing interests in, or obligations backed by, qualified loans with an additional principal amount not in excess of 4 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all FmHA agricultural real estate debt.

The *Senate* amendment provides that during the year following the second year after the date of enactment of the amendment, the Corporation may provide guarantees for securities representing interests in, or obligations backed by, qualified loans with an additional principal amount not in excess of 8 percent of the total agricultural real estate debt outstanding at the close of the prior calendar year, less all FmHA agricultural real estate debt.

In years subsequent to the third year following the date of enactment of the amendment, the Corporation may provide guarantee without regard to the principal amount of the qualified loans so enhanced. (Sec. 8.6(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that would exclude Farm Credit System loans from the percentage limitations imposed by this section. It is the intention of the conferees that any percentage limitations for the first three years will only apply to the qualified real estate loans originating from commercial banks, insurance companies and other non-Farm Credit System institutions. The base on which the percentage limitation will be computed will include outstanding agricultural mortgage debt held by FCS institutions, private lenders and farmers.

The amendment was offered to eliminate the possibility that the Farm Credit System may acquire a disproportionate share of the aggregate amount of qualified loans in the first three years of the Mortgage Corporation, thereby displacing or disadvantaging other loan originators and preventing them from fully participating in the secondary market. By excluding all qualified real estate loans originated by the Farm Credit System from the percentage limitations, the aggregate amount of such loans for purposes of the limitations shall include only those qualified real estate loans originated by non-Farm Credit System institutions.

Finally, it is also the understanding of the conferees that any unused guarantee authorization of qualified loans by the Mortgage Corporation in the first and second years after enactment of this legislation shall be cumulative, and shall be available for use in the second and third years of the Corporation.

(13) Standards for qualified loans

(a) The *House* bill provides that within 120 days after the permanent board first meets with a quorum present, the board, in consultation with originators, must establish uniform underwriting and other necessary standards applicable to qualified loans. (Sec. 5.87(a).)

The *Senate* amendment provides that not later than 120 days after the appointment and election of the board, the Corporation, in consultation with originators, must establish uniform underwriting, security appraisal, and repayment standards for qualified loans. (Sec. 8.8(a).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that the Board must coordinate the establishment of underwriting and standards applicable to qualified loans with the regulations to be issued by the Farm Credit Administration under section 4.2B(c), as proposed to be added by the bill. (Sec. 5.87(a).)

(NOTE: Section 4.2B would authorize System banks to form trusts or pools consisting of certain loans originated by System banks. This provision is described on page 61.)

The *Senate* bill contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *Senate* amendment provides that in establishing standards for qualified loans, the Corporation must confine corporate operations, as far as practicable, to mortgage loans which are deemed by the Board to be of such quality so as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors. (Sec. 8.8(a).)

The *House* bill provides no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The conferees wish to stress that the intention of this section is to require that the Corporation institute standards for loans, especially residential loans, which are comparable to the standards established by the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and other residential secondary market. FNMA and FHLMC standards are well understood and have come to be expected by private institutional mortgage investors. The conferees intend that the Corporation establish standards for loans and the property securing these loans that are reflected in FNMA and FHLMC standards.

(d) The *House* bill provides that the loan standards established by the Board must, at a minimum—

(i) provide that no agricultural mortgage loan with a loan-to-value ratio in excess of 80 percent may be treated as a qualified loan;

(ii) require that any real estate appraisal which is made to determine the loan-to-value ratio be based on the agricultural use of the land at the time such appraisal is made.

(iii) require each borrower to demonstrate sufficient cash-flow to adequately service the agricultural mortgage loan;

(iv) contain sufficient documentation standards; and

(v) contain adequate standards to protect the integrity of the appraisal process with respect to any agricultural mortgage loans.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to clarify that the purpose of the loan standards is to increase the availability of long-term fixed rate credit to farmers and ranchers. The provision also requires that the standards ensure that the borrower is actively engaged in agricultural production. The conferees believe that the current Farm Credit System's criteria for a bona fide farmer are reasonable. The provision requires him to certify that he intends to continue agricul-

tural production on the land involved. The conferees understand that in some parts of the country it is common practice to lease parcels of land, and to conduct ranching or farming operations on leased land. This requirement is not intended to preclude loans on lands that are leased as part of a normal farming or ranching operation. However, land which is primarily leased to other persons could not secure loans placed in a pool guaranteed by the Corporation.

The provision takes steps to minimize speculation in agricultural real estate for nonagricultural purposes. The conferees intend to provide long-term financing for farmers and ranchers, and not to provide financing for land speculation in agricultural areas. With a new secondary market for agricultural loans, the opportunity to engage in speculation, assisted by the favorable financing resulting from a secondary market, is great unless the Corporation imposes certain safeguards.

One of the primary responsibilities of the Board should be to ensure that no loans are approved in instances where the borrower's intent is to hold land for speculation purposes. The Board shall adopt standards to protect against land speculation, including but not limited to some form of certification by originating lenders regarding the intended use of the land.

The provision also requires that the Corporation consider the purposes for which the land is taxed in establishing appraisal standards. The conferees believe that in appraising property for the purpose of determining loan to value ratios, the Board shall require that consideration be given to the purposes for which the property is taxed.

(e) The *House* bill provides that a loan may not be treated as a qualified loan if the principal amount of the loan exceeds $1,500,000, adjusted for inflation, except if the loan is secured by agricultural real estate which, in the aggregate, comprises, not more than 1,000 acres.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to raise the allowable principal loan amount to $2.5 million from $1.5 million.

(f) The *House* bill provides that loan standards will not take effect before the later of—

(i) the end of a period consisting of 30 legislative days and beginning on the date the standards are submitted to Congress; or

(ii) the end of a period consisting of 90 calendar days and beginning on the date of submission to Congress.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(14) Exemption from restructuring and borrowers' rights provisions for pooled loans

(a) The *Senate* amendment provides that notwithstanding any other provision of law, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 will not apply to any loan included in a pool of qualified loans backing securities or obligations for which the Mortgage Corporation provides guarantee. (Sec. 8.9(a).)

(a) The *House* bill provides no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will provide that the loan servicing standards established by the Mortgage Corporation must be patterned after similar standards adopted by other Federally sponsored secondary market facilities. (Sec. 8.9(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment provides that at the time of application for a loan, originators must give written notice to each applicant of the terms and conditions of the loan, setting forth separately terms and conditions for pooled loans and loans that are not pooled. This notice must include a statement, if applicable, that the loan may be pooled and that, if pooled, sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7 will not apply. This notice also must inform the applicant that he or she has the right not to have the loan pooled. Within 10 days of the notice, an applicant has the right to refuse to allow the loan to be pooled, and thereby retaining those rights given persons under applicable State laws and under sections 4.13(b), 4.14, 4.14A, 4.37, and 6.7, if applicable. (Sec. 8.9(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to allow a borrower to refuse to allow the pooling of his loan and to give FCS borrowers who meet qualifications standards a three-day period after commitment to decide whether to have their loan placed into the secondary market or the FCS portfolio. The provision applies only to FCS institutions and borrowers.

(15) Guarantee commitments

The *Senate* amendment provides that the Corporation must provide guarantee for securities representing interests in, or obligations backed by, pools of qualified loans through commitments issued by the Corporation providing for guarantee. (Sec. 8.10(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(16) Fees assessed by the Corporation

(a) The *Senate* amendment provides that the fee that must be assessed at the time of guarantee may not be more than ½ of 1 percent of the initial principal amount of each pool.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. The conferees intend that this fee build reserves and thereby minimize the possibility of using the Treasury line of credit.

(b) the *Senate* amendment provides that beginning in the second year after the date the guarantee is issued, the Corporation may assess the certified facility an annual fee, at the end of each year, to be established by the Board of no more than ¼ of 1 percent of the principal amount of the loans then constituting the pool. (Sec. 8.10(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment provides that the Corporation, when establishing the fee, must take into account the reserves maintained by certified facilities and loan originators, and the level of capital and reserves of the Corporation. (Sec. 8.10(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that in accordance with policies that the board may establish, any fee assessed with respect to any credit enhancement may be paid in periodic installments over the period to maturity of the securities for which the credit enhancement has been provided. (Sec. 5.88(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(17) Corporation reserve against losses

(a) The *House* bill provides that so much of the fees collected for credit enhancement as the board determines to be necessary must be set aside by the Corporation in a segregated account as a reserve against losses arising out of the credit enhancement activities of the Corporation. (Sec. 5.58(b).)

The *Senate* amendment provides that as much of the fees collected for guarantees as are necessary must be set aside by the Corporation to establish an adequately funded reserve against losses arising out of its guarantee activities. (Sec. 8.10(d).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that the Corporation may not issue obligations to the Secretary of the Treasury in order to meet the obligations of the Corporation with respect to any credit enhancement provided under this part until the reserve has been exhausted. (Sec. 5.88(b).)

The *Senate* amendment provides that the reserve must be used to fulfill the guarantee assurances of the Corporation before the Mortgage Corporation borrows from the Secretary of the Treasury. (Sec. 8.10(d).)

The *Conference* substitute adopts the *House* provision.

(18) Regulation, examination, and report of condition

(a) The *House* bill provides that the Farm Credit Administration must regulate the safe and sound performance of the powers, functions, and duties vested in the Corporation by part F. (Sec. 5.89(a).)

The *Senate* amendment provides that notwithstanding any other provision of the Act, the regulatory authority of the Farm Credit Administration with respect to the Corporation will be confined to—

(i) providing for the examination of the condition of the Corporation; and

(ii) providing for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation by title VII. (Sec. 811(a).)

The *Conference* substitute adopts the *Senate* provision with an amendment to clarify that the regulation by the Farm Credit Administration of the safe and sound performance of powers, functions, and duties vested in the Corporation is to be pursuant to the enforcement authorities conferred on the agency under Part C of Title V of the Farm Credit Act of 1971, as amended.

(b) The *House* bill provides that the financial transactions of the Corporation must be examined by Farm Credit Administration examiners. (Sec. 5.89(a).)

The *Senate* amendment provides that the financial transactions of the Corporation must be examined by examiners of the Farm Credit Administration under such rule and regulations as may be prescribed by the Farm Credit Administration. (Sec. 811(b).)

The *Conference* substitute adopts the *Senate* provision. The rules and regulations of the agency referred to are those concern-

ing the manner and procedures under which examination is performed.

(c) The *House* bill provides that examinations will take place at such times as the Chairman of the board of the Farm Credit Administration may determine. (Sec. 5.89(b).)

The *Senate* amendment provides that the examination will occur at such times as the Farm Credit Administration Board may determine. (Sec. 8.11(b).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that the examiners must be afforded full facilities for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions. (Sec. 5.89(b).)

The *Senate* amendment provides that the examiners must be afforded full access for verifying transactions with certified facilities and other entities with whom the Corporation conducts transactions.

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill provides that the Farm Credit Administration must assess the Corporation for the cost of any regulatory activities conducted under section 8.11, including the cost of any examination. (Sec. 5.89(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. Cost assess for supervision and examination must be directly related to the supervision and examination of the operations of the Corporation.

(f) The *House* bill provides that the Corporation must hire an independent public accountant to audit the financial statements of the Corporation. (Sec. 5.89(e).)

The *Senate* amendment provides that the financial statements of the Corporation must be audited by an independent public accountant. (Sec. 8.19(c).)

The *Conference* substitute adopts the *Senate* provision.

(19) Securities

(a) The *House* bill provides that for purposes of section 3(a)(2) of the Securities Act of 1933, no security representing an interest in a pool of qualified loans for which credit enhancement has been provided by the Corporation will be deemed to be a security issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States. No security will be deemed to be a "government security" for purposes of the Securities Exchange Act of 1934, or for purposes of the Investment Company Act of 1940. (Sec. 5.90(a).)

The *Senate* amendment provides that notwithstanding any other provision of law, securities representing an interest in, or obligations backed by, pools of qualified loans for which guarantee has been provided by the Corporation will be exempt from the laws administered by the Securities and Exchange Commission to the same extent as securities that are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. (Sec. 8.12(a).)

The *Conference* substitute adopts the *House* provision.

The *Conference* substitute deletes the language in the *Senate* amendment that exempts from laws administered by the Securities and Exchange Commission, securities representing an interest in, or obligations backed by, pools of qualified loans for which guarantee has been provided by the Corporation. The Conferees were presented with conflicting information concerning the spread in interest rates between government securities and AAA rated corporate securities. The Conferees expect that the Secretary of the Treasury, in consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, shall report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Energy and Commerce within one hundred and eighty days of the first sale of securities guaranteed by the Corporation on the secondary trading market created under this title. The report shall include an analysis of basis point spreads, including whether the spread between such securities and other securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States exceeds 25 basis points or in otherwise significant. Such report should include an analysis of the impact of not treating these securities as government securities for purposes of the federal securities laws relative to other government securities as defined by section (3)(a)(42) of the Securities and Exchange Act of 1934.

(b) The *Senate* amendment provides that notwithstanding section 1349 of title 28, United States Code, or any other provision of law:

(i) The Corporation will be considered an agency under sections 1345 and 1442 of title 28.

(ii) All civil actions to which the Corporation is a party will be deemed to arise under the laws of the United States and, to the extent applicable, will be deemed to be governed by Federal common law. The district courts of the United States will have original jurisdiction of all such actions, without regard to amount of value.

(iii) Any civil or other action, case, or controversy in a court of a State or any court, other than a district court of the United States, to which the Corporation is a party, may at any time before trial be removed by the Corporation, without the giving of any bond or security to the District Court for the district and division embracing the place where the same is pending, or if there is no such district court for the district in which the principal office of the Corporation is located, by following any procedure for removal for causes in effect at the time of such removal.

The *Senate* amendment provides that no attachment or execution may be issued against the Corporation or any of the property of the Corporation before final judgment in any Federal, State, or other court. (Sec. 8.12(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision.

(c) The *Senate* amendment provides that nothing in title VII is intended to expand the authority of a national bank, State bank, or bank holding company, or an affiliate, to deal in or underwrite securities. (Sec. 8.12(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

Expanded bank powers

The *Conference* substitute deletes those sections in the *Senate* amendment empowering depository institutions to underwrite, purchase, and sell securities and obligations backed by credit enhanced pools under this title.

(d) The *Senate* amendment provides that any security or obligation that has been provided guarantee by the Mortgage Corporation will be exempt from any law of any State with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by, or guaranteed as to principal and interest by, the United States or any agency or instrumentality of the United States. (See 8.12(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the Senate provision with an amendment.

(e) The *Senate* amendment provides that the securities or obligations may be accepted as a security for all fiduciary, trust, and public funds, the investment or deposits of which will be under the authority and control of the United States or any State or any officers of either, and will be eligible for unlimited purchase, sale and underwriting by national banks.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment to delete the authority of banks to underwrite these securities.

Preemption of State Law

The sale of securities in credit enhanced pools under this title will be greatly facilitated by the *conference* substitute through the preemption of two categories of State laws: (1) laws designating authorized investments for State-regulated institutions and funds, and (2) laws requiring State registration of securities. However, the purpose of this preemption is not to prevent the States from providing investor protections. Rather, it is in recognition that many, and likely most, State Laws in this area were enacted before these instruments came into being, and that current law may thus unintentionally encumber the market. Accordingly, the *conference* substitute provides that with respect to both categories of laws preempted, the States may reinstate or establish new requirements to override this Federal preemption.

As originally introduced, the *Senate* amendment provided that States may override Federal preemption provided that they do so within three years. However, it was agreed that such a brief period was inadequate, given the anticipated amount of time needed to develop and gain experience with these securities, and especially in light of the fact that many State legislatures do not meet annually, and others have very short legislative sessions. Accordingly, the *conference* substitute provides that States have 8 years to override the Federal preemption.

(f) The *House* bill provides that the enactment by a State of a law that limits the authority to purchase, hold, or invest, in the securities will not affect the validity of any contractual commitment to purchase, hold, or invest that was entered into before the date of the enactment of the law; and will not require the sale or other disposition of any securities acquired before the date of enactment. (Sec. 5.90(c).)

The *Senate* amendment provides that the enactment by a State of a law that limits the authority to purchase, hold, or invest in the securities will not affect the validity of any contractual commitment to purchase, hold, or lease that was made prior to the effective date of the law and may not require the sale or other disposition of any securi-

ties acquired prior to the effective date of the law. (Sec. 8.12(c).)

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill provides that any provision of the constitution or law of any State that expressly limits the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified facilities, will not apply to any agricultural loan made by an originator or certified facility in accordance with part F. (Sec. 5.90(c).)

The *Senate* amendment provides that to facilitate the orderly and necessary flow of long-term loans and funds from agricultural lenders and certified facilities for agricultural loans, the same provisions of law will not apply to qualified loans made by an originator or certified facility pursuant to title VII. (Sec. 8.12(c).)

The *Conference* substitute adopts the *House* provision.

(h) The *House* bill provides that if, during the 3-year period beginning on the date of the enactment of part F, any State enacts a law that specifically refers to section 8.12(c), and expressly limits the rate or amount of interest, discount points, finance charges, or other charges referred to, the State law will be applicable as of the date of the enactment of the law. (Sec. 8.12(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(i) The *Senate* amendment provides that notwithstanding any Federal, State, or local law (other than title 11 of the United States Code), an originator may provide by contract with the borrower whether before or after default, for the settlement or extinguishment, on default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in, any agricultural and real estate or agricultural property that constitutes the security for an agricultural mortgage loan that is included in a pool of qualified loans for which a guarantee is provided, and concerning the terms of repayment of the loan on the sale of collateral securing the loan. (Sec. 8.12(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(20) Authority of the Corporation to issue obligations to the Secretary of the Treasury

(a) The *House* bill provides that the Corporation may issue obligations to the Secretary of the Treasury the proceeds of which may be used by the Corporation. (Sec. 5.91(a).)

The *Senate* amendment provides that the Secretary of the Treasury is authorized to loan to the Mortgage Corporation, on such terms and conditions as may be prescribed by an agreement between the Corporation and the Secretary of the Treasury, funds that, in the judgment of the Board of the Corporation, are from time to time necessary to carry out title VII. (Sec. 8.1(c).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that the proceeds of the obligations may be used by the Corporation solely for the purpose of fulfilling the Corporation's obligations under any credit enhancement provided by the Corporation under Part F. (Sec. 5.91(a).)

The *Senate* amendment provides that the loan must be used by the Corporation solely in carrying out functions of the Mortgage Corporation as prescribed in title VII. (Sec. 8.1(c).)

The *Conference* substitute adopts the *House* provision with an amendment.

(c) The *Senate* amendment provides that in no event may the loans exceed in the aggregate $1,500,000,000 at any one time. (Sec. 8.1(c).)

The *House* bill provides that the aggregate amount of obligations issued by the Corporation that may be held by the Secretary of the Treasury at any time (as determined by the Secretary) may not exceed $1,500,000,000. (Sec. 5.91(c).)

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill provides that the Secretary of Treasury may purchase obligations of the Corporation only if the Corporation certifies to the Secretary that the reserves held by loan originators and certified facilities have been exhausted; the reserve established by the Corporation is exhausted; and the proceeds of the sale of the obligations are needed to fulfill the Corporation's obligations under any credit enhancement provided by the Corporation under part F. (Sec. 5.91(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(e) The *House* bill requires that not later than 10 business days after receipt by the Secretary of the Treasury of a certification by the Corporation, the Secretary of the Treasury must purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the Corporation's credit enhancement liabilities. (Sec. 5.91(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(f) The *House* bill provides that each obligation purchased by the Secretary of the Treasury must bear interest. (Sec. 5.91(d).)

The *Senate* amendment provides that notwithstanding any other provision of law, interest must accrue to the Department of the Treasury on the amount of any outstanding loans made to the Corporation on the basis of the average daily amount of the outstanding loans to be determined at the close of each fiscal year. (Sec. 8.1(c).)

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill provides that the rate of interest will be determined by the Secretary, taking into consideration the average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of purchase of the obligation. (Sec. 5.191(d).)

The *Senate* amendment provides that the rate of interest to be charged in connection with a loan will be determined by the Secretary of Treasury but may not be less than the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the loan. (Sec. 8.1(c).)

The *Conference* substitute adopts the *Senate* provision.

(h) The *House* bill provides that the Secretary of the Treasury must require that the obligations be repurchased by the Corporation within a reasonable time. (Sec. 5.91(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(i) The *Senate* amendment provides that as long as any loans are outstanding, the Corporation must devote the new earnings of the Corporation to the repayment of the principal and accrued interest on the loan. (Sec. 8.1(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(j) The *Senate* amendment provides that the Corporation must pay the interest accrued on loans made by the Secretary of the Treasury annually as miscellaneous receipts. (Sec. 8.1(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(k) The *Senate* amendment states that the authority provided to the Secretary of the Treasury to purchase obligations of the Corporation will be effective for any fiscal year only to such extent and in such amounts as are provided in advance in appropriation Acts. (Sec. 8.1(c).)

The *House* bill provides an authorization for appropriations for the Secretary of the Treasury the sum of $1,500,000,000, without fiscal year limitation, to carry out the purposes of part F. (Sec. 5.91(f).)

The *Conference* substitute adopts the *House* provision.

(l) The *Senate* amendment provides that if any loans to the Corporation are outstanding, the Secretary of the Treasury must provide to the Corporation, at least once each fiscal year, information that will be necessary for the Corporation to determine whether the balance of the loan is in excess of the amount that is needed to meet the requirements of the Corporation. The Corporation must pay the excess to the Secretary of the Treasury to be credited against the loans to the fund. (Sec. 8.1(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(21) GAO audit of Corporation

The *House* bill provides that, notwithstanding any other provision of law, and under such regulations as the Comptroller General may prescribe, the Comptroller General must perform a financial audit of the Corporation on whatever basis the Comptroller General determines to be necessary.

The Corporation must—

(i) make available to the Comptroller General for audit all records and property of, or used or managed by, the Association which may be necessary for the audit; and

(ii) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by any depository, fiscal agent, or custodian. (Sec. 5.91(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. This provision, while requiring the Comptroller General to perform a financial audit of the Corporation, provides flexibility in allowing such audit to be performed in accordance with whatever standards the Comptroller General deems appropriate. Pursuant to Section 9105 of title 31 of the United States Code, the audit will occur at least once every three years.

(22) Authority of System banks to issue loan-backed and related securities

(a) The *House* bill will authorize each System bank, individually or with other System banks, to form trusts or pools consisting of loans originated by any of the bands under the Act. The bank may sell or otherwise dispose of the loans, or trust or pools consisting of the loans, with or without recourse, on terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the bank may prescribe, with the prior approval of the Farm Credit Administration. (Sec. 301(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *House* bill will specify that any System bank may join with any other System banks to issue notes, bonds, debentures, or other obligations or securities based on or backed by a trust or pool consisting of loans (other than long term loans made for the purchase of agricultural real estate and loans made to purchase rural housing) originated by the banks under the Act, in such sums, with such maturities, at such rates of interest, and on such other terms and conditions as the bank may determine with the prior approval of the Farm Credit Administration. (Sec. 5.91(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill will provide that the Farm Credit Administration must issue regulations to implement this authority within 120 days after the date of the enactment of the bill and at the same time the Corporation establishes underwriting standards under subsection (a) of section 5.87. Final regulations to implement this section will take effect 60 days after transmittal of the regulations to Congress. (Sec. 301(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(d) The *House* bill provides that within one year after the date of the enactment of the bill, the Farm Credit Administration must complete a study reviewing the potential effects of expanding the authority granted to authorize the sale of loans backed or related securities based on or backed by a trust or pool of loans consisting of long term loans made for the purchase of agricultural real estate. (Sec. 302(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(23) GAO report on implementation of authority by the Corporation

The *Senate* amendment provides that not later than 2 years after the date of enactment of the amendment, the Comptroller General must conduct a study, and submit to appropriate committees of Congress a report, on the implementation of title VII by the Corporation and the effect of the operations of the Corporation on producers, the Farm Credit System, and the capital markets. (Sec. 8.3(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment.

(24) Study of establishment a private secondary market for certain agricultural loans

The *House* bill provides that the Secretary of the Treasury must conduct a study of the feasibility and appropriatness of promoting the establishment of a secondary market for securities representing interests in, or obligations backed by, pools of agricultural real estate loans for which credit enhancement has not been provided by the Corporation. Before the end of the 90-day period beginning on the date of the enactment of the bill, the Secretary of the Treasury must prepare a report containing the findings and conclusions of the Secretary with respect to the study and, if appropriate, the Secretary's recommendations for administrative and legislative action necessary to promote the market. The Secretary must submit copies of the report to Congress, and the Farm Credit Administration. (Sec. 301(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment.

(25) Study on the effects of expanding the Corporation's authority

The *House* bill provides that within 1 year after the permanent board of Directors of the Corporation is duly constituted, the Board of Directors must complete a study of the feasibility of expanding the authority granted under section 301(b) of the bill to authorize the sale of securities based on or backed by a trust or pool consisting of loans made to farm-related and rural small businesses, and report the results of the study to the President, the Speaker of the House, and the President pro tempore of the Senate. The term "farm-related businesses" means businesses 90 percent or more of the annual dollar volume of the sales of which are made to agricultural producers. (Sec. 301(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment.

(25) Conforming amendments

(a) The *House* bill will provide that the term "institution in the System", "System institution," and "institution" will include the Federal Agricultural Mortgage Corporation. (Sec. 105(h)(1)(B).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *Senate* bill will provide specific authorization for the following System institutions to operate as originator and certified facilities:

(i) Federal land banks
(ii) Federal land bank associations
(iii) Federal intermediate credit banks
(iv) Production credit associations
(v) Banks for cooperatives

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment.

MARKETING OF LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION

(1) Right to prepay and duty to repay

The *House* bill provides that subsection (f) may not be interpreted to impede or extinguish the right of the borrower or the successor in interest to the borrower to prepay (in whole or in part) any loan made under title I, or to impede or extinguish the rights of any party under any provision of title I. (Sec. 302(a).)

The *Senate* amendment provides that subsection (f) may not impede or extinguish the duty of the borrower, or the successor in interest to the borrower, to repay (in whole or in part) any loan made under the title I. (Sec. 611(a).)

The *Conference* substitute adopts the *House* provision.

(2) Interest on prepaid or defaulted loans

The *House* bill provides that interest on prepaid or defaulted loans will accrue and be guaranteed by the Secretary only through the date of payment on guarantee. (Sec. 302(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) Use of the Agricultural Credit Insurance Fund

The *Senate* amendment provides that the Secretary may use the Agricultural Credit Insurance Fund for payments on guarantees of pool certificates. (Sec. 302(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* language.

(4) Authority of the Secretary

The *House* bill provides that if the Secretary pays a claim under a guarantee issued under subsection (f), the claim will be subrogated fully to the rights satisfied by the payment. (Sec. 302(a).)

The *Senate* amendment provides that if the Secretary pays a claim under a guarantee under subsection (f), the claim will be subrogated fully to the rights satisfied by the payment, as may be provided by the Secretary. (Sec. 611(a).)

The *Conference* substitute adopts the *Senate* provision.

(5) Recovery of costs

The *Senate* amendment provides that on the adoption of final rules and regulations, the Secretary must provide credit enhancement, through private sources or otherwise, as is reasonably necessary to recover estimated costs of paying claims under guarantees issued under section 338. (Sec. 611(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision with an amendment.

(6) Custody of pooled loans

The *Senate* amendment provides that on the adoption of final rules and regulations, the Secretary must provide for adequate custody of any pooled guaranteed loans. (Sec. 611(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(7) Regulations

The *House* bill provides that the Secretary must develop and promulgate final regulations to implement the central registration provisions provided in subsection (f) within 90 days after the date of enactment of the bill. (Sec. 302(a).)

The *Senate* amendment provides that within 180 days after the date of enactment of the amendment, the Secretary must develop and promulgate final regulations to implement the section and the amendment made by the section. (Sec. 611(a).)

The *Conference* substitute adopts the *Senate* provision.

CAPITALIZATION OF FCS INSTITUTIONS; REORGANIZATION OF THE FARM CREDIT SYSTEM; MERGER AUTHORITIES

(1) Minimum capital adequacy standards

The *House* bill and the *Senate* amendment contain similar provisions to require the Farm Credit Administration, within 120 days after the date of the enactment of the bill, to issue regulations under section 4.3(a) of the Farm Credit Act of 1971 to establish for all FCS institutions minimum permanent capital adequacy standards, based on financial statements prepared in accordance with generally accepted accounting principles, to be phased in within five years after the date of enactment.

(a) The *House* bill also provides that the standards must *specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution* taking into consideration relative risk factors as determined by the Farm Credit Administration. (Sec. 107(a)(1).)

The *Senate* amendment contains no comparable provision regarding fixed percentages, but will require that the standards generally take into consideration such relative risk factors. (Sec. 301(a)(1)(D).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will prohibit the Farm Credit Administration from initiating receivership, conservationship, liquidation, or enforcement action against *any* FCS institution for failure to meet the standards unless the action is recommended or concurred in by the Temporary Assistance Corporation (described in the section of this Statement dealing with financial assistance to the Farm Credit System). (Sec. 107(a)(3).)

The *Senate* amendment contains a similar provision, except that the prohibition applies only to FCS institutions eligible to issue preferred stock as a form of financial assistance (see the Statement section referred to above). (Sec. 301(a)(3).)

The *Conference* substitute adopts the *Senate* provision.

(2) Bylaws on capitalization

The *House* bill (in sec. 107(b)) and the *Senate* amendment (in sec. 301(b)) contain similar provisions add a new section 4.3A to the Farm Credit Act of 1971, to require each FCS bank and association to develop bylaws on capitalization that meet the specifications on stock ownership and related provisions set out in new section 4.3A. The capitalization bylaws must meet the objective of enabling the institution to meet the permanent capital adequacy standards described in item (1) above. Following are descriptions of the differences between the two versions of section 4.3A.

(a) The *House* bill will define the term "stock" to include allocated equities and other forms of equities (Sec. 4.3A(a)(1).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will define the term "permanent capital" to include *all allocated surplus.* (Sec. 4.3A(a)(2).)

The *Senate* amendment will define the term to include *allocated and unallocated earnings and all surplus (less allowances for losses).* (Sec. 4.3A(a)(1).)

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment will define the term "permanent capital" to include *Stock.* (Sec. 4.3A(a)(1).)

The *House* bill will define the term to include *stock, except for stock that—*

(i) can be retired by the holder on repayment of the holder's loan, or otherwise at the option or request of the holder; or

(ii) is protected under the borrower stock guarantee provisions of the bill (see the section of this Statement dealing with assistance for FCS borrowers) or is otherwise not at risk. (Sec. 4.3A(a)(2).)

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill and the *Senate* amendment contain similar provisions specifying what must be included in the new bylaws, except as follows:

(i) The *Senate* amendment will prohibit, after the adoption of the new bylaws, the issuance by FCS institutions of stock that can be retired by the holder when he repays his loan, or otherwise at the option or request of the holder. (Sec. 4.3A(c)(1)(A).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(ii) The *Senate* amendments provides that the bylaws could provide for the charging of loan origination fees. (Sec. 4.3(c)(1)(B).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(iii) The *House* bill provides that the new bylaws are to provide that voting stock in an FCS institution could be held by "other FCS institutions". (Sec. 4.3A(c)(1)(D)(i)(II).)

The *Senate* amendment provides that the bylaws are to provide that voting stock can be held by—

(A) in the case of the Central Bank for Cooperatives, other banks for cooperatives; and

(B) in the case of banks other than banks for cooperatives, FCS associations. (Sec. 4.3A(c) (1) (D) (ii) and 4.3A(c)(1)(D)(iii).)

The *Conference* substitute adopts the *Senate* provision.

(iv) The *House* bill provides that the new bylaws are to provide that, as a condition of borrowing from or through an FCS institution, a borrower must acquire at least one share of voting stock. (Sec. 4.3A) (c)(1)(D) (ii).)

The *Senate* amendment provides that the bylaws must provide that the borrower, as a condition of borrowing, has to acquire stock in an amount equal to $1,000 or 2 percent of the loan, whichever is less. (Sec. 4.3A(c)(1)(E)(ii).)

The *Conference* substitute adopts the *Senate* provision.

(v) The *House* bill provides that the new bylaws *must permit, but could not require,* a holder of stock issued before the adoption of the bylaws to—

(I) apply the stock at par or face value against the amount due and purchase new stock, or

(II) exchange the stock for new stock. (Sec. 4.3(A)(c)(1)(F).)

The *Senate* amendment provides that the bylaws must *require* that holders of any such stock exchange a portion of the stock for new voting stock. (Sec. 4.3A(c)(1)(G).)

The *Conference* substitute adopts the *Senate* provision.

(vi) The *House* provides that the new bylaws need not provide for retirement of stock or repayment of the loan. (Sec. 4.3A(c)(1)(G)(ii).)

The *Senate* amendment provides that the bylaws must permit the retirement of the stock at the discretion of the institution meets the capital adequacy standards under section 4.3A of the Farm Credit Act of 1971 (see item (1) above). (Sec. 4.3A(c)(1)(I).)

The *Conference* substitute adopts the *Senate* provision.

(vii) The *Senate* amendment provides that the new bylaws must permit stock to be transferable. (Sec. 4.3A(c)(1)(J).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill and the *Senate* amendment contain similar provisions to prohibit the board of directors of an FCS institution from reducing the institution's permanent capital through the payment of patronage refunds or dividends, or the retirement of stock, if such action would result in the institution failing to meet the minimum permanent capital adequacy standards described in item (1) above.

The *House* bill also provides that the prohibition will not apply to the payment of noncash patronage refunds by an institution except from Federal income tax of the entire refund paid qualifies as permanent capital. (Sec. 4.3A(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(f) The *Senate* amendment provides that new section 4.3A will not affect the provisions of the Farm Credit Act of 1971 that permit an FCS institution to cancel stock for application against the indebtedness on a restructured loan. (Sec. 4.3A(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill in sec. 103(b)(3), will extend the enforcement and penalty authorities of the Farm Credit Administration to violations of FCA directives issued under section 4.3A.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) Section 401 of the House bill—FCS reorganization plan

The *House* bill will add a new title VI to the Farm Credit Act of 1971 to establish a reorganized structure of the Farm Credit System (Sec. 401.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the text of the *House* provisions and adopts a new provision to become the new title IV of the Act, which in brief would provide:

(a) *Mandatory mergers of FLBs and FICBs:*

(i) The land bank the intermediate credit bank in each district must merge within six months after the enactment of the bill.

(ii) The Assistance Board would direct the Financial Assistance Corporation to provide such financial assistance to merged banks to assure that the stock of the bank has a book value of 75 percent of par value on implementation of the merger. A new created bank in which any merged entity has received or will receive such Federal assistance will be subject to the jurisdiction of the Assistance Board.

(b) *Required vote on FLBA/PCA mergers:*

(i) Within six months after the Federal land bank and the Federal intermediate credit bank in a district merge, the stockholders of each production credit association and Federal land bank association in the district serving substantially the same

geographic area must vote on whether to merge those associations.

(ii) On approval of a merger of a production credit association and a Federal land bank association the resulting association shall be a direct lender in the same manner as production credit association.

(c) *Required vote on consolidation of districts:*

(i) The voting stockholders in the current twelve districts would vote on reorganizing the System district structure down to no fewer than six districts.

(ii) A special committee composed of one representative from each district and selected within six months of enactment would develop the plan.

(ii) The special committee shall develop the plan within 6 months after its selection and shall report on its progress in developing its proposal to the agriculture committees of Congress on a quarterly basis.

(iii) Prior to the stockholder vote the proposal shall be reviewed by the Farm Credit Administration and approved by both the special committee and the Assistance Board.

(iv) Each association shall be entitled to cast a number of votes equal to its number of voting stockholders.

(d) *Required vote on a merger of banks for cooperatives:*

(i) Stockholders of the banks for cooperatives and the Central Bank for Cooperatives would vote not later than 180 days after enactment on a plan of merger into a National Bank for Cooperatives.

(ii) The plan shall be developed by a special committee composed of one representative of each bank.

(iii) This vote would be a two-tier vote, requiring approval by both—

(A) a majority of the cooperatives voting, weighted by loan volume; and

(B) a majority of banks for cooperatives voting, on a one bank-one vote basis.

(iv) For banks for cooperatives only, there would be an exception to current territorial service limitations *if* eight or more (but not all) BCs vote to merge into a National Bank. Each bank would be allowed to do business outside its district.

(v) Smaller BCs would be permited financial dealings with the National Bank for Cooperatives as they have now with the Central Bank for Cooperatives.

(4) New merger authorities under the Farm Credit Act

The *House* bill will authorize the merger and reorganization of the Federal land bank, the Federal intermediate credit bank, the Federal land bank associations, and the production credit associations in a farm credit district. The resulting bank and associations would adopt either the land bank or production credit association mechanism of providing real estate and operating credit to farmers. (Secs. 108(a), 198(c), and 108(d).)

The *Senate* amendment will provide—

(a) new authority for the merger of two or all of the Federal Land bank, Federal intermediate credit bank, and the bank for cooperatives in a district into a single bank;

(b) new authority for the merger of a Federal land bank association or production credit association into its supervising bank;

(c) provide new authority for the merger of unlike associations in a distri ct;

(d) provide new authority for the merger of like associations; and

(e) revise the authority for the interdistrict merger of like banks. (Sec. 205(a).)

(NOTE.—While there are a number of similarities between the *House* bill and the *Senate* amendment in the method in which they provide the new authority, none of the new authorities are substantially comparable* Therefore, each of the above-described merger authorities is treated separately in items (4A) through (4F), with no comparable *Senate* or *House* provision.)

(4A) House bill: Merger and reorganization of unlike banks and associations operating in the same district

Authorization.—The *House* bill will require the Farm Credit Administration, within 180 days after the date of enactment of the bill, to prescribe regulations to allow the Federal land bank, the Federal intermediate credit bank, all the Federal land bank associations, and all the production credit associations of any farm credit district to merge and reorganize. A merger could be made only after (a) the Farm Credit Administration has approved such merger, and (b) a favorable vote of a majority of the stockholders of *each* bank and association to be merged and reorganized, and a favorable vote of 60 percent of the aggregate of the stockholders of the banks and associations, present and voting or voting by written proxy at duly authorized meetings. (Sec. 108(a)(1).)

Conditions.—No merge could be made under the *House* provision unless the merge agreement provides that—

(a) all banks and associations to be merged and reorganized are merged and reorganized into one bank and the number of associations as is specified in the agreement;

(b)(i) the resulting merged and reorganized bank and associations are a land bank and land bank associations, or an intermediate credit bank and production credit associations, to which the provisions of the Farm Credit Act of 1971 are to apply in the same manner as to other such banks and associations.

(c) the resulting merged and reorganized bank and association will succeed to the assets of the banks and associations to be merged and reorganized;

(d) all of the capital stock, participation certificates, and undistributed equity in the banks and associations to be merged and reorganized is converted fairly and equitably into stock, participation certificates, and undistributed equity of the resulting merged and reorganized bank and associations;

(e) capital stock and participation certificates in the resulting merged and reorganized bank and associations are issued to, and distributed fairly and equitably among, the stockholders thereof;

(f) the resulting merged and reorganized bank and associations will be liable for and assume all debts, obligations, contracts, and liabilities of the banks and associations to be merged and reorganized;

(g) the debts, obligations, and contracts of the resulting merged bank and associations shall be distributed fairly and equitably between and among such bank and associations consistent with the relationship (the FLB/FLBA or FICA/PCA structure) between and among such bank and associations, except that, for purposes of applying the current tiered liability rules under section 4.4 of the Act to an obligation originally issued by a bank before the merger and reorganization, the resulting merged and reorganized bank would be treated as operating under the same title of the Act as the bank that originally issued the obligation was operating at the time of such issue; and

(h) all authority of the banks and associations to be merged and reorganized will be transferred to the resulting merged and reorganized bank and associations, consistent with the relationship between and among such merged bank and associations. (Sec. 108(a)(1).)

District boards.—Under the *House* bill, in any district in which a merger and reorganization takes place, all authority of the district board—

(a) with respect to the land bank and the intermediate credit bank so merged and reorganized, will be transferred to the board of directors of the bank resulting from such merger and reorganization; and

(b) with respect to the district bank for cooperatives, will be transferred to the board of directors of the district bank for cooperatives. (Sec. 108(a)(2).)

FCA power.—The *House* bill will give the Farm Credit Administration the power to approve any merger and reorganization described above, under an agreement that meets the requirements of the bill specified above. (Sec. 108(a)(3).)

Reversal of the merger.—The *House* bill will give the Farm Credit Administration the power to prescribe regulations to permit the entities resulting from a merger described above, on a vote of a majority of the stockholders thereof present and voting or voting by written proxy at duly authorized meetings, to reverse and undo the merger and reorganize into the entities that were originally to be merged, with the same distribution of assets, liabilities, powers, and duties as existed before the merger. (Sec. 108(a)(2).)

(NOTE.—See item (10) below describing provisions in the *Senate* amendment relating to reconsideration of merger and related actions.)

Loan authority.—Under the *House* bill, if a merger and reorganization as described above occurs, the following entities that remain after the merger would be given new authority to make the following types of loans (if provided for in the merger agreement):

(a) land banks—intermediate credit bank loans to associations, and short-term loans to FCS borrowers:

(b) intermediate credit banks—long-term real estate loans to FCS borrowers; and

(c) production credit associations—long-term real estate loans to FCS borrowers. (Sec. 108(a)(3).)

Board of directors.—Under the *House* bill, whenever a merger and reorganization as described above is completed, the farm credit district board will be dissolved. In the case of the bank in the district that results from the merger (whether it be a land bank or intermediate credit bank), the board of directors of the bank (instead of it being the district board as under current law) will be elected by a majority vote of the stockholders voting in person, or by proxy, at a duly authorized meeting. The board of directors for the bank for cooperatives in the district, after the merger, will be the persons who were the members of the district board before the merger. There is no provisions in the bill for electing persons to succeed those individuals. (Sec. 108(a)(4).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(4B) Senate amendment—mergers of banks within a district

The *Senate* amendment, in section 205(a), will add a new title VII, subtitle A, to the Farm Credit Act of 1971, to authorize the merger of FCS banks within a district, as follows:

Power to merge.—The *Senate* amendment will authorize the merger of two or more banks within a farm credit district if the plan of a merger is approved by—

(a) the FCA Board:

(b) the respective boards of directors of the banks involved;

(c) a majority of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of the Farm Credit Act of 1971 relating to the casting of votes by stockholders for the members of a district board; and

(d) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting. (Sec. 7.0)

Board of directors.—The *Senate* amendment provides that, following a merger as described above, the district board of directors will continue to be composed of the seven members as provided in the Farm Credit Act of 1971. The Farm Credit Administration is to issue regulations to ensure the fair and equitable representation of the associations of each of the merging banks on the initial board of directors of the merged bank. Also, following a merger, the members of the district board are to be elected under FCA regulations prescribing procedures that are as consistent as practicable with those set forth in the Act. (Sec. 7.1)

Powers.— Under the *Senate* amendment, a merged bank will have all the powers and obligations of any of the constituent entities of the merged bank. The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the banks that form the merged bank are consolidated, and to the extent necessary, reconciled in the merged bank. (Sec. 7.2.)

Capital stock.—The *Senate* amendment provides that, except as described below, the number of shares of capital stock issued by a merged bank to stockholders and other owners of any institution involved in the merger, and the rights and privileges of such shares (including voting powers, redemption rights, preferences on liquidation, and the right to dividends), are to be determined by the plan of merger adopted by the banks involved, and must be consistent with new capitalization provisions under the bill (see item (2) above), and the regulations issued by the Farm Credit Administration. However, the number of shares of capital stock issued by a merged bank, and the rights and privileges thereof, are to be determined by the board of directors of the merged bank.

Voting stock of a merged bank can be held only by—

(a) associations or cooperatives that were, immediately prior to the merger, entitled to hold voting stock of one of the banks that merged; or

(b) by farmers, ranchers, or producers of aquatic products that are or were, immediately prior to the merger, direct borrowers from the merged bank or one of the banks that comprise the merged bank. (Sec. 7.3.)

Earnings, reserves, and distributions.—The *Senate* amendment provides that the board of directors of a merged bank is to determine the use or other application of net earnings after payment of operating expenses, except that net earnings first are to be applied to restore the value of impaired capital stock. After restoration, the application of net earnings could include—

(a) additions to an allocated reserve account or to an unallocated reserve account, and payment of a dividend on capital stock or patronage refunds in cash or in stock or other notices of allocation.

All capital and retained earnings of a merged bank would be available for use in the activities of the merged bank as the board of directors determines, without regard to the activities giving rise to such earnings. (Sec. 7.4.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* amendment with language making it conform to the new title IV of the Act.

(4C) Senate amendment—merger of associations into banks

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to authorize the merger of Federal land bank associations or production credit associations into their supervising bank. Under the *Senate* amendment, such a merger could take place if (a) the FCA Board approves the plan of merger, (b) approved by the boards of directors of the merging institutions, and (c) a majority vote in favor cast by the stockholders of the bank and the association (in person or by proxy) at a duly authorized stockholders' meeting using the rules for stockholder voting on members of a district board in the Act.

The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the bank and association that form the merged bank are consolidated and, to the extent necessary, reconciled in the merged bank. Following a merger under subsection (a), the capitalization of provisions of the bill (see item (2) above) will be applicable to the merged bank. (Sec. 7.8.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(4D) Senate amendment—mergers of associations in a district

The *Senate* amendment, in section 205(a), will add new provisions to the Farm Credit Act of 1971 to authorize two or more associations within the same farm credit district (whether or not all are Federal land banks associations or all are production credit associations) to merge into a single entity. Such a merger could occur if—

(a) there is compliance with the prerequisites described below;

(b) the plan of merger is approved by (i) the Farm Credit Administration, (ii) the boards of directors of the associations, (iii) a majority of the shareholders of each association voting, in person or by proxy, at a duly authorized stockholder's meeting, and (iv) the supervising bank.

The following are the prerequisites to the merger of production credit associations with land bank associations:

(a) Either the direct lending authority of each of the merging production credit associations has been vested in the supervising bank of the association, or the bank supervising the land bank associations has transferred all of its direct lending authority to such associations.

(b) A plan of merger is developed that designates one of the supervising banks of the associations being merged as the bank responsible for the merged association.

(NOTE.—See also item (5) below.)

Under the *Senate* amendment, a merged association will possess all powers granted to the associations forming the merged association, and will be subject to all of the obligations imposed on such associations. The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the associations that form the merged association are consolidated and, to the extent necessary, reconciled in the merged association. Following a merger, the capitalization provisions of the bill (see item (2) above) will be applicable to the merged association.

Subject to the capitalization provisions of the bill, the number of shares of capital stock issued by the merged association to the stockholders of any association forming such merged association, and the rights and privileges of such shares (including voting power, preferences on liquidation, and the right to dividends) would be determined by the plan of merger adopted by the merged associations.

The number of shares of capital stock, and the rights and privileges thereof, issued by a merged association after a merger would be determined by the board of directors of the merged association (with the approval of the supervising bank) and be consistent with the capitalization provisions of the bill and FCA regulations. Voting stock of a merged association would be issued to and held by farmers, ranchers, or producers of aquatic products who are or were, immediately prior to the merger, direct borrowers from one of the associations forming the merged association or the supervising bank of the merged association.

Under the *Senate* amendment, the board of directors of a merged association will determine the use or other application of net earnings after the payment of operating expenses, in accordance with standards established by the Farm Credit Administration and subject to the approval of the supervising bank.

Net earnings of a merged bank would first be applied to restore the value of any impaired capital stock. After restoration, the application of net earnings could include—

(a) additions to an allocated reserve account, or to an unallocated reserve account; or

(b) payment of patronage refunds in cash or in stock or other notices of allocation.

All capital and retained earnings of a merged association would be available for the uses described above and for use in the activities of the merged association that the board of directors determines, without regard to the activities giving rise to such earnings. (Secs. 7.9 and 7.10.)

The *House* bill contains no comparable provision (but see the provisions of the *House* bill described in item (3) above, relating to the merger of unlike associations in a reorganized Farm Credit System).

The *Conference* substitute adopts the *Senate* amendment with language making it conform to the new title IV.

(4E) Senate amendment—merger of like banks

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to revise the provisions of the Act relating to mergers of like banks. In connection with that, the Senate amendment, in section 210(b)(2), will repeal sections 4.10 and 4.11 of the Act, which provide the current authority for such mergers.

The new authority under the *Senate* amendment provides that Federal land banks, Federal intermediate credit banks, and production credit associations could

merge with similar banks in other districts if (a) the plan of merger is approved by—

(a) the Farm Credit Administration Board;

(b) the respective boards of directors of the bank involved;

(c) a majority vote of the stockholders of each bank voting, in person or by proxy, at a duly authorized stockholders' meeting in accordance with the provisions of the Act relating to stockholder voting; and

(d) in the case of a bank for cooperatives, a majority of the total equity interests in such merging bank for cooperatives (including allocated, but not unallocated, surplus and reserves) held by those stockholders or subscribers to the guaranty fund of the bank voting.

The provisions (described above in item (4B)) relating to the power, capitalization, and earnings of merged unlike banks would apply to banks merged under this provision.

After a merge of like banks, a board of directors will be created for the resulting bank, which will be composed of—

(a) two directors elected by each of the district boards, with at least one such director from each district being elected by the eligible stockholders of, or subscribers to, the guaranty fund of the merging banks; and

(b) one *outside* director elected by the other members. The outside director must be experienced in financial services and credit, and within the 2-year period prior to such election, not have been a borrower from, shareholder in, or director, officer, employee, or agent of any institution of the Farm Credit System. If the other members of the board fail to elect an outside director, the Farm Credit Administration Board will appoint a qualified person to serve on the board of directors until such member is so elected. The bylaws of the merged bank, with FCA approval, could provide for a different number of directors to be selected in a different manner, except that the bylaws must provide for at least one outside director.

(NOTE.—See also item (13) below.)

The board of the merged bank will have such separate and distinct powers, functions, and duties as are normally exercised by a district board related to the operations and policies of the banks that merged. (Sec. 7.15.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(4F) Senate amendment—mergers of associations

The *Senate* amendment, in section 205(a), will revise the authority in the Farm Credit Act of 1971 for the merger of like associations. In that regard, the *Senate* amendment, in section 2.10(b)(2), will repeal the provisions of the Act currently providing such authority.

The new authority under the *Senate* amendment provides that Federal land bank associations or production credit associations could voluntarily merge with each other if the plan of merger is approved by—

(a) the FCA Board,

(b) the respective boards of directors of the associations involved,

(c) a majority vote of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholder's meeting, and

(d) the supervising bank.

The provisions of the amendment (as described in item (4E) above) relating to the powers, capitalization, and earnings of merged like banks would apply to associations merged under this provision.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment relating to the treatment of FCS institutions under State transfer tax law.

(4) Nondiscrimination

The *Senate* amendment, in section 205(b), will revise the current provisions of the Act requiring the Farm Credit Administration to ensure that no district board, in exercising its supervisory power, discriminates against associations in the district that do not approve merger of associations. The revised provision states that the Farm Credit Administration Board is to ensure that disapproving associations (a) will not be charged any assessment at a rate higher than that charged other like associations in the district, and (b) will be provided with financial services and assistance on the same basis as other like associations in the district.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with language making it conform to the new title IV.

(5) Transfer of loan-related assets and lending authority

The *Senate* amendment, in section 205(a), will add new provisions to the Farm Credit Act of 1971, to authorize the transfer among certain banks and associations of lending authority under the Act and, in connection with that, of loan assets.

Specifically, the *Senate* amendment provides as follows:

Transfers of lending authority from PCAs to banks.—A production credit association could assign the authority conferred on the association to make participate in loans and related authorities, to the Federal intermediate credit bank in the district, or to a merged bank having the Federal intermediate credit bank as one of its constituents (see items (4B) and (4E) above), if the assignment is approved by—

(a) the FCA Board;

(b) the board of directors of both institutions; and

(c) a majority of the stockholders of each association voting, in person or by proxy, at a duly authorized stockholders' meeting.

The production credit association would transfer *all* of the association's loan portfolio or other assetss, or both, to the bank for such consideration as may be agreed on by the boards of directors of the association and the bank.

After a transfer of lending authority, the Federal intermediate credit bank or the merged bank will possess the direct loan authority under the Act formerly possessed by the transferring production credit association in the territory served by the association.

After a transfer, the provisions of current law relating to borrower stock, and the provisions of the bill relating to capitalization (see item (2) above), previously applicable to the association with respect to the direct loans of the association to borrowers in the territory served by the production credit association, would be applicable to the bank. The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of associations that make assignments or transfers are consolidated, and to the extent necessary, reconciled in the bank involved. (Sec. 7.6.)

Transfers of lending authority from land banks to FLBAs.—A Federal land bank or a merged bank having a Federal land bank as one of its constituents (see items (4B) and (4E) above) could assign to a Federal land bank association (and the association could assume) the authority of the transferring bank in the territorial area served by the association, to make and participate in long-term real estate mortgage loans under the Act, if the assignment is approved by—

(a) the FCA Board;

(b) the board of directors of both institutions; and

(c) a majority of the stockholders of the bank and of the association, voting (in person or by proxy) at a duly authorized meeting in accordance with the stockholder voting provisions of the Act relating to election of district board members.

After an assignment, the land bank association will possess all of the direct long-term real estate mortgage loan authority, formerly possessed by the transferring bank, in the territory served by the association; and the land bank could provide and extend financial assistance to, and discount for, or purchase from, the transferee Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of long-term real estate loan financing by the association.

The Farm Credit Administration is to issue regulations that establish the manner in which the powers and obligations of the banks that make assignments or transfers are consolidated and, to the extent necessary, reconciled in the land bank association. Following a transfer or assignment, the capitalization provisions of the bill (see item (2) above) will be applicable to the association (Sec. 7.7.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment to retain the *Senate* provision relating to transfer of lending authority from land banks to FLBA's as conformed to the compromise and system structure.

(6) Termination and dissolution of FCS institution status

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to permit an FCS institution to terminate its status as an FCS institution. Under the *Senate* amendment, the institution could terminate its status if—

(i) it provides written notice to the FCA Board not later than 90 days prior to the proposed termination date;

(ii) the termination is approved by the FCA Board;

(iii) the appropriate Federal or State authority grants approval to charter the institution as a bank, savings and loan association, or other financial institution;

(iv) the institution pays to the Farm Credit Assistance Fund (if the termination is prior to January 1, 1992) or pays to the Reserve Account (if the termination is after such date) the amount by which the total capital of the institution exceeds 6 percent of the assets (*NOTE:* see the section of this Statement dealing with financial assistance to the Farm Credit System for a fuller description of the Assistance Fund and Reserve Account);

(v) it pays or makes adequate provision for payment of all its outstanding debt obligations;

(vi) the termination is approved by a majority of its stockholders voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the FCA Board; and

(vii) the institution meets other conditions the FCA Board by regulation considers appropriate.

On termination of its status as an FCS institution, the FCS Board will revoke the charter of the institution, and the institution will no longer be an instrumentality of the United States under the Act. (See. 7.12.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 to allow the Federal land bank associations in a district to have their Federal land bank dissolved and liquidated, and, similarly allow the production credit associations in a district to have their Federal intermedite credit bank dissolved and liquidated.

Under the *Senate* amendment, the associations could cause dissolution and liquidation of the bank if—

(i) not later than 90 days prior to the proposed dissolution date, the associations submit to the FCA Board written notice of the proposed dissolution and a plan of dissolution that provides for—

(A) the distribution of the assets of the bank in accordance with the regulations of the FCA Board; and

(B) payment, discharge, or adequate provision for all debts, obligations, and liabilities of the bank;

(ii) the plan of dissolution is approved by the FCA Board (and in the case of an intermediate credit bank, the FCA Board consents to the dissolution):

(iii) the plan of dissolution is approved by a majority vote of the stockholders of the bank present and voting, or voting by written proxy, at a duly authorized stockholders meeting (in the case of an intermediate credit bank stockholders meeting, the vote would have to conform to the district board election voting provisions of the Act); and

(iv) the associations comply with other requirements provided in regulations of the FCA Board.

Also, with respect to the dissolution of a land bank, the lending authority would have to have been assigned to and assumed by the land bank associations (as described in item (5) above). (Sec. 7.13.)

(f) The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(7) Disclosure of information to stockholders

Both the *House* bill and the Senate amendment will require that detailed information on proposed mergers be sent to the stockholders of the FCS institution involved, prior to the vote on the mergers. (*NOTE:* See also item (3), which contains similar disclosure provisions with respect to mergers of unlike associations in the reorganized Farm Credit System.) The two bills differ as follows:

(a) The *House* bill will apply the provision to *information* or proposed *mergers.* (Sec. 109(a).)

The *Senate* amendment will apply the provision to plans on proposed *mergers, transfers or assignments of lending authority, dissolution, or termination.* Sec. 7.14, as added by sec. 205(a).)

The *Conference* substitute adopts the *Senate* provision.

(b) Under the *House* bill, no merger could take place until 60 days after the disclosure material is sent to the stockholders. (Sec. 109(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

The *Senate* amendment provides that the institutions could submit a proposed plan to voters after 60 days of no action on the plan by the Board. (Sec. 7.14(a)(2), as added by sec. 205(a).)

The *House* bill has no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that, before an FCS institution provides the disclosure information to stockholders, it must revise the material, as the Farm Credit Administration determines necessary, to ensure its accuracy, so that stockholders could make an informed decision on the advisability of the proposed merger. (Sec. 109(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(8) Reconsideration of votes

The *Senate* amendment, in sec. 205(a), will add a new provision to the Farm Credit Act of 1971, to provide for the reconsideration of favorable votes on mergers and related actions.

The *Senate* amendment will cover favorable stockholder votes on mergers of farm credit districts, mergers of banks within a district, the transfer of lending authority, mergers of associations into banks, mergers of associations, mergers of banks, and the termination of the status of institutions as FCS institutions.

Under the *Senate* amendment, not later than 30 days after a stockholder vote in favor of any of the actions described above, the official that records the vote must ensure that all stockholders of the voting entity receive notice of the final results of the vote. An action that is approved by a vote of the stockholders of two or more banks or associations would not take effect until the expiration of 30 days after the date on which the stockholders of such associations are notified of the final result of the vote.

If a petition for reconsideration of a merger, transfer, or termination vote, signed by at least 15 percent of the stockholders of one or more of the affected banks or associations, is presented to the Farm Credit Administration within 30 days after the date of notification—

(i) the voluntary merger, transfer, or termination will not take effect until the expiration of 60 days after the date on which the stockholders were notified of the final result of the vote; and

(ii) a special meeting of the stockholders of the affected banks or associations must be held during the 60-day period to reconsider the vote.

If a majority of stockholders of any one of the affected banks or associations voting, in person or by written proxy, at a duly authorized stockholders' meeting, vote *against* the proposed merger, transfer, or termination, such action will *not* take place.

If a petition for reconsideration of a vote is either not filed prior to the sixtieth day after the vote or, if timely filed, is not signed by at least 15 percent of the stockholders, the merger, transfer, or termination will become effective in accordance with the plan of merger, transfer, or termination.

The *Senate* amendment also contains provisions for *special reconsiderations,* as follows: The Farm Credit Administration must issue regulations under which the stockholders of any association that voluntarily merged with one or more associations after December 23, 1985, and before the date of enactment of the bill, could petition for the opportunity to organize as a separate association. The FCA regulations are to require that—

(i) the petition be filed within one year after the date of the implementation of such regulations;

(ii) the petition be signed by at least 15 percent of the stockholders of any one of the associations that merged during the period;

(iii) the petition describe the territory in which the proposed separate association will operate;

(iv) if the petition is approved—

(A) the loans of the members of the new association will be transferred from the current association to such new associations;

(B) the stock and other equities of the current association held by members of the new association will be retired at book value and the proceeds will be transferred to the new association, and an equivalent amount of stock and other equities will be issued to the members by the new association; and

(C) the other assets of the current association will be distributed equally among the current association and any resulting new association.

Not later than 30 days after the filing of the petition for reorganization, the current association must notify its stockholders that a petition to establish the separate association has been filed. The notification is to contain the date of a special stockholders' meeting to consider the petition for organization and an enumerated statement of the anticipated benefits and the potential disadvantages to such stockholders if the new association is established. All notifications must be submitted to the FCA Board for approval prior to being distributed to the stockholders. The FCA Board will require that, prior to the distribution of the notification of the stockholders, the notification be amended as necessary to provide accurate information to the stockholders that will enable such stockholders to make an informed decision as to the advisability of establishing a new association. The special stockholders meeting to consider the petition must be held within 60 days after the filing of the petition. If, at the special stockholders meeting, a majority of the stockholders of the current association who would be served by the new association approve, by voting in person or by proxy, the establishment of the separate association, the Farm Credit Administration, within 30 days after such vote, must issue a charter to the new association and amend the charter of the current association to reflect the territory to be served by the new association. (Sec. 7.11.)

The *House* bill will give the Farm Credit Administration the power to prescribe regulations to permit entities resulting from a merger of unlike banks and associations (as described in item (4A) above), on a vote of a

majority of the stockholders voting (in person or by proxy) at a duly authorized meeting, to reverse and undo the merger and reorganize into the entities that were originally to be merged with the same distribution of assets, liabilities, powers, and duties as existed before the merger. (Sec. 108(a).)

The *Conference* substitute adopts the *Senate* provision.

(9) Reports by merged banks for cooperatives

The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 requiring annual reports by merged banks for cooperatives.

Under the *Senate* amendment, when two or more banks for cooperatives merge, the resulting bank, not later than December 31 of each year of the succeeding five years following the date of the merger, must file an annual report with the Farm Credit Administration that—

(a) analyzes the effect of the merger;

(b) includes a breakdown of loans outstanding according to the size of the cooperative stockholders of the bank; and

(c) describes the adequacy of credit and other assistance services provided to smaller cooperations.

A copy of each report would be made available to the agriculture committees of Congress. (Sec. 7.5.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(10) Taxation of merged associations

The *House* bill provides that, in the case of any entity resulting from a merger in which one or more of the constituents is a production credit association, for purposes of the Internal Revenue Code of 1986, the gross income of such an entity will include—

(a) income from any loan held by such entity (other than any loan made under section 1.6 of the Farm Credit Act of 1971, as in effect on the date of the enactment of this section); and

(b) amounts required to be included in gross income by reason of paragraph (2) of section 805(d) of the Tax Reform Act of 1986. (Sec. 108(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(11) Certain technical and conforming amendments

(a) The *Senate* amendment, in section 205(a), will add a new provision to the Farm Credit Act of 1971 that provides as follows: Each plan of merger or transfer of lending authority under the bill could include a proposed new Federal charter for the merged or transferee entity. The FCA Board must issue the charter on the approval of the merger or transfer plan, unless the Board determines that the charter submitted is not consistent with the Act. (Sec. 7.14(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that, whenever a production credit association merges with, or assigns lending authority to, its Federal intermediate credit bank, the association's rural housing loans will be subject to limitations imposed by the board of the intermediate credit bank and FCA regulations. (Sec. 210(a)(3).)

The *House* bill amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c)(i) The *Senate* amendment will revise the provisions of current law (sec. 5.2(c) of the Farm Credit Act of 1971), which provides procedures for voting for district boards. Under current law, each production credit association is entitled to cast one vote for each voting stockholder of the association, and each Federal land bank association is entitled to cast one vote for each borrower from the association.

Under the *Senate* amendment, voting by a merged association consisting of production credit associations and land bank associations will use the land bank association method—one vote per borrower. (Sec. 210(c)(2)(A).)

(ii) Also, the *Senate* amendment will add new provisions to section 5.2 of the Act, providing as follows: In any case in which an association has merged into the supervising bank under the *Senate* amendment, the voting strength provisions and voting procedures described in section 5.2 will be applied under FCA regulations that are designed to give appropriate weight to the votes of voting stockholders of banks other than associations. (Sec. 210(c)(2)(B).)

The *House* bill amendment contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(12) Outside members of district boards

The *House* bill will expand the board of directors of each farm credit district from seven to nine. The eighth and ninth members would be elected by the seven other members and would have to meet the following qualifications:

(a) the person must be experienced in financial services and credit; and

(b) the person could not be a borrower, shareholder, official, or agent of any FCS institution. (Sec. 108(b)(1).)

The *Senate* amendment contains a similar provision, except that—

(a) instead of adding two members to each board, it would require that the seventh member (currently elected at large by voters from all institutions in the district) be the outside director elected by the other members;

(b) the qualifications for the outside director specify that he could not have been a borrower, stockholder, official, or agent of an FCS institution *within the two years preceding his election;* and

(c) the *Senate* amendment contains an additional provision, not in the *House* bill, stating that, if the six members fail to elect an outside member, the FCA Board is to appoint a qualified person to serve on the Board of Directors until a member is so elected. (Sec. 802 (c).)

The *Conference* substitute adopts the *House* provision with an amendment retaining the *Senate* provision that the outside director could not be associated with an FCS institution within two years preceding his election.

(13) Referendum to have separate boards of directors

The *House* bill will establish new authority to have separate boards of directors for FCS banks within a district. (Under current law, in sec. 5.3 of the Farm Credit Act of 1971, the district board serves as the board of the Federal land bank, Federal intermediate credit bank, and bank for cooperatives in the district.)

Under the *House* bill, within 30 days after receipt by the Farm Credit Administration of a petition from stockholders of any bank (or borrowers from or subscribers to the guaranty fund of a bank for cooperatives) representing at least 25 percent of the total number of votes that may be cast by the bank's stockholders in the election of directors, a referendum must be held to determine whether to elect a separate board of directors for the bank. The Farm Credit Administration is to issue a notice to all stockholders of the bank explaining that such a referendum is to be held. The notice is to state the time and place of a special stockholders meeting to hold the referendum. the notice to associations is to state the number of votes tht the board of the association is entitled to cast in the referendum, based on the number of voting stockholders of that association on the date of such notice, as determined by the Farm Credit Administration. The meeting must be held not less than 30 nor more than 60 days after the date the notice is mailed.

If at the special meeting of stockholders a majority of the votes represented at such meeting are cast in favor of the election of a separate board of directors for the bank, the Farm Credit Administration must hold elections for a separate board of directors for the bank.

A separate board of directors for a bank would be composed of five members. Two members of the original separate board would be the two district board members already elected by the bank's stockholders, who no longer would be members of the district board. The other three original members, and all succeeding members, would be elected and serve in accordance with provisions of the Act governing the election of members to district boards. If separate boards are established for two or more banks in a district, the district board for that district would be terminated. Coordination between boards of directors in a district on matters such as joint property, functions, or policy would be by a committee composed of representatives from each board in the district.

A separate board of directors would continue until abolished. If the Farm Credit Administration receives a petition similar to that to have separate boards (as described above) requesting a referendum to determine whether to retain the separate board of directors for the bank, a referendum would be held as described above. If a majority of the votes represented at the special shareholders meeting called for this purpose are cast in favor of abolishing the separate board of directors of the bank, the board would be abolished, and the two most senior members would join the district board, which then would act for the bank. If the district board has been terminated, it would take the concurrent abolition referendums of two district banks to reestablish it.

The creation of a separate board, or its abolition, would last at least five years. The separate board of directors of a district bank would have the power to exercise all of the powers granted to the bank in section 1.4, 2.1, or 3.1 of the Act, whichever is applicable. The district board is not to act for the bank or exercise authority otherwise granted it under the Act. (Sec. 108(b)(2).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

MISCELLANEOUS FCA PROVISIONS AND CONSERVATION

(1) Eligibility to borrow from a bank for cooperatives

The *House* bill provides that notwithstanding any other provisions of law, the following entities shall be eligible to borrow from the banks for cooperatives: (1) any cooperative or other entity that has completed a loan or loan commitment from the Rural Electrification Administration or the Rural Telephone Bank, or a loan guarantee from the REA, or has been certified by the Administrator of the REA as eligible for the loan, loan commitment, or loan guarantee, and subsidiaries of such cooperative or other entities; (2) any legal entity at least 50 percent of the voting control of which is owned by one of more entities eligible to borrow from the banks for cooperatives; and (3) any legal entity that holds at least 50 percent of the voting control of an entity that is eligible to borrow from the BCs and that borrows for the purpose of making funds available to such entity.

The *House* bill further provides that any legal entity eligible to borrow from the BCs under this provision shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the BC, and that nothing in this provision is intended to adversely affect the existing eligiblity (prior to enactment of the bill) of cooperatives and other entities for any other credit assistance under Federal law. (Sec. 109(b).)

The *Senate* amendment is similar, except that with respect to a legal entity, more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from the BCs, the eligiblity to borrow is subject to the limitation that it must not conduct business in farm or aquatic products or services with nonmembers in a greater value than with members. (Sec. 206.)

The *Conference* substitute adopts the *House* provision with three modifications. The first modification limits the eligiblity of subsidiaries of eligible associations to borrow from BCs to those subsidiaries which, when combined with the "parent" eligible associations, otherwise meet the general eligibility requirements of the Act. The second modification provides that "parent" associations eligible to borrow under the general eligiblity requirements of the Act may borrow for a subsidiary solely for the purpose of financing eligible subsidiaries and must make those funds available to the subsidiary under the same terms and conditions as applied to the "parent" association. The third modification authorizes the board of a BC to adopt capitalization plans which allow for loans that do not require a stock purchase (other than one share of voting stock) in cases where loan funds are backed by a Federal guarantee.

(2) Sales of certain kinds of insurance by System institutions

The *House* bill provides that banks and associations may sell insurance to borrowers and that the borrowers will have the option, without coercion, to accept or reject such insurance. Insurance services may only be offered if the insurance program has been approved by the bank or association from among specific programs made available to it from insurers that meet reasonable standards of service and are licensed to sell insurance in the State. In addition, the provision requires that the board of the bank or association must select and offer at least three insurers for each type of insurance made available to the borrowers.

The *House* bill further provides that System institutions or the FCA may not own, control, manage, underwrite, direct, or supervise any insurance company or agency, underwrite insurance, adjust or pay claims or supervise such activity, or train, school, or service insurance adjustors or agents. (Sec. 109(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute requires banks, when making insurance available through private insurers, to approve programs of two or more insurers for each type of insurance offered in the district. The substitute also authorizes the banks to provide comparative information relative to the costs and quality of approved programs and the financial conditions of the approved companies. In addition, the substitute requires associations to offer at least two insurers for each program from among those approved by the banks.

(3) Civil money penalties

The *House* bill provides that any institution or person who violates any provision of the Act or the regulations thereunder will be subject to a civil penalty of not more than $500 per day for each day the violation continues. Before assessing a civil penalty, the FCA must notify and solicit the views of the institution or person to be assessed of the alleged violation and the penalty proposed to be assessed. Finally, orders of the FCA regarding assessment of civil penalties are made reviewable under chapter 7 of title 5 of the U.S. Code, which provides generally for judicial review of agency actions. (Sec. 109(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(4) Authority for land banks to make loans for recreational purposes

The *House* bill authorizes Federal land banks to make loans to farmers and ranchers for the acquisition of equipment necessary to conduct commercial recreation or related activities on the farm or ranch, if the equipment is used on the farm or ranch property and is used by the farmer or rancher and his/her family. (Sec. 109(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the House provision.

(5) Limitation on the authority of FCA to require disclosure of information relating to loans made to directors

The *House* bill prohibits the FCA from requiring that an institution disclose in any stockholders' report information concerning the condition of classification of a loan to: (1) a director of the institution who has resigned before such report is required to be filed with the FCA or whose term of office will expire no later than the date of the stockholders meeting to which the report relates; and (2) an immediate family member of a director unless the member lives in the same house as the director, or unless the director has a material financial or legal interest in the loan or the business operation of the family member. This provision further directs the FCA to make necessary changes in its regulations, within 30 days after enactment of the bill, to implement the provision. (Sec. 109(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with the understanding that the exceptions to the disclosure requirements in the amendment apply to all those who are required to disclose, including senior officers, and to all relatives defined as immediate family members. The prohibition against disclosing loan information is prohibited in any stockholders' report or supplemental statements that are available to stockholders for inspection.

(6) Enhance protection of stockholder voting rights

The *House* bill provides that System institutions may not require the use of signed ballots and shall implement measures to protect voters' rights to a secret ballot process in connection with any election or merger vote, or other proceeding subject to stockholder vote. (Sec. 109(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(7) Security for land bank loans

The *House* bill limits, effective only for loans applied for and made after the date of enactment of the bill, the loan to value ratio on land bank loans to 80 percent of the appraised value of real estate security instead of 85 percent as provided in current law. (Sec. 109(h).)

The *Senate* amendment maintains the current 85 percent loan to value ratio on land bank loans, but authorizes the FCA to require, by regulation, that loans not exceed 75 percent of the appraised value of the real estate security. In addition, this provision requires that land bank to require that borrowers provide a financial statement to it at least once every 3 years or more often as may be required by FCA regulations. (Sec. 208.) [NOTE: In this section the *Senate* amendment also completely replaces the current law provision and restructures it but makes no other substantive changes than those described above.]

The *Conference* substitute adopts the *Senate* provision.

(8) Offers of sale by local real estate agents

The *House* bill establishes a new section 4.37 which provides that in connection with the sale of acquired properties by a System lender, such lender shall, to the extent practicable, only offer the property for sale through real estate agents located in the county in which the property is located, and that the lender shall select such agents on a competitive basis. (Sec. 109(i).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(9) Affirmative action

The *House* bill establishes a new section 4.36 which requires the TAC and each System institution with more than 20 employees to establish and maintain an affirmative action program plan for hiring, placement, and advancement of socially disadvantaged individuals (as defined in the Small Business Act) in the same manner as Federal agencies are required to do under the Civil Rights Act of 1964. (Sec. 109(k).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with a modification to provide that the affirmative action standards applied to each Farm Credit System institution and the Assistance Board would be the same standards otherwise applied to government contractors.

(10) Encouragement of conservation practices

The *House* bill will require a System institution or an agricultural loan originator (as defined in sec. 5.81(1)) to encourage a borrower to contact the Soil Conservation Service of the Department of Agriculture to obtain information about soil conservation methods and practices, at the time the institution or originator, as the case may be, approved a loan made to the borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act by reason of subtitle B (Highly Erodible Land Conservation) or subtitle C (Wetland Conservation) of title XII of the Food Security Act of 1985. (Sec. 4.38 as added by sec. 109(j) of the bill.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(11) Eligibility of cropland to be placed in the Conservation Reserve

The *Senate* amendment will require that land must be considered planted to an agricultural commodity during a crop year for purposes of determining the eligibility of land to be placed in the conservation reserve program established under subtitle D of title XII of the Food Security Act of 1985, if an action of the Secretary prevented the land from being planted to the commodity during the crop year (sec. 1231(g) of the Food Security Act of 1985 as added by sec. 303 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(12) Ownership requirement under the conservation reserve program

The *Senate* amendment will provide that land in which a change in ownership occurred due to foreclosure on the land and the owner of the land immediately prior to the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law will be exempted from the provision that prohibits the Secretary from entering into contracts, with owners and operators of farms and ranches containing highly erodible cropland, to place in the conservation reserve under subtitle D of title XII of the Food Security Act of 1985, land the ownership of which has changed in the 3-year period preceding the first year of the contract period. (Sec. 1235(a)(1)(D) of the Food Security Act of 1985 as added by sec. 804 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Placement of inventoried property in conservation reserve

(a) The *Senate* amendment will provide that section 1235(a)(1) of the Food Security Act of 1985 will not apply to highly erodible cropland that is administered on the date of enactment of the bill by—

(i) an institution of the Farm Credit System under the Farm Credit of 1971;

(ii) The Secretary under the Consolidated Farm and Rural Development Act; or

(iii) a private lender. (Sec. 1235(a)(3)(A) of the Food Security Act of 1985 is added by sec. 805 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(b) The *Senate* amendment will require the Secretary, notwithstanding any other provision of law, in the case of highly erodible cropland that is placed in the conservation reserve as a result of section 1235(a)(3) of the Food Security Act of 1985, to make payments under subtitle D of such Act only to family farmers who purchase or lease such cropland and who enter into a contract under subtitle D. (Sec. 1235(a)(3)(B) of the Food Security Act of 1985 as added by sec. 805 of the bill.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(c) The *Senate* amendment will require the Secretary to give priority to the offers submitted by owners or operators who satisfy the requirements of section 1235(a)(1) of the Food Security Act of 1985, if the Secretary receives contract offers for participation in the program established by subtitle D of such Act from owners of operators who satisfy the requirements of section 1235(a)(1) and family farmers who satisfy the requirements of section 1235(a)(3). (Sec. 1234(a)(3)C) of the Food Security Act of 1985 as added by sec. 805.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(d) The *Senate* amendment will define the term "family farmer" for section 1235(a)(3) of the Food Security Act of 1985 to mean an owner or operator (as of the time immediately before such sale or lease) of not larger than a family-size farm located in a State, as defined by the Secretary for farmers under the Consolidated Farm and Rural Development Act. (Sec. 1234(a)(3)(D) of the Food Security Act of 1985 as added by sec. 805.)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(14) Repeal of preapproval and related authorities

The *House* bill makes numerous technical changes to the Farm Credit Act of 1971 to eliminate from the Act obsolete references to FCA approval of actions by System institutions. The approval authorities of the FCA were deleted from the Act as part of the 1985 amendments; however, all conforming changes related thereto were not made at that time. (Sec. 110.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(15) Uniform chart of accounts

The *Senate* amendment establishes a new section 5.22A which requires each System institution to comply with a uniform chart of accounts, approved by the FCA, to standardize and facilitate the reporting of System data and to report to the FCA, within 6 months after enactment of the bill, on the plan of the institution to bring its operations into compliance with the uniform chart of accounts. If the accounts are maintained on a computer system, each institution may maintain its own internal computer system or contract out to a vendor under open competitive bidding procedures. (Sec. 209.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting the phrase "chart of accounts" wherever it appears and inserting instead the phrase "financial reporting instructions required by the Farm Credit Administration".

(16) Compensation of directors

The *Senate* amendment limits the compensation that System district directors can receive for serving on the district board to no more than $15,000 annually. (Sec. 806.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. In adopting the *Senate* provision, the Conferees note that the provision applies only to compensation received for serving on the district board and does not affect compensation from concurrent board memberships at the association or other level within the Farm Credit System.

TITLE II—RESTRUCTURING THE FARM CREDIT SYSTEM

(18) Farm Credit Administration Board

(a) The *Senate* amendment requires the Farm Credit Administration Board to adopt such rules as it deems appropriate for the transaction of business by the Board. Also, the Board is required to keep permanent and accurate records and minutes of its actions and proceedings. (Sec. 201(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides that:

(1) the Chairman of the Board shall be the chief executive officer of the Farm Credit Administration;

(2) the Chairman, as chief executive officer, shall be responsible for directing the implementation of policies and regulations adopted by the Board and, after consultation with the Board, the execution of the administrative functions and duties of the FCA;

(3) the Chairman, in carrying out the policies of the Board shall act as spokesperson for the Board and represent the Board and the FCA in their official relations within the Federal government; and

(4) the Chairman shall also (under policies adopted by the Board) consult with—(a) the Secretary of the Treasury regarding the exercise, by the System, of the powers conferred by the section; (b) the Board of Governors of the Federal Reserve System concerning the effect of System lending activities on national monetary policy; and (c) the Secretary of Agriculture concerning the effect of System policies on farmers, ranchers, and the agricultural economy. (Sec. 201(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(19) Organization of Farm Credit Administration

(a) The *Senate* amendment provides that—

(1) the Chairman of the FCA Board in carrying out his duties under the Farm Credit Act shall be governed by the policies of the Board and such regulatory decisions and determinations as it is authorized by law to make;

(2) the Chairman is authorized to appoint such personnel as may be necessary to carry out the general functions of the FCA, and the Chairman is authorized to appoint heads of major administrative divisions of

the Board subject to the approval of the Board;

(3)(A) personnel employed regularly and full-time in the immediate offices of Board members are authorized to be appointed by each Board member; and

(B) the officers and employees of the FCA are made subject to the Ethics in Government Act of 1978; are considered officers and employees of the United States for purposes of sections 201 through 203, and sections 205 through 209, of title 18, the U.S. Code (criminal matters concerning bribery, graft, and conflict of interest exemption thereto of certain Federal officials); and section 5315 of title 5, U.S. Code (salary scale for Level IV of the Federal schedule); (c) the powers of the Chairman necessary for day-to-day management may be delegated to designated officers and employees of the FCA except those powers specifically reserved for the Chairman by the Farm Credit Act without Board approval; and

(4) funding the operation of the FCA, and the salaries of the members of the Board and FCA employees shall be funded and paid for from the Farm Credit Administration Operation Expenses Fund. (Sec. 201(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment provides for the authority of the Chairman relating to the appointment of advisory committees subject to the approval of the Board. (Sec. 201(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment strikes out the last sentence of paragraph (2) and provides in lieu thereof that the Board, after consultation with the respective boards of directors of the affected banks, may require two or more district banks operating under the same or different titles to merge if the Board determines that one of such banks has failed to meet outstanding obligations. Also, the *Senate* amendment provides that, except for associations, the Board has authority to fix salary scales for employees that are fair and reasonable, and it further provides that the Board may not delegate this authority. (Sec. 5.17(a) (2) and (15) of the Farm Credit Act; Sec. 210(e) of the *Senate* amendment.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *Senate* amendment provides new authority that—

(1) the FCA Board may permit a PCA that is located in a district in which there are no more than three such associations (notwithstanding any territorial limitation in the charter of such association), to provide credit and technical assistance to any borrower who is denied such assistance by a PCA that has an adjoining service territory and is located in the same district, if the Board determines that one of the production credit associations in the district is unduly restrictive in the application of credit standards; and,

(2) if the FCA Board approves the extension of credit and technical assistance under this new authority, the association must approve or deny the application for credit within 90 days after the receipt of the application from the borrower. (Sec. 201(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment which would limit the applicability of the provision to production credit associations located in a district in which there are no more than two production credit associations. The Conferees intend that the Farm Credit Administration Board, in exercising its approval authority under this provision, limit its approval to production credit associations located in the 12th Farm Credit district.

(e) The *Senate* amendment amends section 4.12(b) of the Act by vesting in the Farm Credit Administration Board all power with respect to appointments of conservators or receivers for any System institution. (Sec. 201(g).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(20) Farm Credit Operating Expense Fund

The *Senate* amendment provides that—

(a)(1) prior to the first day of each fiscal year, the FCA shall determine (a) the cost of administering the Farm Credit Act for the subsequent fiscal year; (b) the amount of assessments that will be required to pay such administrative expenses (taking into consideration the funds contained in the Administrative Expense Account) and maintain a necessary reserve; and (c) the amount of assessments required to pay the costs of supervising and examining the Mortgage Corporation established under the Act;

(2) the FCA shall on the basis of the determinations made under paragraph (1),—(A) apportion the amount of such assessment among the System institutions on a basis that is determined to be equitable by the FCA; (B) assess and collect such apportioned amounts from time to time during the fiscal year; and (C) assess and collect amounts from the Mortgage Corporation;

(b)(1) the amounts collected and shall be deposited in the Farm Credit Administration Administrative Expense Account. (The Expense Account to be maintained in the Treasury of the United States and available, without regard to the Balanced Budget and Emergency Deficit Control Act of 1985 or any other law, to pay the expenses of the Farm Credit Administration); (B) the funds contained in the Expense Account must not be construed to be Federal government funds or appropriated monies; and (C)(i) the Secretary of the Treasury, on request of the FCA, shall invest and reinvest such amounts contained in the Expense Account as, in the determination of the FCA are in excess of the amounts necessary for current expenses of the FCA; (ii) deposit all income earned from such investments and reinvestments in the Expense Account; and (iii) invest such funds in public debt securities with maturities suitable to the needs of the Expense Account, as determined by the FCA, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. (Sec. 202(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(21) Examination of Federal Land Bank Associations

The *Senate* amendment provides:

(a) for an exemption of FLBAs from one or more examinations a year; (b) that the FLBAs shall be examined at such times as determined by the FCA Board but at least once every 5 years; and (c) that the authority to conduct examinations of System institutions would rest with the Board rather than only with the Chairman of the Board. (Sec. 202(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with two modifications. The first modification would limit the applicability of the *Senate* provision to associations which do not possess direct lending authority. The second modification would require such associations to be examined at least once every three years instead of every five years as provided in the *Senate* amendment. The Conferees emphasize that the authorities in the Farm Credit Act providing for Farm Credit Administration or bank supervision and examination of associations must be used solely for those purposes and under no condition are they to be used as the basis for harassing farmer/borrowers and their local associations.

(22) Power to remove directors and officers

The *Senate* amendment amends part C of title VI by adding at the end thereof a new section that provides that notwithstanding any other provision of the Farm Credit Act, a farm credit district board, bank board, or bank officer or employee shall not remove any director or officer of any production credit association or Federal land bank association. (Sec. 202(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(23) Conforming amendments

(a) The *Senate* amendment requires that when one or more PCA's merge with a FICB, loans made shall be subject to the limitations imposed by the FICB board and FCA regulations. (Sec. 210(a)(1).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment requires that when an association has merged into the district bank, voting procedures for the nomination and election of the district board issued by the FCA shall be designed to give appropriate weight to the votes of voting stockholders of banks other than associations. (Sec. 210(c)(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *Senate* amendment requires that the FCA Board, rather than the FCA, as under current law, approve mergers as provided for in the bill. (Sec. 210(c)(3).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Outside Directors on Association Boards of Directors

The *Senate* amendment requires that each production credit association and Federal land bank association board shall include one member who is not a borrower from, a shareholder in, or any officer or employee of any institution of the Farm Credit System. (Sec. 802(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Transitional Authorities

(a) The *Senate* amendment provides that the Farm Credit Administration Board shall issue the necessary regulations to implement this Act. (Sec. 807(a).)

The *House* bill has no comparable provision.

The *Conference* substitute provides that the Farm Credit Administration Board, the Farm Credit System Assistance Board, and the Secretary of Agriculture issue the regulations necessary to implement the provisions of the bill.

(b) The *Senate* amendment provides that current FCA regulations shall remain effective until revoked, superseded, amended, or modified by regulations pursuant to the bill. (Sec. 807(b).)

The *House* bill has no comparable provision.

The *Conference* substitute adopts the *Senate* provision with a modification providing that current regulations will remain effective until revoked, superseded, amended, or modified by regulations pursuant to the bill, except as otherwise specifically provided for in the bill.

(c) The *Senate* amendment requires that FCA shall issue regulations to implement the bill within one year, unless otherwise specifically provided for in the bill. (Sec. 807(c).)

The *House* bill has no comparable provision.

The *Conference* substitute requires the regulations to be issued as expeditiously as possible, and, except as otherwise specifically provided for in the bill, not later than 180 days after the date of enactment.

FmHA and Related Provisions

(a) Amendment of Consolidated Farm and Rural Development Act

The *House* bill will provide that any amendment or repeal of a section or other provisions in title II of the bill will be considered to be made to a section or provision of the Consolidated Farm and Rural Development Act, except as otherwise provided. (Sec. 201).

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 601.)

(2) Liquidation not required a condition of debt restructuring; loan servicing

The *House* bill will—

(a) authorize the Secretary to compromise, adjust, reduce, or charge off debts or claims, as circumstances may require, to carry out the various provisions of the Consolidated Farm and Rural Development Act; and

(b) will prohibit the Secretary from requiring liquidation of property securing any farmer program loan or acceleration of payments as a condition of compromising, adjusting, reducing, or charging off debts or claims and adjusting, modifying, subordinating, or releasing the terms of security instruments, leases, contracts, and agreements. (Sec. 331(d) of the Consolidated Farm and Rural Development Act as added by sec. 202(a) of the bill.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment prohibiting the Secretary from requiring liquidation of property securing any former program loan or acceleration of payments as a prerequisite to initiating any action authorized under section 331(d) of the Consolidated Farm and Rural Development Act. Actions authorized under section 331(d) include compromising, adjusting, reducing, or charging off debts or claims and adjusting, modifying, subordinating, or releasing the terms of security instruments, leases, contracts, and agreements.

(3) Debt restructuring and loan serv icing options

(a) The *Senate* amendment will require the Secretary to modify, to the maximum extent practicable, delinquent loans or loans purchased from the lender under section 309B to—

(i) avoid losses to the Secretary, with priority given to writing down the principal and interest, and debt set-aside whenever these procedures would facilitate in keeping the borrower on the farm, or otherwise through the use of primary loan service programs; and

(ii) to ensure that borrowers are able to continue farming or ranching operations. (Sec. 353(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require that in order for a farm borrower to be eligible for restructuring he must—

(i) be 180 days delinquent in any payment under any farmer program loan; and

(ii) be unable to meet his loan obligations under any primary loan service program which includes loan consolidation, rescheduling, or remortization, interest rate reduction and deferral of principal or interest. (Sec. 353(a)(1).)

The *Senate* amendment contains a similar provision, except that in order for a borrower to be eligible for restructuring, he must—

(i) be delinquent because of circumstances beyond his control, as defined in regulations;

(ii) have acted in good faith with the Secretary in connection with the loan, as defined in regulations;

(iii) present a plan that contains reasonable assumptions that demonstrate that the borrower will be able to meet the necessary family living and farm operating expenses, and service all debts, including those of loans restructured; and

(iv) have a loan that if restructured will result in a net recovery to the Government that would be more than or equal to the net recovery to the Government from an involuntary liquidation or foreclosure. (Sec. 353(b).)

The *Conference* substitute adopts the *Senate* provision with an amendment requiring the borrower to present a preliminary plan to the Secretary that contains reasonable assumptions that demonstrate that the borrower will be able to meet the necessary family living and farm operating expenses, and service all debts, including those of loans restructured.

(c) Both the *House* bill (in sec. 353(a)(1)) and the *Senate* amendment (in sec. 353(c)) will require the Secretary to calculate—

(i) the present value of payments that the borrower would make to the Government if the loans were modified (restructured loan value); and

(ii) the greatest amount the Secretary could recover through bankruptcy or liquidation (recovery value).

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the Secretary to base the restructured loan value estimate on the present value of the payments that the borrower would make to the Secretary if the terms of the loan were modified by compromising, adjusting, reducing, or charging off debts or claims (Sec. 353(a)((1)(A)(ii).).

The *Senate* amendment will require the Secretary to base the restructured loan value calculations on the present value of payments, using a discount rate of not more than the current rate on 90-day Treasury bills, that the borrower would make to the Government if the terms of the loan were modified by loan consolidation, rescheduling, or reamortization, interest rate reduction, deferral, set-aside, or writing down of principal or interest. (Sec. 353(c) (1) and (3).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will require the Secretary to base the recovery value estimate on the greatest amount the Secretary could reasonably expect to recover through bankruptcy of liquidation, less all reasonable and necessary costs and expenses that the Secretary could reasonably expect to incur to preserve or dispose of the property (including all associated legal and property management costs.). (Sec. 353(a)(1)(A)(ii).)

The *Senate* amendment will require the Secretary to base the recovery value calculations on the amount of the current appraised value of the property, less the estimated administrative, legal, and other expenses associated with the liquidation and disposition, including—

(i) the payment of liens;

(ii) taxes and assessments, depreciation, management costs, the yearly percentage decrease or increase of property value, and lost interest income, each calculated for the average holding period for the type of property involved; and

(iii) resale expenses, and other administrative and attorneys cost. (Sec. 353(c)(1) and (2).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary to notify the borrower in writing of the restructed loan value and the recovery value, and provide a factual basis for the recovery value if it exceeds 70 percent of the outstanding loan balance plus accrued interest and penalties. (Sec. 353(a)(1)(B).)

The *Senate* amendment will require the Secretary, within 60 days of a written restructuring request, to make the recovery value and restructured loan value calculations, to notify the borrower in writing of the results, and to provide documentation for the calculations. (Sec. 353(c)(4).)

The *Conference* substitute adopts the *Senate* provision.

(g) The *House* bill will require the Secretary to terminate the obligations of the borrower if the restructed loan value is less than the recovery value and the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value within 45 days after receipt of the recovery value estimate. (Sec. 353(a)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that will authorize the Secretary to require the borrower to enter into an agreement providing for the recapture of any portion of the difference between the recovery value and the fair market value (at the time of the agreement) in the event the borrower sells or otherwise conveys the property within

two years and realizes as gain such portion of the difference between the two values. However, any increase in the fair market value of the property will accrue solely to the borrower.

The Conferees intend that the original *House* provision will only be used if the value of the restructured loan (the amount the Secretary determines the borrower is able to repay) were *less* than the recovery value. In such a case, the Secretary would be allowed to proceed with foreclosure, but only after allowing the borrower an opportunity to pay the Secretary the recovery value of the loan.

If the Secretary determines that the value of a restructured loan is higher than the recovery value, the Secretary will offer to restructure the loan and this option to pay off the loan at the recovery value would not be available to the borrower, even if the borrower declines the restructuring offer.

(h) The *Senate* amendment will require the Secretary, in selecting the restructuring alternatives, to give priority consideration to the use of principal and interest write-down. However, the priority consideration for the use of principal and interest write-down will not be required, unless other creditors of the borrower (other than those who are fully collateralized) representing a substantial portion of the total debt of the borrower, agree to participate in the development of the restructuring plan or a State mediation program. Before eliminating the option to use debt write-down, the Secretary must make a reasonable effort to contact the creditors of the borrower, either directly or through the borrower, and encourage the creditors to participate with the Secretary in the development of a restructuring plan for the borrower. (Sec. 353(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment providing that the failure of creditors to agree to participate in the restructuring plan or mediation program will not preclude the use of principal and interest write-down by the Secretary, if the Secretary determines that these restructuring alternatives are the least cost alternative to the Secretary. (Sec. 353(d)(1)(B).)

(i) The *House* bill will reaffirm the authority of the Secretary to enter into an agreement to modify the loan obligations of a borrower to consider during the life of the loan—

(i) any amount received or considered received by the borrower on conveyance of the security property through a shared appreciation arrangement, or

(ii) in the event the borrower experiences a substantial improvement in financial condition and income, an agreement whereby the borrower agrees to repay a portion of any amounts set aside or written off. (Sec. 353(a)(4).)

The *Senate* amendment contains a provision that authorizes the use of shared appreciation arrangements for the repayment of amounts written off or set aside, as a condition of restructuring a loan. (Sec. 353(e)(1).)

The *Conference* substitute adopts the *Senate* provision.

(j) The *Senate* amendment will provide the following terms for shared appreciation agreements—

(i) the shared appreciation agreements must not exceed 10 years;

(ii) the shared appreciation agreements must provide for recapture based on the difference between the appraised values of the real property at the time of restructuring and time of recapture;

(iii) the amount of appreciation to be recaptured must be 75 percent of the appreciation if the recapture occurs within 4 years of restructuring and 50 percent if the recapture occurs during the remainder of the term of the agreement; and,

(iv) recapture must take place at the end of the agreement, or sooner on the conveyance of the property (not to include a transfer of property to the spouse of a borrower upon death), on the repayment of loans, or if the borrower ceases farming operations. (Sec. 353(e)(2).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(k) The *House* bill will require that, at the election of the borrower, any adverse estimate or determination is appealable under section 333B. (Sec. 353(b).)

The *Senate* contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(l) The *Senate* amendment will prohibit foreclosure or liquidation action on any loan determined to be ineligible for restructuring—

(i) until the borrower has been given the opportunity to appeal; and

(ii) if the borrower appeals, the appeals process must be completed and a determination made that the loan is ineligible for restructuring. (Sec. 353(g).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(m) The *Senate* amendment will provide that once an appeal has been filed under section 333B, a decision must be made at each level in the process within 45 days after the receipt of the appeal or request for further review. (Sec. 353(h).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(n) The *Senate* amendment will require that a notice of ineligibility for restructuring be sent to the borrower by registered or certified mail, within 15 days after the determination the borrower is ineligible for restructuring, that contains—

(i) the determination and the reasons for the determination;

(ii) the computations used to make the determination, including the calculation of the recovery value of the collateral securing the loan; and

(iii) a statement of the right of the borrower to appeal the decision to the appeal division, and to appear before a hearing officer. (Sec. 353(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(o) The *Senate* amendment will specifically require the Secretary to restructure the loan, if the appeals process results in a determination that a loan is eligible for restructuring, taking into consideration the restructuring recommendations, if any of the appeals officer. (Sec. 353(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(p) The *House* bill will provide that the creditworthiness of, or the adequacy by collateral offered by, any borrower whose loan obligations are modified by restructuring must be determined without regard to the modification. (Sec. 353(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. The Conferees intend that, for the purposes of future loan consideration, the creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations have been modified by restructuring shall be determined on the basis of the obligations as modified, without regard to any amounts written off, or any amounts set aside or otherwise held in abeyance. Neither the fact nor the amount of principal or interest write-downs or debt set-aside shall be considered as an adverse factor in determining eligibility or approval of such loan considerations.

(q) The *House* bill will define the term "borrower" for purposes of the Consolidated Farm and Rural Development Act to mean any farm borrower who has outstanding debt obligations to the Secretary under any farmer program loans without regard to whether the loan has been accelerated, but does not include a borrower all of whose loans and accounts have been foreclosed or liquidated, voluntarily or otherwide. (Sec. 353(d).)

The *Senate* amendment contains a similar provision, except that the definition—

(i) applies only to section 307(e), 309(i), and (j), 331D, 335(e), 335(f), 338(f), 352(b) and (c), and 353; and

(ii) includes all FmHA borrowers. (Sec. 343(b)(1).)

The *Conference* substitute adopts the *Senate* provision with a clarifying amendment to limit the term "borrower" to any farm borrower who has outstanding debt obligations to the Secretary under any farmer program loan.

(r) The *Senate* amendment will authorize a borrower to include a request for an independent appraisal when an appeal is filed. On such request, the appeals division must present the borrower with a list of three appraisers approved by the county supervisor, from which the borrower must select an appraiser. The borrower must pay for the appraisal, the results of which must be considered in any final determination concerning the loan. A copy of any appraisal made under this paragraph must be provided to the borrower. (Sec. 353(j).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* povision.

(s) The *Senate* amendment will require the Secretary to give notice to the borrower of the intention to accelerate the loan and foreclose and to terminate all additional assistance to the borrower, if, at any time after the end of 18 months after the obligations of a farmer program borrower has been restructured, the borrower is delinquent and has remained delinquent for a period of at least 180 days in the repayment of the restructured loan. The Secretary must terminate all further assistance to the borrower and proceed to acceleration, foreclosure, or liquidation, unless, within 60 days after issuance of the notice, the borrower becomes current with respect to all obligations as restructured. The Secretary may waive this provision at his discretion in exceptional circumstances. (Sec. 353(k).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision. The Conferees wish to emphasize that the debt restructuring program is not intended to become a program for successive restructurings for any individual borrower. The Committee expects that FmHA will restructure delinquent loans at levels that the borrowers can reasonably be expected to be able to repay, if the restructuring is the least cost alternative for the Government. However, if for some reason a borrower is unable to meet the payments on the restructured loan, the Managers intend that the borrower's loan be restructured again only if the borrower meets the criteria provided for restructuring, namely that the proposed new restructured loan value (based on the Secretary's determination of how much the borrower can be expected to be able to repay) is greater than or equal to the recovery value of the loan.

(t) The *House* bill will require the Farmers Home Administration, effective October 1, 1981 for water and waste disposal and community facility borrowers and effective November 12, 1983 for housing and farm borrowers, upon request, to charge the lower of the interest rates either at time of loan approval or loan closing, and any Farmers Home Administration grant funds associated with the loans must be set in amount based on the interest rate at the time of loan approval. This provision does not apply to any note or obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of enactment of the bill. (Sec. 202(a)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(u) The *House* bill will require Farmers Home Administration to charge the interest rate quoted on June 23, 1987 in the request for obligation of funds, to any loan of $2,000,000 or more made on July 29, 1987 under section 306 of the Consolidated Farm and Rural Development Act to any nonprofit corporation. (Sec. 202(a)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(4) Payment of Losses on Guaranteed Loans

(a) The *House* bill will require the Secretary to treat a lender of a guaranteed farmer program loan who compromises, adjusts, reduces, or charges off debts or claims with the approval of the Secretary, as having sustained a loss equal to the amount by which the outstanding balance of the loan immediately before the action exceeds the outstanding balance of the loan immediately after the action (Sec. 354(b)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) the lender may take any action to cancel part of the loan and restructure the remainder; and

(ii) the Secretary determines the requirements and conditions of cancelling part of the loan and restructuring the remainder. (Sec. 309(j)(2).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will require the Secretary to approve the compromising, adjusting, reducing, or charging off debts or claims by the lender if the action taken reduces the net present value of the loan to an amount equal to not less than the greater of—

(i) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

(ii) the greatest amount the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses which the lender of the loan could reasonably expect to incur to preserve or dispose of the property (including all associated legal and property management costs) in the course of bankruptcy or liquidation. (Proposed sec. 354(b)(2).)

The *Senate* amendment contains a similar provision except that—

(i) the Secretary determines the requirements; and conditions of any action taken by the lender to cancel part of the loan and restructure the remainder; and

(ii) it specifically requires the Secretary to pay the lender the guaranteed portion of the amount of the loss within 90 days of approval. (Sec. 309(j)(3).)

The *Conference* substitute adopts the *House* provision.

(c) The *House* bill will reaffirm the authority of the Secretary to enter into an agreement with the borrower to consider during the life of the loan—

(i) any amount received or considered received by the borrower on conveyance of the security property through a shared appreciation arrangement; or

(ii) in the event the borrower experiences a substantial improvement in financial condition and income, and agreement whereby the borrower agrees to repay a portion of any amounts set aside or written off. (Proposed sec. 354(b)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment that authorizes the use of shared appreciation arrangements for the repayment of amounts written off or set aside, as a condition of restructuring a loan.

The shared appreciation agreements will provide the following terms:

(i) the shared appreciation agreements must not exceed 10 years;

(ii) the shared appreciation agreements must provide for recapture based on the difference between the appraised values of the real property at the time of restructuring and time of recapture;

(iii) the amount of appreciation to be recaptured must be 75 percent of the appreciation if the recapture occurs within 4 years of restructuring and 50 percent if the recapture occurs during the remainder of the term of the agreement; and

(iv) recapture must take place at the end of the agreement, or sooner on the conveyance of the property (not to include a transfer of property to the spouse of a borrower upon death), on the repayment of loans, or if the borrower ceases farming operations.

(d) The *Senate* amendment will authorize the Secretary to negotiate the settlement of a guaranteed loan with a lending institution to enable the Secretary to honor a portion of a guarantee and avoid foreclosure of the loan. (Proposed sec. 309(i).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(5) Provision and Notice of Loan Services

(a) The *House* bill will require the Secretary to provide a written notice that—

(i) describes all loan service programs; and

(ii) describes the manner in which borrowers may apply for loan service programs. (Proposed sec. 331D(a).)

The *Senate* amendment contains a similar provision, except that the notice must also—

(i) in the summary of the manner in which the borrower may apply for loan service programs, not require the borrower to select among the programs or waive the borrower's right to appeal, or waive any rights to be considered for any other programs carried out by the Secretary;

(ii) advise the borrower regarding all filing requirements and any deadlines that must be met for requesting loan servicing;

(iii) provide any relevant forms, including applicable response forms;

(iv) advise the borrower that a copy of regulations is available on request; and

(v) be designed to be readable and understandable by the borrower. (Proposed sec. 331D(b).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *Senate* amendment will require that all notices be contained in the regulations. (Proposed sec. 331(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will require the Secretary to provide the notice—

(i) within 60 days after the date of enactment, to all farmer program borrowers who are at least 180 days delinquent in the payment of principal or interest on a loan;

(ii) at the time any application is made for a loan service program under the Consolidated Farm and Rural Development Act;

(iii) at the time a borrower is delinquent in the payment of principal or interest on a loan; and

(iv) on request of the borrower. (Sec. 331D(a).)

The *Senate* amendment contains a similar provision, except that—

(i) it does not require the notice to be provided to delinquent borrowers within 60 days after the date of enactment.

(ii) it requires notice by certified mail;

(iii) it requires a written request by the borrower;

(iv) it requires notice prior to the earliest of initiating any liquidation, requesting the conveyance of security property, accelerating the loan, repossessing property, foreclosing on property, or taking any other collection action. (Sec. 331D(a) and (d).)

The *Conference* substitute adopts the *Senate* provision.

(d) Both the *House* bill and the *Senate* amendment will require the Secretary to consider for all loan service programs farmer program borrowers. The *House* bill will require the borrower to request consideration or to be delinquent in the payment of interest or principal on the loan. (Sec. 331D(e).)

The *Senate* amendment will require the borrower to make a written request within 45 days of receipt of notice required under section 331D. (Sec. 331D(e).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will require the Secretary to consider a borrower for all loan service programs before initiating liquidation, requesting conveyance of security property, accelerating a loan, repossessing property, foreclosing on property, or taking any other collection action with respect to any farmer program loan. (Sec. 331D(b)(2).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary to place the highest priority on the preservation of the borrower's farming operations in considering a borrower for loan service programs. (Sec. 331D(b)(3).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill will make the definitions applicable to the entire Consolidated Farm and Rural Development Act.

The *Senate* amendment will make the definitions applicable only to sections 307(e), 309(i), and (j), 331D, 335(e), 335(f), 338(f), 351(f), 352 (b) and (c) and 353 of the Consolidated Farm and Rural Development Act.

The *Conference* substitute adopts the *Senate* provision.

(h) Both the *House* bill (sec. 331D(d)) and the *Senate* amendment (sec. 343(b)(4)) include in their definition of "primary loan service program"—

(i) loan consolidation, rescheduling, or reamortization;

(ii) interest rate reduction; and

(iii) deferral of principal or interest.

The *Senate* amendment also includes in its definition—

(i) specifically, the use of the limited resource program in interest rate reduction;

(ii) loan restructuring, including set-aside or write-down of the principal or interest or both; and

(iii) any combination of the actions authorized.

The *Conference* substitute adopts the *Senate* provision.

(i) The *House* bill will define the term "secondary loan service program" to mean any action authorized under section 331.(d). (Sec. 331D(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(j) The *House* bill (sec. 331D(f) and the *Senate* amendment (sec. 343(b)(4)) both define the term "preservation loan service program" to mean homestead retention and leaseback of farmland.

The *Senate* amendment also includes in its definition a buy-back of farmland under section 335.

The *Conference* substitute adopts the *Senate* provision.

(k) The *House* bill will require the Secretary to provide written notice of the regulations promulgated under subsection 331(d) and section 353 to any farmer borrower—

(i) who is delinquent on any farmer program loan;

(ii) who requests such information from the Secretary; or

(iii) whose loans the Secretary intends to liquidate, accelerate, or foreclose. (Sec. 331D(g).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(l) The *House* bill will require the Secretary of Agriculture to issue regulations to carry out the amendments made by sections 202(a)(Debt Restructuring and Loan Servicing Options), 202(b) (Payment of Losses on Guaranteed Loans), and 202(c) (Provision and Notice of Loan Services) within 60 days after the date of the enactment of the bill. (Sec. 202(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(m) The *House* bill will prohibit the Secretary from initiating any acceleration, foreclosure, or liquidation actions in connection with any farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by section 202(a) (Debt Restructuring and Loan Servicing Options). (Sec. 202(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment providing that the Secretary is not prohibited from initiating any acceleration, foreclosure, or liquidation action in the case of fraud or abuse. The Conferees intend that the Secretary may take adverse action in cases of proven fraud, proven waste, or proven conversion. It is not the intent of the Conferees to protect borrowers who willfully violate the terms of their loan agreement.

Further, the Conferees intend that allegations of fraud, waste, and conversion not be used liberally by the Secretary in order to deny borrowers consideration for debt restructuring. In the case of any borrower who, at any time, may be eligible for restructuring, FmHA will be expected to substantiate, with a written legal opinion from the Office of General Counsel, any allegations of fraud, waste, or conversion before denying the borrower consideration for restructuring. In addition, the Secretary shall afford the borrower adequate opportunity to fully exhaust the borrower's rights tk appeal under section 333B of the Consolidated Farm and Rural Development Act before the Secretary initiates any acceleration, liquidation, or foreclosure.

(6) Homestead protection

(a) The *House* bill and *Senate* amendment both expand the definition of homestead property.

The *House* bill will include adjoining improved and unimproved property. (Sec. 352(a)(3).)

The *Senate* amendment will specifically include a reasonable number of farm outbuildings located on the adjoining land that are useful to the occupants of the homestead, and no more than 10 acres of adjoining land that is used to maintain the family of the individual. (Sec. 352(a)(3).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require a borrower to apply for homestead occupancy not later than 3 years after the date of the enactment of the bill. (Sec. 352(c)(1).)

The *Senate* amendment will require a borrower to apply for homestead occupancy—

(i) not later than 90 days after the property is acquired by the Secretary or Administrator;

(ii) not later than 90 days after the date of enactment of the bill for property in inventory on the date of enactment of the bill.

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will require the borrower to have made gross annual farm sales reasonably commensurate with the size and location of the borrower's farming unit and local agricultural conditions (including natural and economic conditions) in at least 2 calendar years during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). The term gross annual farm sales includes rent received by a borrower from lessees of agricultural land during any period in which the borrower, due to circumstances beyond his control, is unable to actively farm such land. (Sec. 352(c)(2).)

The *Senate* amendment is similar, except that the 6 consecutive years—

(i) must occur during the period preceding the calendar year in which the application is made; and

(iii) are not specifically authorized to be equivalent crop or fiscal years. (Sec. 352(c)(1)(B) and sec. 352(c)(2).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the borrower to have received from farming operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). (Sec. 352(c)(3).)

The *Senate* amendment is similar, except that the 6 consecutive years—

(i) must occur during the period preceding the calendar year in which the application is made; and

(ii) are not specifically authorized to be equivalent crop or fiscal years. (Sec. 352(c)(1)(B).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill will require the borrower to have continuously occupied the homestead property and engaged in farming or ranching operations on adjoining land, or other land owned, rented, or otherwise controlled by the borrower, during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). This requirement does not apply to any borrower who, due to circumstances beyond the borrower's control, has not engaged in farming or ranching operations during the 6-year period. (Sec. 352(c)(4).)

The *Senate* amendment is similar, except that—

(i) it deletes the provision that the borrower must have engaged in farming or ranching operations on adjoining land, or other land owned, rented, or otherwise controlled by the borrower;

((ii) it requires the 6 consecutive years to occur during the period preceding the calendar year in which the application is made, and does not specifically authorize them to be equivalent crop or fiscal years; and

(iii) it allows a waiver of the provision, if the borrower had to leave the homestead for a period of time not to exceed 12 months due to circumstances beyond the borrower's control. (Sec. 352(c)(1)(D).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary, in effecting termination of all rights of a borrower to possession and occupancy of the homstead property, to afford the borrower or lessee the notice and hearing procedural rights described in section 333B of the Consolidated Farm and Rural Development Act and to comply with all applicable State and local laws governing eviction from residential property. (See. 352(c)(5).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *Senate* amendment will require that the period of occupancy allowed the prior owner of homestead property be the

period requested in writing by the prior owner. The period must not exceed 6 years, and at any time during the period, the borrower must have a right of first refusal to reacquire the homestead property on terms and conditions the Secretary will determine. The Secretary may not demand a payment for the homestead property that is in excess of the current market valaue of the homestead property as established by an independent appraisal. The independent appraisal must be conducted by an appraiser selected by the borrower from a list of three appraisers approved by the county supervisor. (Sec. 352(c)(4).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(h) The *Senate* amendment will provide that no rights of a borrower, and no agreement entered into between the borrower and the Secretary for occupancy of the homestead property, will be transferable or assignable by the borrower or by operation of any law. In the case of death or incompetency of the borrower, the rights and agreements will be transferable to the spouse of the borrower if the spouse agrees to comply with their terms and conditions. (Sec. 352(c)(5).)

The *House* bill contains no comparable provision

The *Conference* substitute adopts the *Senate* provision.

(i) The *Senate* amendment will require the Secretary, within 30 days of the acquistion of the homestead property securing a loan, to notify the borrower from whom the property was acquired of the availability of homestead protection rights. For property already in inventory on the date of enactment of the bill, the Secretary must make a good faith effort to notify the borrower of the availability of homestead protection rights within 60 days of such dates. (Sec. 352(c)(6).)

The *House* bill contains no comparable provision

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill will authorize the Secretary or Administrator, on application of the borrower, to permit the borrower to retain possession and occupancy of the homestead property if—

(i) the Secretary forecloses, holds in inventory on the date of enactment of the bill, or takes into inventory property securing a loan made or insured under the Consolidated Farm and Rural Development Act;

(ii) the administrator forecloses, holds in inventory on the date of enactment of the bill, or takes into inventory property securing a farm program loan made under the Small Business Act; or

(iii) a borrower of a loan made or insured by either agency files a petition in bankruptcy that results on the borrower's homestead property being conveyed to the Secretary or Administrator or agrees to voluntarily liquidate or convey the property in whole or in part. (Sec. 352(b)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary is *required* to permit possession and occupancy of homestead property if the eligibility requirements are satisfied;

(ii) the borrower is permitted to retain possession and occupancy of homestead property under the Secretary's terms and until the action described in section 352 is completed;

(iii) it deletes from the eligibility requirement the provision that the borrower's bankruptcy petition results in the conveyance of the homestead property to the Secretary or Administrator; and

(iv) it specifies that the borrower must meet the eligibility requirements of section 352(c)(1). (Sec. 352(b)(1).)

The *Conference* substitute adopts the *Senate* provision with an amendment providing that a borrower may retain possession and occupancy of the homestead property if the borrower of a loan made or insured by either agency files a petition in bankruptcy that results in the borrower's homestead property being conveyed to the Secretary or Administrator.

(k) The *Senate* amendment will authorize the Secretary to enter into contracts authorized by section 352 before the Secretary acquires title to the homestead property. (Sec. 352(f).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(l) The *House* bill will require State law to prevail in the event of a conflict between section 352 provisions and comparable State law provisions. (Sec. 352(b)(1).)

The *Senate* amendment will also require State law to prevail in the event of a conflict, except if the provisions in sec. 352 afford greater protection than State law. (Sec. 352(g).)

The *Conference* substitute adopts the *House* provision.

(7) Right of First Refusal/Disposition and Leasing

(a) The *Senate* amendment will require the Secretary, during the 180-day period beginning on the date of acquisition, or during the applicable period under State law, whichever is longer, to allow a borrower-owner to purchase or lease real property that has been used to secure any loan made to the borrower-owner, and foreclosed, purchased, redeemed, or otherwise acquired by the Secretary. The period for the purchase or lease of real property will expire 190 days after the date of acquisition, or after the applicable period under State law, whichever is longer. These rights may be waived, if the waiver is freely and knowingly given. Any purchase or lease will be on such terms and conditions as are established in regulations by the Secretary. (Sec. 335(e)(1)(A).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require the Secretary, to the extent practicable, to sell or lease farmland in the following order;

(i) sale of the farmland to the previous owner of the farmland and the immediate family of the owner;

(ii) lease with an option to purchase the farmland to the previous owner of the farmland and the immediate family of the owner;

(iii) sale of the farmland to the previous operator of the farmland;

(iv) lease with an option to purchase the farmland to the previous operator of the farmland;

(v) sale of the farmland to operators (as of the time immediately before the sale) of not larger than family-size farms;

(vi) lease of the farmland to operators (as of the time immediately before the sale) of not larger than family-size farms. (Sec. 335(e)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) it deletes the preference of sale over lease;

(ii) it requires that the previous owner's spouse or child be actively engaged in farming to be given preference in the sale or lease of the property;

(iii) it specifies that a stockholder in a corporation be given the same preference as the family of the previous owner, if actively engaged in farming and if the previous owner is a family corporation;

(iv) it deletes the preference in the sale or lease given to previous operators of the farmland;

(v) it requires the lease to operators of family-size farms to contain an option to purchase. (Sec. 335(e)(1)(C).)

The *Conference* substitute adopts the *Senate* provision with an amendment including the immediate previous operator of a family-size farm in the priority of the sale or lease of farmland.

(d) The *Senate* amendment will require property located within an Indian reservation as defined under section 335(e)(1)(D)(ii)(II), when the right of purchase has expired, to be disposed of or administered as follows—

(i) require the Secretary to allow purchase or lease of the land in the order of: Indian member of any Indian tribe, an Indian corporate entity, or the Indian tribe with jurisdiction over the reservation within which the lands are located;

(ii) authorize the Indian tribe having jurisdiction to revise the order of priority and restrict the eligibility of purchasers;

(iii) require the Secretary to transfer such land to the Secretary of the Interior, if the Indian tribe is unable to purchase or lease the lands, to administer the lands as if held in trust for the benefit of the tribe;

(iv) require that income generated from the land be deposited in the Treasury until an amount is paid that is equal to the lesser of the outstanding lien as of the date the land was acquired, the fair market value of the land as of the date or transfer, or the capitalized value of the land as of the date of transfer. Once such amount has been deposited, title to the land will be held in trust for the benefit of the tribe; and

(v) authorize the Indian tribe, at any time after the lands have been transferred to the Secretary of the Interior, to pay the remaining amount on the lien or the fair market value of the land, whichever is less. (Sec. 335(e)(1)(D).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that will—

(i) limit the preferential right of acquisition accorded Indians to only those lands within the reservation that are owned by an Indian, who is a member of the tribe that has jurisdiction over the reservation in which the real property is located, or the Indian tribe itself;

(ii) revise the definition of "Indian reservation" with respect to Oklahoma to read "trust or restricted lands within the boundaries of a former reservation in that State";

(iii) revise the provision regarding transfer of land to the Secretary of the Interior to provide that State, county, municipal, or other local taxes will be paid by the Secretary of the Interior from the revenues generated from the transferred lands for a limited period of four years following the date of transfer;

(iv) delete the provision that extends State, county, municipal, or other local taxes to lands acquired by the tribes or individual Indians, even after those lands have been taken into trust;

(v) clarify that trust or restricted lands that have been acquired in inventory by the Secretary of Agriculture under foreclosure or voluntary transfer under a Farmers Home Administration loan that is transferred to an Indian person, entity, or tribe under the provisions of this paragraph will be deemed to have never lost trust or restricted status. On return to trust, such lands will be as free of encumbrances or other legal incidences as if it had never lost its trust or restricted status at all, and any legal rights attaching to the land by virtue of its trust or restricted status prior to foreclosure or transfer will remain in effect; and

(vi) provide that when the Secretary of Agriculture transfers the land to the Secretary of the Interior, the underlying debt or obligation to repay the Treasury will also be transferred to Interior.

At the conference concern was expressed for the potential impact posed by the Indian preference provisions in section 609(B) on the tax base of State and local governments.

Farmers Home foreclosures of farm or ranch operations on Indian reservations may result in a decrease of tax base within those counties *if such lands had been otherwise taxable under existing law.* The sale of the property after foreclosure by the Federal government in some cases may be to Indians or Indian tribes who then place the land in trust with the United States, and thus the property becomes exempt from State, county, and other local taxes. Likewise, if foreclosure property subject to taxation is subsequently transferred to the Secretary of the Interior and qualifies for permanent Indian trust status, a similar reduction in tax base occurs.

The conferees request a study by the General Accounting Office to determine the potential deterioration of the local tax base. Further, the conferees request the GAO to determine the potential impact (from the loss of local tax base) as to the delivery of services such as schools, roads, law enforcement, health facilities, fire protection, and the like in counties and communities affected. *The study should consider the existing costs in services provided to Reservation residents by the State, county, and local governments.*

The conferees request that this study be completed within one year.

(d) The *Senate* amendment will provide that the rights provided in subsection 331(e) will be in addition to any such right of first refusal under the law of the State in which the property is located. (Sec. 331(e)(1)(E).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *Senate* amendment will delete a provision in current law that requires the Secretary to consider and authorizes him to grant to a family farm operator a lease with an option to purchase. (Sec. 609(b)(2).)

The *House* bill contains no comparable provision. (See item 7(b) of the Statement of Differences.)

The *Conference* substitute adopts the *Senate* provision.

(f) The *Senate* amendment will amend sec. 335(e)(3)(C) to require the Secretary, in leasing the land, to determine if the lessee has financial resources, and farm management and skills and experience, that the Secretary determines are sufficient to assure a reasonable prospect of success in the proposed farming operation. (Sec. 335(e)(3)(B).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *Senate* amendment will require that, notwithstanding any other provisions of law, Indian reservation land, which is subject to State, county, municipal, or other local taxation on the day before it is purchased by an Indian member of any Federally recognized Indian tribe, by an Indian corporation, or by the Indian tribe, or is transferred to the Secretary of the Interior under section 335(e), will not be exempt from any such taxation by operation or implementation of section 335. (Sec. 335(e)(3)(D).)

The *House* contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment limiting the period of taxation to four years or upon return to trust status, whichever occurs first.

(h) The *Senate* amendment will authorize the Secretary to enter into a contract with a borrower of a farmer program loan to provide for the subsequent sale or lease of land that will be acquired from the borrower in the future, before the Secretary actually legally acquires the land. (Sec. 335(d)(3)(E).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(i) The *Senate* amendment will amend section 335(e)(5)(A) to provide that if the Secretary determines that farmland administered under this chapter is not suitable for sale or lease to persons eligible for a loan made or insured under subtitle A of the Consolidated Farm and Rural Development Act because the farmland is in a tract or tracts that the Secretary determines to be larger than that necessary for eligible persons, the Secretary must, to the greatest extent practicable, subdivide the land into tracts suitable for sale under section 335(c). The land must be subdivided into logical parcels of land, the value of which must not exceed the individual loan limits prescribed under section 305.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(j) The *House* bill will require the Secretary to provide written notice reasonably calculated to inform the previous owner or operator of the farmland of the availability when suitable farmland is available for disposition. (Sec. 335(e)(6)(C).)

The *Senate* amendment contains a similar provision, except that—

(i) it deletes the previous operator from receiving notification; and

(ii) it requires notice within 30 days of acquisition of the property. (Sec. 335(e)(6)(C).)

The *Conference* substitute adopts the *House* provision with an amendment requiring notice to the immediate previous operator of a family-size farm.

(k) The *Senate* amendment will provide that denials of applications for or disputes over terms and conditions of a lease or purchase agreement under section 335 are appealable under section 33B. (Sec. 335(e)(9).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(l) The *House* bill will require State law to prevail in the event of a conflict between section 352 and any State law providing a right of first refusal to the owner or operator before the sale or lease of the land to any other person, except if section 335(e) affords greater protection than State law. (Sec. 335(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment deleting the exception that requires section 352 to prevail in the event of a conflict with State law if it affords greater protection.

(8) Classification of property

The *Senate* amendment will amend sec. 335(c) to require the county committee to classify or reclassify real property (including real property adminstered by the Secretary on the date of enactment of the bill) that is farmland, as being suitable for meaningful farming operation for disposition to persons eligible for assistance under any provision of law administered by the Farmers Home Administration unless the property, including property subdivided in accordance with section 335(e)(5), cannot be used to meet any of the purposes of section 303 (including being used as a start-up or add-on parcel of farmland).

In addition, notwithstanding any other provision of law, the Secretary must sell suitable farmland administered under subtitle D of the Consolidated Farm and Rural Development Act to operators of not larger than family-sized farms, as determined by the county committee. In selling the land the county committee must—

(i) grant a priority to persons eligible for loans under subtitle A, including individuals approved for loans but who did not yet receive such on the date of enactment of the bill;

(ii) offer suitable land at a price no higher than that which reflects the appraised market value of such land;

(iii) select from among qualified applicants the applicant who has the greatest need for farm income and best meets the criteria for eligibility to receive loans under subtitle A; and

(iv) publish or cause to be published three consecutive weekly announcements at least twice annually of the availability of such farmland in at least one newspaper that is widely circulated in a county in which the land is located until the property is sold. (Sec. 335 (c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment requiring the county committee to classify or reclassify real property that is farmland, as being suitable for farming operation for disposition.

(9) Borrowers' right to information

The *House* bill will require the Secretary, on request of a farm borrower of a farmer program loan, to make available to the borrower—

(i) 1 copy of each document signed by the borrower,

(ii) copies of the forbearance and restructuring regulations or policies applicable to the loan at the time of the request, including appeal procedures,

(iii) 1 copy of each appraisal performed with respect to the loan, and

(iv) all documents which the Secretary is otherwise required to provide to the borrow-

er under any law or rule of law in effect on the date of the request.

In addition, it will prohibit section 333C(a) from being construed to supercede duties imposed on the Secretary by any law or rule of law in effect before the date of the enactment of section 333C, unless the duty is in direct conflict with section 333C(a). (Sec. 333C.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(10) Sense of Congress regarding guaranteed loan program

The *House* bill will express the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions. (Sec. 206.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(11) Agricultural mediation programs

(a) The *Senate* amendment will provide that a State is eligible for Federal financial assistance if the Secretary of Agriculture determines that the State has in effect a farm loan mediation program that meets the following requirements:

(i) the head of the mediation program must select and train mediators for each county (or other local region);

(ii) on receipt of an application for mediation, the mediation program must notify each financial counterpart and appoint a mediator to facilitate negotiations between the individual and each financial counterpart;

(iii) the mediator appointed must arrange for an initial meeting to be held within 21 days after receipt of the mediation application;

(iv) the program must require mediators to facilitate negotiations by listening to each individual desiring to be heard, to advise each individual as to the existence of available assistance programs, to attempt to mediate, to encourage each individual to refinance or provide for the payment of the debts involved, and to assist in reaching settlement agreement; and

(v) the program must contain reasonable guidelines to ensure that each borrower and each financial counterpart participates in good faith in efforts to restructure the loans by attending all mediation meetings and providing all relevant financial information.

In addition, in order to receive Federal funding, the Secretary must make certain determinations regarding the law of the State. State law must require that not less than 21 days before the creditor of a farm borrower engages in foreclosure proceedings, the creditor so notify the individual and explain that the individual may apply within 21 days to the farm loan mediation program of the State to obtain mediation services.

State law must provide that foreclosure actions of the creditor shall be suspended during the pendency of State mediation. The 21-day advance notice shall also include an address and telephone number where information and assistance may be obtained about the farm loan mediation program of the State.

The law of the State must further require the State to make farm management counseling and technical support available to any individual with a farm loan who faces substantial financial difficulties, or to creditors who request such support, and to provide financial advice regarding the restructuring proposals (at no more than a reasonable fee). The law must also require the State to give priority regarding who provides these services to community-based organizations and educational institutions with an established history of service to family farming enterprises.

Within 15 days after the Secretary receives from the Governor of a State a description of the farm loan mediation program of the State and a statement certifying that the State has met the above requirements, the Secretary must determine whether the State is a qualifying State.

In the event that the Secretary denies certification of a State as a qualifying State, the Secretary will so notify the Governor and explain the reasons for such denial.

Any State that has a farm loan mediation program in effect on January 1, 1988, may apply for consideration as a qualifying State under waiver provisions. Not later than 15 days after the Secretary receives a request for a waiver, the Secretary will waive the definition of qualifying State if the State program:

(i) provides for a dispute resolution process by an impartial third party who will assist the farmer, and the creditors of the farmer, in negotiating a settlement of the dispute over the farm-related debts of the farmer;

(ii) is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) provides for the training of mediators;

(iv) provides that the mediation sessions will be confidential; and

(v) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program. (Secs. 501, 502, and 503.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment deleting all of the provisions except the provision requiring the Secretary, within 15 days after the receipt of a description of a State agricultural loan mediation program, to approve the State as a State qualifying for matching funds, if the State program—

(i) provides for mediation services to be provided to farmers and their creditors that result in mediated, mutually agreeable decisions between parties under an agricultural loan mediation program;

(ii) is authorized or administered by an agency of the State government or by the Governor of the State;

(iii) provides for the training of mediators;

(iv) provides that the mediation sessions will be confidential; and

(v) ensures that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program.

(b) The *House* bill will require the Secretary of Agriculture to pay 50 percent of the cost to States for their agricultural loan mediation program that provides mediation services to farmers and their creditors that result in nonbinding decisions. The maximum amount a State may receive is $500,000 per year. (Sec. 207(a).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary must provide financial assistance within 60 days after the Secretary certifies the State as a qualifying State or grants a waiver to a State under section 502;

(ii) it deletes the requirement that the mediation program provide services that result in nonbinding decisions; and

(iii) it increases to $750,000 the amount a State may receive per year. (Sec. 504 (a) and (b).)

The *Conference* substitute adopts the *House* provision with an amendment to clarify that the Secretary may be bound by a mutually agreeable decision between the Secretary and a farmer under an agricultural loan mediation program.

(c) The *Senate* amendment will provide that if the Secretary determines that a State has not used funds received only for the operation and administration of the mediation program, then the State will not be eligible for additional financial assistance. (Sec. 504(d).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the Secretary to prescribe rules requiring each program under the jurisdiction of the Secretary that makes, guarantees, or insures farm loans to participate in good faith in any State agricultural loan mediation program, except that the Secretary will not be bound by any determination made under State agricutural loan mediation programs. (Sec. 207(b).)

The *Senate* amendment contains a similar provision, except that—

(i) the rules prescribed by the Secretary must require each program to cooperate in good faith with requests for information or analysis of information made, and present and explore debt restructuring proposals advanced, in the course of mediation under any farm loan mediation program described in section 503, or any farm loan mediation program in a State for which the Secretary has granted a waiver under section 502(c); and

(ii) it deletes the requirement that the Secretary will not be bound by any determination made under State agricultural loan mediation programs. (Sec. 505(a).)

The *Conference* substitute adopts the *Senate* provision with an amendment to clarify that the Secretary may be bound by a mutually agreeable decision between the Secretary and a farmer under an agricultural loan mediation program.

(e) The *House* bill will require each Farm Credit System institution to participate in good faith in any State agricultural loan mediation program. (Sec. 4.21 as added by section 104(f) of the bill.)

The *Senate* amendment will require the Farm Credit Administration to prescribe rules requiring the institutions of the Farm Credit System to cooperate in good faith with requests for information or analysis of information, and present and explore debt restructuring proposals advanced, in the course of mediation under any farm loan mediation program described in section 503, or any farm loan mediation program in a State for which the Secretary has granted a waiver under section 502(c). (Sec. 515(b).)

The *Conference* substitute adopts the *Senate* provision.

(f) The *House* bill will require the Secretary of Agriculture to prescribe such regulations as are necessary to carry out section 207.

The *Senate* amendment contains a similar provision, except that—

(i) the regulations must be prescribed within 60 days after the date of enactment; and

(ii) the Farm Credit Administration must also prescribe rules. (Sec. 507.)

The *Conference* substitute adopts the *Senate* provision with an amendment to require that the regulations must be prescribed within 150 days after the date of enactment of the bill.

(g) The *House* bill will require the Secretary, not later than January 1, 1990, to report to Congress on—

(i) the effectiveness of the State agricultural loan mediation programs receiving matching grants;

(ii) recommendations for improving the delivery of mediation services to farmers; and

(iii) the savings to the States as a result of having an agricultural mediation program. (Sec. 207(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(h) The *House* bill will authorize an appropriation of $5,000,000 for each fiscal year beginning in 1988 and ending in 1992. (Sec. 207(f).)

The *Senate* amendment contains the same provision, except that—

(i) the amount of the appropriation is increased to $7,500,000; and

(ii) it authorizes the appropriation through fiscal year 1991. (Sec. 506.)

The *Conference* substitute adopts the *Senate* provision.

(i) The *House* bill will prohibit any Farm Credit institution from making a loan secured by a mortgage or lien on farm property to a borrower on the condition that the borrower waive any right under a State agricultural loan mediation program. (Sec. 4.14F as added by section 104(e) of the bill.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(j) The *House* bill will prohibit the Secretary from making, guaranteeing, or insuring a farm loan to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State. (Sec. 355.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(12) Income release

(a) The *House* bill will require the Secretary to release from the normal income security, after the Secretary accelerates a loan and before the Secretary takes title to and possession of the property, an amount sufficient to pay for the essential household expenses of the borrower, as determined by the Secretary. (Sec. 335(f)(2).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary is required to release income only until the Secretary accelerates the loan; and

(ii) it deletes the provision that specifically requires the Secretary to determine the amount sufficient to pay for the essential household expenses. (Sec. 335(f)(2).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require the Secretary to issue regulations to ensure the expeditious release of funds and to establish guidelines for release of funds under section 335(f). (Sec. 335(f)(3).)

The *Senate* amendment contains a similar provision, except that—

(i) it does not specifically require that the funds be released expeditiously; and

(ii) the guidelines established for releases pertain only to section 335(f)(3). (Sec. 335(f)(7).)

The *Conference* substitute adopts the *Senate* provision.

(c) The *House* bill will define normal income security as all security not considered basic security, including crops, livestock, poultry products, other property that is sold in operating the farm, and any other chattel or personal property which would be received by the borrower except for the action of the Secretary. Basic security is defined as all equipment and foundation herds and flocks that serve as a basis for the farming operation. (Sec. 335(f)(1).)

The *Senate* amendment contains a similar provision, except that—

(i) it specifically includes Agricultural Stabilization and Conservation Service payments and Commodity Credit Corporation payments in the definition of normal income security;

(ii) it limits other property that is sold in operating the farm to property that is covered by FmHA liens that are sold in conjunction with the operation of a farm or other business;

(iii) it specifies that equipment not included in the definition of normal income security includes fixtures in States that have adopted the Uniform Commercial Code; and

(iv) it specifies that equipment or foundation herds and flocks not included in the definition of normal income are equipment or foundation herds and flocks that are the basis of the farming or other operation, and are the basic security for a FmHA farmer program loan. (Sec. 335(f)(1).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill will require the Secretary to notify borrowers of their right to have funds released and the manner in which the funds are released under section 335(f) within 90 days after the date of enactment of the bill. (Sec. 335(f)(3).)

The *Senate* amendment contains a similar provision, except that—

(i) the Secretary must provide notice by certified mail;

(ii) notice must be provided within 45 days of the date of enactment;

(iii) notice must be sent only to borrowers under section 335(f)(3);

(iv) it deletes the requirement that the notice contain the manner in which funds are released. (Sec. 335(f)(5)(A).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *Senate* amendment will require releases under section 335(f)(3) to be made to qualified borrowers who have responded to the notice within 30 days of receipt. (Sec. 335(f)(5)(B).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(f) The *Senate* amendment will require the Secretary to make a final determination on the request for restructuring under section 353 within 12 months. Notwithstanding the 12-month limitation provided for in section 335(f)(3), releases will continue to be made to each borrower until a denial or dismissal of the application of the borrower for restructuring is made. The amount of essential household and farm operating expenses may exceed $18,000, by an amount proportionate to the period of time beyond 12 months before a final determination is made by the Secretary, for any borrower eligible for such releases after 12 months. (Sec. 335(f)(5)(C).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(g) The *Senate* amendment will require the Secretary, if a borrower is required to plan for or to report on how proceeds from the sale of collateral property will be used, to notify the borrower of such requirements, and to notify the borrower of the right to the release of funds under section 335 and the means by which a request for the funds may be made.

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(h) The *House* bill will require the Secretary to issue regulations to carry out section 335(f). (Sec. 335(f)(4).)

The *Senate* amendment contains a similar provision, except that regulations must be issued 150 days after the date of enactment. (Sec. 617.)

The *Conference* substitute adopts the *Senate* provision.

(i) The *Senate* amendment will provide that certain borrowers will be entitled to the release of security income for a period of 12 months, to pay the essential household and farm operating expenses in an amount not to exceed $18,000 over 12 months, if the borrower—

(i) is one whose account was accelerated between November 1, 1985, and May 7, 1987, but not thereafter foreclosed or liquidated;

(ii) as of October 30, 1987, continues to be actively engaged in the farming operations for which the Secretary made the farmer program loan; and

(iii) as of the deadline for responding to the notice provided for under section 335(f)(5), requests restructuring of such loans pursuant to section 353.

The county committee in the county in which the borrower's land is located will determine whether the borrower has continued to be actively engaged in farming operations for which the Secretary had made the loan. (Sec. 335(f)(3) and (4).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(13) Transfer of inventory lands

The *House* bill will permit the Secretary to transfer, without reimbursement, to Federal and State agencies for conservation purposes any real property acquired under the Consolidated Farm and Rural Development Act—

(i) on which the rights of the prior owners and operators have expired; and

(ii) which has marginal value for agricultural production, or which is environmentally sensitive, or which has special management importance. (Sec. 356.)

The *Senate* amendment is the same, except that—

(i) it adds a provision that allows the Secretary to transfer any interest in real property; and

(ii) it adds a requirement that the Secretary, before transfer, determines that the land be suitable for surplus. (Sec. 354.)

The *Conference* substitute adopts the *Senate* provision.

(14) County committees

(a) The *Senate* amendment will require the Secretary to publish any regulation promulgated under section 332(a), and complete elections consistent with section 332. (Sec. 332(a).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will provide the following:

(i) authorize FmHA borrowers or their families to serve as an elected or appointed county committee member for one position on the three-member county committee, subject to conflict-of-interest limitations;

(ii) permit farmers to submit nominations for county committee elections for 45 days after public notice of procedures to submit nominations;

(iii) prohibit the Secretary from holding a county committee election for 30 days from the date of public notice of the election; and

(iv) define the term farmer for subsection 332(a) to include the spouse of any eligible farmer. (Sec. 332(a) (2), (3), and (4).)

The *Senate* amendment is similar, except that—

(i) it prohibits more than one farmer eligible for an FmHA loan from serving on a county committee at the same time;

(ii) it authorizes any farmer eligible for an FmHA loan to serve as an elected or appointed county committee member;

(iii) it requires the Secretary to assure that farmers have at least 45 days to submit nominations; and

(iv) it requires the Secretary to assure that farmers have at least 30 days following the general public notice before an election is held.

The *Conference* substitute adopts the *Senate* provision.

(15) Interest Rate Reduction Program

(a) The *House* bill will amend section 1320 of the Food Security Act of 1985 to require the General Accounting Office to evaluate the interest rate reduction program and report the results to Congress no later than March 31, 1988. The General Accounting Office, in performing the evaluation, is required to—

(i) conduct a survey of commercial banks to determine why their participation in the program has not been greater;

(ii) evaluate program eligibility criteria established by the Farmers Home Administration;

(iii) evaluate the administrative procedures of the Farmers Home Administration under its farm loan programs (including its guaranteed loan programs); and

(iv) evaluate the extent to which its guaranteed farm loan programs have been revised for improvement since December 23, 1985.

The General Accounting Office is required to include in its report recommendations on—

(i) revisions of the program eligibility criteria established by the Farmers Home Administration to encourage greater participation and debt restructuring;

(ii) steps that may be taken to improve coordination with State mediation programs, debt restructuring programs, and preceedings under the bankruptcy laws; and

(iii) improvements in the administrative procedures of the FmHA farm loan programs (including its guaranteed loan programs), in terms of timeliness and efficiency, as are needed based on its evaluation. (Sec. 1320(b) of the Food Security Act of 1985.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(b) The *House* bill will amend section 351 of the Consolidated Farm and Rural Development Act to—

(i) authorize lenders to participate in the interest rate reduction program if their borrowers cannot obtain credit elsewhere, cannot make timely loan payments, and have a total estimated cash income during the 24 months that begin on the date the contract is entered into that will equal or exceed the total estimated cash expenses during the same period;

(ii) require the FmHA county supervisor to make available to farmers, on request, a list of approved lenders in the area that participate in the FmHA guaranteed loan programs and other lenders in the area that express a desire to participate in the FmHA guaranteed farm loan programs and request inclusion in the list; and

(iii) require that contracts of guarantees entered into after the date of enactment of the subsection contain a provision that the lender of the guaranteed loan may not initiate foreclosure action until 60 days after he determines whether the borrower is eligible to participate in the interest rate reduction program. (Sec. 351(b)(1)(C) and sec. 351(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(16) Expedite clearing of title to inventory property

The *House* bill will authorize the Farmers Home Administration to employ local attorneys, on a case-by-case basis, to process legal procedures necessary to clear the title to foreclosed properties in FmHA inventory. The attorneys will be paid their usual and customary fees. (Sec. 357.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(17) Right of first refusal of certain issuers of notes or other obligations to be sold under section 1001 of the Omnibus Budget Reconciliation Act of 1986

(a) The *House* bill will require the Secretary after each sale of notes or obligations under section 1001 of the Omnibus Budget Reconciliation Act of 1986 to contact issuers of unsold notes and obligations to determine if they desire to purchase their notes or obligations, and if they do, then he must hold open for 30 days an offer to sell at a price determined under section 214(b). (Sec. 214(a).)

The *Senate* amendment contains a similar provision, except that the Secretary is required to make his determination *prior* to the conduct of a sale of a portfolio of notes or obligations. (Sec. 1001(f)(1).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill will require the Secretary to determine the price of unsold notes or obligations after a sale of a portfolio by discounting the payment stream of the note or obligation at the yield on the sale of the portfolio. (Sec. 214(b).)

The *Senate* amendment contains a similar provision, except that the price determined by discounting the payment stream of the note or other obligation at the yield on the most recent sale of the portfolio must be adjusted for changes in market interest rates, servicing and sales expenses, and the maturity and interest rate of the note. (Sec. 1001(f)(2)(B).)

The *Conference* substitute adopts the *Senate* provision. The Conferees intend that issuers of notes and obligations being sold under the requirement of the Budget Reconciliation Act of 1986 be given an opportunity to purchase any unsold obligations and notes for 30 days prior to the announcement of any public offering. The price of the sale will be determined by discounting the payment stream of such note or other obligations at the yield on the most recent sale of loans from the portfolio with appropriate adjustment. The criteria for setting the yield for the market interest rate shall be the same as was used in the prior sale. The calculation for establishing the sales expenses of such sale must not exceed 1 percent of the sale price.

(c) The *House* bill will require the Secretary to offer notes or other obligations for sale to the issuers thereof without regard to the manner in which the issuers intend to finance the purchase of the notes or other obligations. (Sec. 214(c)(2).)

The *Senate* amendment contains the same provision, except that the price of sale to any issuer using tax exempt financing must be determined using a yield reflective of the Schedule of Certified Interest Rates as published monthly by the Secretary of the Treasury. (Sec. 1001(f)(3)(B).)

The *Conference* substitute adopts the *Senate* provision. The Conferees intend that this section prohibit the Secretary from requiring the issuer to purchase all of his outstanding notes and obligations and from requiring any specific method of financing the purchase, except as specified provided for in the bill.

(d) The *Senate* amendment will provide that section 306(b) of the Consolidated Farm and Rural Development Act must be applicable to all notes or other obligations sold or intended to be sold under section 1001. (Sec. 1001(g).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(18) Collateral adjustment decisions based on appraisal made by certified appraiser where collateral value in dispute

The *House* bill will permit a borrower to obtain an appraisal made by a certified appraiser of the market value of collateral, that the borrower disputes the value placed on by the Secretary that is not based on an appraisal made by a certified appraiser, if the borrower notifies the Secretary that the borrower disputes the value placed on the collateral by the Secretary within 30 days after a borrower receives from the Secretary notice that the borrower must post additional collateral with respect to a loan. If the borrower obtains an appraisal, the Secretary may not enforce the additional collateral requirement based on a value of the collateral determined by the Secretary that is not based on the appraisal. After receiving such an appraisal, the Secretary must reconsider any decision with respect to or based on the value of the collateral taking into account the appraisal. (Sec. 358.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(19) Lease of certain acquired property

The *House* bill will authorize the Secretary, notwithstanding any other provision of law, to lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease must be for such period of time as the Secretary determines is appropriate. (Sec. 216.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(20) Study and report to Congress before issuance of certain final regulations

The *House* bill will require the Secretary, not later than 60 days before the Secretary issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications for determining the degree of potential loan risk on FmHA loans, to complete a study and report to the committees on agriculture of Congress on the effects of such regulations on a representative sample of persons who are borrowers or potential borrowers of such loans, and demonstrate in the study that the implementation of the final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act. (Sec. 217.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(21) Continuation of limited resource farmers' initiative

The *House* bill will require the Secretary to maintain substantially at the levels in effect on the date of the enactment the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise. (Sec. 218.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(22) Farm ownership outreach program to socially disadvantaged individuals

The *House* bill will require the Secretary, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, to establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(i) informing persons eligible for assistance under any other provision of this Act of the possibility of acquiring such inventory farmland and various farm ownership loan programs; and

(ii) providing technical assistance to such persons in the acquisition of inventory farmland. (Sec. 219.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(23) Security for FmHA real estate loans

The *Senate* amendment will authorize a borrower to use the same collateral to secure two or more loans made, insured, or guaranteed under subtitle A of the Consolidated Farm and Rural Development Act, except that the outstanding amount of the loans due may not exceed the total value of the collateral used. (Sec. 307(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(24) Additional collateral

The *Senate* amendment will prohibit the Secretary from—

(i) requiring any borrower to provide additional collateral to secure a farmer program loan made or insured under this title, if the borrower is current in the payment of principal and interest on the loan; or

(ii) bringing any action to foreclose, or otherwise liquidate, any farmer program loan as a result of the failure of a borrower to provide additional collateral to secure a loan, if the borrower was current in the payment of principal and interest on the loan at the time the additional collateral was requested. (Sec. 307(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(25) Planting and production history guidelines

The *Senate* amendment will require the Administrator of the Farmers Home Administration to ensure that appropriate procedures, including to the extent practicable on-site inspections, or use of county or State yield averages, are used in calculating future yields for an applicant for a loan, when an accurate projection cannot be made because the applicant's past production history has been affected by declared natural disasters. (Sec. 331E.)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(26) Conservation easements

The *Senate* amendment will add a provision to except other wildlife habitat from the requirement that property must be row cropped each year of the 3-year period ending on December 23, 1985, to be eligible for acquisition of an easement. (Sec. 349(c).)

The *House* bill contains no comparable provision.

The *Senate* amendment will limit the amount of the part of the borrower's outstanding loans that the Secretary may cancel in acquiring an easement for conservation, recreational, and wildlife purposes to an amount that is the difference between the amount of the outstanding loan secured by the land and the current value of the land. (Sec. 349(e).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that provides that in no case will the amount cancelled exceed the value of the lands on which the easement is acquired or the difference between the amount of the outstanding loan secured by the land and the current value of the land, whichever is greater.

(27) Demonstration project for purchase of System land

The *Senate* amendment will require the Secretary to establish and carry out, during the 3-year period beginning on the date of enactment of the Farm Credit Act Amendments of 1987, a demonstration project under which the Secretary may issue certificates of eligibility to Farmers Home Administration eligible borrowers to reduce the interest rate paid by the borrowers on loans obtained from legally organized lending institutions and FCS institutions to purchase acquired properties owned by institutions of the Farm Credit System that are certified to issue preferred stock under section 6.27 of the bill. To be eligible to participate in the project, a borrower must—

(i) meet the requirements of section 351(b)(1);

(ii) provide a down payment to purchase the land, using personal funds of the borrower, equal to at least 15 percent of the purchase price of the land; and

(iii) meet all conservation requirements for the land that are imposed on borrowers of guaranteed farm ownership loans under the Consolidated Farm and Rural Development Act. (Sec. 351(f) (1) and (2).)

The *Senate* amendment will authorize the Secretary to—

(i) notwithstanding any other provision of law, guarantee the repayment of 95 percent of the principal and interest due on the loan, if the lender of a guaranteed loan assisted under section 351(f) reduces the interest rate payable on the loan by at least 1 percent;

(ii) certify the eligibility of borrowers to participate in the demonstration project, process applications for participation in the project, provide certificates of eligibility to eligible borrowers on a timely basis consistent with the availability of acquired property owned by institutions of the Farm Credit System that are certified to issue preferred stock under section 6.27 of the Farm Credit Act Amendments of 1987, and set aside the largest practicable portion of funds made available to guarantee farm ownership loans under the Consolidated Farm and Rural Development Act (including unobligated funds) to carry out section 351(f); and

(iii) transfer such amounts as may be necessary from farm operating guaranteed loans to farm ownership guaranteed loans.

The *Senate* amendment will require the Farm Credit System institutions to—

(i) sell land to eligible borrowers under section 351(f) at fair market value;

(ii) to the extent practicable, set aside each fiscal year for purchase by eligible borrowers, in accordance with this subsection, land acquired or owned by such institutions of the Farm Credit System in an aggregate amount not to exceed $250,000,000 at fair market value; and

(iii) if necessary, subdivide tracts of land made available under section 351(f) into parcels that permit eligible borrowers to purchase the parcels consistent with limits placed on the size of loans made, insured, or guaranteed under the Consolidated Farm and Rural Development Act.

In addition, the *Senate* amendment will require the Secretary and the Farm Credit Administration to develop a joint memorandum of understanding governing the implementation of section 351(f) not later than 60 days after the date of enactment of the bill. (Sec. 351(f) (8) and (9).)

The *House* bill contains no comparable provisions.

The *Conference* substitute adopts the *Senate* provision.

(28) Target Participation Rates

The *Senate* amendment will require the Secretary to establish annual target participation rates, on a county wide basis, that will ensure that members of socially disadvantaged groups will receive loans made or insured under subtitle A and will have the opportunity to purchase or lease inventory

farmland. In establishing the target rates the Secretary must take into consideration the portion of the population of the county made up of such groups, and the availability of inventory farmland in the county. Socially disadvantaged groups means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities. (Sec. 354(a).)

The *Senate* amendment will require the Secretary, to the greatest extent practicable, to reserve sufficient loan funds made available under subtitle A, for use by members of socially disadvantaged groups identified under target participation rates. The Secretary must allocate the loans on the basis of the proportion of members of socially disadvantaged groups in a county and the availability of inventory farmland. The greatest amount of loan funds will be distributed in the county with the greatest proportion of socially disadvantaged group members and the greatest amount of available inventory farmland. (Sec. 354(b).)

The *House* bill contains no comparable provision.

The *Senate* amendment will require the Secretary to prepare and submit to the agriculture committees of Congress a report that describes the annual target participation rates and the success in meeting the rates. (Sec. 354(c).)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(29) Regulations

The *Senate* amendment will require the Secretary not later than 150 days after the date of enactment of this Act, to issue final regulations, after considering public comment obtained under section 553 of title 5, United States Code, to carry out the amendments made by title VI of the bill.

The *House* bill contains no comparable provision. (NOTE: Section 202(d) of the bill and section 335(f)(4) of the Consolidated Farm and Rural Development Act require the Secretary to issue regulations.

The *Conference* substitute adopts the *Senate* provision.

(30) National Rural Crisis Response Center

The *House* bill will express the sense of Congress that efforts by various State and local public agencies, citizens' groups, church and civic organizations, and individuals to focus attention on and respond to rural problems throughout the Nation are deserving of the recognition, encouragement, and support of Congress and the American people for the valuable services they provide. (Sec. 501.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision.

(31) Revised Procedures for Appeal of Adverse Loan Servicing Decisions of Secretary of Agriculture

The *House* bill will require the Secretary to provide to any farmer program borrower the opportunity for a hearing on the record in accordance with regulations if the borrower has—

(i) exhausted the appeals procedure authorized under section 333B(a);

(ii) applied for any primary or secondary loan service programs; and

(iii) been directly and adversely affected by a decision of the Secretary with respect to such application.

The Secretary will appoint administrative law judges under section 3105 of title 5, United States Code, to preside at the hearings and will conduct the hearings in accordance with sections 556 and 557 of title 5, United States Code.

The Secretary will provide the appeal procedures without regard to participation or agreement of any lender. (Sec. 333B(d).)

The amendments made by section 502 will take effect 120 days after the date of enactment of title V. (Sec. 502 of the bill)

The *Senate* amendment will require the Secretary to establish and maintain within the Farmers Home Administration a national appeals division, which will consist of a director, hearing officers, and other personnel necessary to the administration of the division, all of whom will be employees of the Farmers Home Administration who will have no duties other than hearing and determining formal appeals arising under section 333B.

Hearing officers within the appeals division will hear and determine all formal appeals from decisions subject to section 333B made by county supervisors, county committees, district directors, State directors, or other employees of the Secretary working within a State. The hearings will be held within the State of the appellant.

Upon the request of the appellant—

(i) The decisions of hearing officers will be reviewed by the State director in the appellant's State; and

(ii) the decisions of the State director on review will be subject to further review by the director of the national appeals division.

The State director is authorized to decline review and transmit the matter to the director of the national appeals division for immediate review, if the appeal presents particularly important administrative, policy, or legal questions that require decision.

Hearing officers within the national appeals division will report to the principal officers of the division, and will not be under the direction and control of, or receive administrative support (except on a reimbursable basis) from offices other than the national appeals division.

The Secretary will ensure that the national appeals division has resources and personnel adequate to hear and determine all initial appeals within the State of the appellant on a timely basis, and that hearing officers receive training and retraining adequate for their duties upon initial employment and at regular intervals thereafter—

The Secretary is authorized to spend sums available in the Farmers Home Administration's various revolving insurance funds for the purposes of section 333B(d) in the event that necessary appropriations sufficient to fund the division are not available.

The *Conference* substitute adopts the *Senate* provision with an amendment—

(i) requiring the hearing to be recorded verbatim and a transcript to be provided to the appellant and for use in further appeal procedures; and

(ii) requiring the decisions of the hearing officers, upon the request and election of the borrower, to be reviewed by the State director, or to be referred and reviewed directly by the director of the National Appeals Division. If the borrower elects a review by the State director, the decisions of the State director, upon request of the borrower, will be subject to further review by the director of the National Appeals Division.

INSURANCE FUND/RESERVE ACCOUNT

(1) Establishment of insurance mechanism

Both the *House* bill and the *Senate* amendment will establish a mechanism for ensuring that FCS banks can meet their obligations on their debts in a timely fashion (and under the *Senate* amendment, the insurance mechanism will be used for additional purposes, as described in item (12) below).

The *House* bill, in section 106, will establish the *Farm Credit Insurance Corporation* to insure the timely payment of notes, bonds, and other obligations issued on behalf of one or more banks all of which are entitled to benefits of insurance under these provisions. (See. 5.52.) [6]

The *Senate* amendment, in section 203, provides that effective January 1, 1992, the Farm Credit Administration Board is to establish and maintain the *Farm Credit System Central Reserve Account* (also referred to as the Reserve Account). (Sec. 4.9A(a).) [6]

The *Conference* substitute adopts the *House* provision.

(NOTE.—The *House* bill and *Senate* amendment contain several technical differences that are not listed as differences.)

(2) Definitions

The *House* bill contains definitions of terms used in the insurance provisions of the bill. These include definitions of "United States", "insured System bank", "receiver", and "Board of Directors". It also defines "insured obligation" to mean any FCS obligation (issued under the authority of The Farm Credit Act of 1971 that permits FCS bank to issue bonds and other obligations, including System-wide bonds) issued—

(a) on or before the date of enactment of the bill by any FCS bank; and

(b) after such date, on behalf of any *insured* FCS bank. (Sec. 5.51.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(3) Form of Reserve Account

The *House* bill provides that money of the Insurance Corporation not otherwise employed must be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. (Sec. 5.63.)

The *Senate* amendment provides that the Reserve Account is to be held in the form of securities with maturities determined by the Reserve Account Board appropriate to carry out the obligations of the Board. (Sec. 4.9A(b).)

The *Conference* substitute adopts the *House* provision.

(4) Management

(a) The *House* bill provides that the Corporation is to be administered by a three member Board of Directors appointed by the President, with the advice and consent of the Senate, not more than two of which members could be from the same political party. One Board member must be a member (other than the Chairman) of the

[6] Certain section references in this and following descriptions of the *House* provisions are to sections 5.51 to 5.62 of the Farm Credit Act of 1971, to be added by section 106 of the *House* bill; and certain references in the descriptions of the *Senate* amendment are to section 4.9A of the Act, to be added by section 203 of the *Senate* amendment.

Farm Credit Administration Board. (Sec. 5.53(a).)

The *Senate* amendment provides that the Reserve Account is to be managed by the Reserve Account Board of Directors consisting of the members of the Farm Credit Administration Board. (Sec. 4.9(c)(1).)

The *Conference* substitute adopts the *Senate* provision.

(b) The *House* bill provides that each director shall hold office for a term of six years, except that the member of the FCA Board would hold office only while a member of the FCA Board. (Sec. 5.53(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill provides that one of the directors who is not a member of the FCA Board is to be appointed by the President, by and with the advice and consent of the Senate, as Chairman of the Board of Directors. (Sec. 5.53(c).)

The *Senate* amendment provides that the Reserve Account Board is to be chaired by any Board member other than the Chairman of the FCA Board. (Sec. 4.9A(c)(2).)

The *Conference* substitute adopts the *Senate* provision.

(d) The *House* bill provides that, in the event of a vacancy in the office of Chairman, and pending the appointment of a successor, the other director who is not a member of the FCA Board is to act as Chairman of the Board. (Sec. 5.53(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(e) The *House* bill provides that each director will be ineligible, while holding office and for two years thereafter, to hold any office, position, or employment in any insured System bank, except that this provision will not apply to a member who serves a full term. (Sec. 5.53(e).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(f) The *House* bill provides that each director (other than the director from the FCA Board) will receive compensation, including travel, subsistence, and other expenses in the discharge of the director's official duties without regard to any other law relating to allowance for such expenses for officers and employees of the United States. The compensation cannot be in excess of the level set by the Farm Credit Administration. (Sec. 5.53(f).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(5) Insured banks

(a) The *House* bill provides that every FCS bank will be an insured System bank on enactment of the bill (the term "insured System bank" includes a production credit association) and subject to the insurance provisions of the bill. Every FCS bank that is authorized to commence or resume operations under the Farm Credit Act of 1971 will be an insured System bank. Banks resulting from mergers or consolidations also will be insured. (Sec. 5.54). See also the description of the definition of "insured obligation" in item (2) above.

The *Senate* amendment contains no comparable provision, but section 4.9A(d)(1) (described in item (7) below) provides for assessment and collection of premiums from "System banks as necessary" and section 4.9A(g) (described in item (9) below) provides that the FCA is to issue regulations to carry out section 4.9A *not later than October 1, 1990.*

The *Conference* substitute adopts the *House* provision.

(6) Reports of condition

The *House* bill provides that, on request, the Farm Credit Administration is to provide to the Insurance Corporation any report of condition submitted to the Farm Credit Administration by any FCS institution. The Corporation Board could direct any FCS institution to provide additional reports of condition on fixed dates and request such other reports as it requires. The Corporation Board could require the additional reports to be published. Any institution that fails to provide a report within ten days after a request by the Board would be subject to a fine of $100 for each day of noncompliance, and the funds recovered would be for the Corporation's use. (sec. 5.55.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(7) Premiums

(a) The *House* bill provides that, until the amount in the Farm Credit Insurance Fund exceeds a "secure base amount", a premium must be paid, by each insured System bank, annually in an amount equal to 15 basis points per dollar of the average principal outstanding on loans in an accrual status and 25 basis points per dollar of the average principal outstanding on loans in a nonaccrual status. (Sec. 5.56(a).)

The *Senate* amendment provides that the Reserve Account Board is to assess and collect premiums from FCS banks necessary to carry out the Reserve Account program. The annual premium for a bank *could not exceed* the sum of 15 basis points per dollar on the average principal of loans outstanding in the *prior* calendar year that are in an accrued status and 25 basis points per dollar on the average principal of loans outstanding in the *prior* calendar year that are in a nonaccrual status. (Sec. 4.9A(d)(1).)

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill provides that, at any time the aggregate amount in the Insurance Fund exceeds the secure base amount, the Insurance Corporation must reduce the annual premium due from each insured System bank for the following year by a percentage determined by the Corporation so that the aggregate amount of premiums paid in will remain at not less than the secure base amount. (Sec. 5.56(b).)

The *Senate* amendment contains no comparable provision, but section 4.9A(g) (described in item (9) below) provides that the Farm Credit Administration is to issue regulations concerning the basis on which FCS institutions are to be assessed premiums and the maximum amount of funds that could be held in the Reserve Account at any time.

The *Conference* substitute adopts the *House* provision.

The *House* bill defines the term "secure base amount" to mean, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other percentage of the aggregate amount as the Insurance Corporation in its discretion determines actuarially sound to maintain the Insurance Fund given the risk of outstanding obligations. (Sec. 5.56(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(d) The *House* bill provides that the principal outstanding on loans *in an accrual status* made by a Federal intermediate credit bank includes the principal outstanding on loans in an accrual status made (i) by production credit associations in the district; (ii) by any other financing institution (OFI) on account of amounts provided through the intermediate credit bank; and (iii) by the intermediate credit bank (other than loans described in (i) and (ii)). (Sec. 5.56(d).)

The *Senate* amendment contains substantially the same description of principal outstanding on loans, except that it applies both to *accrual and nonaccrual* loans. (Sec. 4.9A(2).)

The *Conference* substitute adopts the *Senate* provision.

(e) The *House* bill provides that each insured System bank that became insured before the beginning of the year is to file with the Insurance Corporation (on a date the Corporation Board specifies) a certified statement showing its annual average principal outstanding on loans that are made in accrual and nonaccrual status and the amount of premium due. Payment of premiums will be made to the Corporation in the amount required to be certified.

Under the *House* bill, the certified statement is to be filed in such form and with contents as prescribed by the Insurance Board and certified by the president of the bank (or other officer specified by the bank's board of directors) that the statement is true and correct and in accordance with the insurance provisions of the bill.

Under the *House* bill, premium payments from insured System banks are to be made at least annually in such manner and at such time as the Corporation Board prescribes, except the amount of premium due is to be established not later than 60 days after the filing of the certified statement.

The *House* bill also requires the Corporation Board to prescribe all rules and regulations necessary for the enforcement of this provision. The Board could limit the retroactive effect of its regulations. (Sec. 5.57.)

The *Senate* amendment contains no comparable provision, but states in section 4.9A(g) that the FCA regulations will provide the method by which premiums are to be collected from FCS institutions for the Reserve Account.

The *Conference* substitute adopts the *House* provision.

(f) The *House* bill will authorize the Corporation Board to refund to any insured System bank any excess premium payment made by the bank. (Sec. 5.58 (a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(g) The *House* bill will authorize the Insurance Corporation to file a court action within five years after the right accrues (with certain exceptions for false or fraudulent certified statements filed by an insured System Bank) to recover any unpaid premiums lawfully due whether or not the bank has filed a report of condition or certified statement. It also provides for actions by insured System banks for recovery of overpayments within such time period.

The *House* bill also provides that, if any insured System bank fails to file any certified statement (as described in item (e)

above) or fails to pay required premium and if the bank does not correct such failure within 30 days after notice from the Insurance Corporation of such failure, all rights, privileges, and franchises of the bank granted to it under the Farm Credit Act of 1971 will be forfeited. The Corporation could bring an action to enforce this provision against any bank and any director of the bank who assented to such failure to file or pay a premium (the latter may be liable in his individual capacity). (Sec. 5.58(b) and sec. 5.58(c).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

F(8) Corporate powers—House bill

The *House* bill will provide the Insurance Corporation with the general corporate powers it needs to operate as a corporation. In addition to the usual and standard powers (such as the power to contract, and sue and be sued) the Insurance Corporation will be given the power to—

(a) make examinations of and require information and reports from FCS institutions; and

(b) act as receiver.

Legal action by or against the Corporation would be provided original jurisdiction in U.S. district courts; and no attachment or execution could be issued against the Corporation before final judgment in any local, State, or U.S. court. The Corporation Board could designate agents for service of process within certain jurisdictions. (Sec. 5.59.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(9) Regulations

The *House* bill will authorize the Insurance Corporation to prescribe by its Board rules and regulations to carry out the insurance provisions of the bill (except to the extent that such authority to issue regulations expressly is granted to another regulatory agency). (Sec. 5.59 (10).)

(NOTE.—The *House* bill contains several provisions specifically providing for premiums, the amount of the Insurance Fund, and the uses of monies from the Fund that are to be provided for by FCA regulation. (See items (7) and (12).

The *Senate* amendment will require the Farm Credit Administration to issue regulations necessary to carry out the Reserve Account provisions of the amendment, including regulations concerning—

(a) the basis on which FCS institutions are to be assessed premiums to be paid to the Reserve Account;

(b) the method by which premiums are to be collected from institutions for the Reserve Account;

(c) the maximum amount of funds that could be held in Reserve Account; and

(d) the circumstances and methods under which payments will be made from the Reserve Account consistent with authorized uses.

The Farm Credit Administration must issue the proposed regulations by October 1, 1990, and the final regulations not later than July 1, 1991. Final regulations are to be presented to Congress not later than 30 days prior to publication as final. (Sec. 4.9A(g).)

The *Conference* substitute adopts the *House* provision.

(10) Conduct of corporate affairs—House bill

The *House* bill provides that the Board of the Insurance Corporation is to administer the affairs of the Corporation fairly, impartially, and without discrimination. The Board is to determine and prescribe the manner in which its obligations are to be incurred and its expenses allowed and paid. The Corporation will be authorized to use the U.S. mails the same as executive departments of the Government. The Corporation could use the information, services, and facilities of the executive departments or any of their agencies (with their consent). (Sec. 5.60(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(11) Examinations—House bill

The *House* bill will authorize the Board of the Insurance Corporation to appoint examiners who will have power, on behalf of the Corporation, to examine any insured System bank, production credit association, or FCS institution in receivership if the Board deems it is necessary. Examiners will have the power to make thorough examinations and must make detailed reports to the Corporation. The Corporation also could appoint claim agents to investigate and examine claims on the Insurance Fund for insured obligations. The Corporation or its designated representative, in connection with examinations, could administer oaths and take testimony under oath as it relates to matters with respect to the FCS institution involved. The examiners appointed by the Board are to cooperate, to the maximum extent possible, with examiners of the Farm Credit Administration to minimize duplcation of effort and costs. (Sec. 5.60(b) and sec. 5.60(d).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with a modification to conform the bill language with the provision in the *Senate* amendment, providing for the membership of the Corporation Board, included in the *Conference* substitute (See item 4(a) above.)

(12) Insurance Fund/Reserve Account

Section 4.0 Fund.—The House bill will establish the Farm Credit Insurance Fund for insuring the timely payment of principal and interest on insured obligations, and the assets therein will be held by the Insurance Corporation for the uses and purposes of the Corporation. All amounts in the revolving fund established under section 4.0 will be transferred into the Farm Credit Insurance Fund, except that the obligations to and rights of any person in the revolving fund arising out of any event or transaction before the date of the enactment of the bill will remain unimpaired. (Sec. 5.61.)

Premium deposits.—The *House* bill provides that the Corporation is to deposit into the Insurance Fund all premium payments received from insured System banks.

Use of Insurance Fund.—Beginning five years after the date of enactment of the bill, the Corporation must expend amounts in the Insurance Fund to the extent necessary to insure timely payment due on the insured obligations of FCS institutions. The Insurance Corporation also could expend amounts in the Insurance Fund to provide assistance to troubled banks and to cover operating costs. The Corporation is to make all payments and refunds required to be made by the Corporation from amounts in the Fund. (Sec. 5.61.)

Repeal.—The *House* bill, in section 106(c)(4), will repeal section 4.0 of the Farm Credit Act of 1971.

(NOTE.—Section 4.0 of the Farm Credit Act of 1971 currently provides that the revolving fund established by Public Law 87-343, as amended, and the revolving fund established by Public Law 87-494, as amended, and continued by Public Law 96-592, are merged and available to the Farm Credit Administration for the purchase, on behalf of the United States, of capital stock of the Capital Corporation. The Farm Credit Administration may make such purchases of stock as it determines are necessary to achieve the purposes of the Act.)

The *Senate* amendment provides that the Reserve Account is to be used by the Reserve Account Board to provide assistance to FCS institutions as needed—

(a) to satisfy notes, bonds, and other individually issued obligations that issuing FCS institutions are unable to satisfy independently;

(b) to satisfy consolidated or System-wide obligations to the extent that a participating FCS institution cannot satisfy its payments that are due;

(c) to satisfy FCS institution defaults through the purchase of preferred stock or other payments as provided in the provisions of the bill related to the servicing and repayment of 15-year guaranteed bonds issued to provide FCS financial assistance (described in the section of this Statement dealing with assistance to the Farm Credit System); and

(d) to ensure retirement of borrower stock at par value (as described in the section of this Statement dealing with assistance to FCS (borrowers). (Sec. 4.9A(e).)

The *Senate* amendment also provides that the revolving fund established by section 4.0 of the Farm Credit Act of 1971 is to be available to the Farm Credit Administration and to the Assistance Board to provide interim FCS financial assistance during the transition period between enactment of the bill and the availability of funds raised through the issuance of government guaranteed bonds. Any funds advanced from the revolving fund under this provision would have to be repaid, within the same fiscal year, from funds raised through the issuance of the guaranteed bonds. (See the section of this Statement dealing with assistance to the Farm Credit System.)

During the period beginning January 1, 1993, the revolving fund will be available to advance funds to the R eserve Account established under section 4.9A if the Reserve Account does not have sufficient funds to carry out the purposes of the Reserve Account. Any such funds advanced from the revolving fund would have to be repaid from the Reserve Account under the terms established by the Farm Credit Administration. (Sec. 102.)

(NOTE.—See also the description of the *Senate* provisions relating to the provision of funds for FCS financial assistance in the section of this Statement dealing with assistance to the Farm Credit System.)

The *Conference* substitute adopts the *House* provision with three modifications. The first modification provides that the Insurance Fund could be utilized to (1) satisfy FCS institution defaults through the purchase of preferred stock or other payments related to the servicing and repayment of 15-year guaranteed bonds issued to provide financial assistance, and (2) ensure the re-

tirement of borrower stock and participation certificates or other equities at par value. The second modification provides that the revolving fund established by section 4.0 of the Act would be transferred to the Insurance Fund on the date that insurance premiums begin. The third modification provides that the first premium will be due and payable as soon as practicable after January 1, 1990, and such premium will be based on accruing loan volume for calendar year 1989.

(13) Assistance to troubled banks—House bill

Authority.—The *House* bill will authorize the Insurance Corporation, at the discretion of its Board, to make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to any insured System bank if such action is taken: (a) to prevent receivership; (b) to restore the bank to normal operations; or (c) to reduce risk to the Corporation posed by the weakened financial conditions of a significant number of FCS banks. (Sec. 5.62(a)(1).)

The Corporation could not use this authority to purchase any stock of an insured System bank, except that such limitation could not be construed to limit the ability of the Corporation to enforce covenants and agreements to protect its interest. (Sec. 5.62(a)(3)(B).)

(NOTE.—The *Senate* amendment would authorize the Reserve Account, in a different context, to purchase certain preferred stock of FCS institutions. See item (12) above.)

Enumerated powers.—The *House* bill also provides that to facilitate: (a) a merger or consolidation of a *qualifying insured System bank,* (b) the sale of assets of the insured System bank to another insured System bank, (c) the assumption of the insured System bank's liabilities by the other bank, or (d) the acquisition of the stock of the insured System bank by the other bank. The Insurance Corporation, in its role discretion, and on terms and conditions its Board prescribes, could—

(i) purchase any of such assets or assume any of such liabilities;

(ii) make loans or contributions to, or purchase the securities of, the other insured System bank;

(iii) guarantee the other insured System bank against loss by reason of the bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, the insured System bank; or

(iv) take any combination of the actions referred to above. (Sec. 5.62(a)(2)(A).)

Qualifying bank.—The *House* bill provides that the term *qualifying insured System bank* means any insured System bank that—

(a) is in receivership;

(b) is, in the judgment of the Insurance Corporation Board, in danger of being placed in receivership; or

(c) is, in the sole discretion of the Corporation, a bank that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance to lessen the risk to the Corporation posed by the insured System bank under threat of instability. (Sec. 5.62(a)(2)(B).)

Limitation.—The *House* bill will prohibit the Insurance Corporation from using its authority as described above if the amount of the assistance exceeds an amount determined by the Corporation to be the cost of liquidation (including paying the insured obligations issued on behalf of the bank). The prohibition would not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in its area of operation. (Sec. 5.62(a)(3)(A).)

Subordination.—The *House* bill provides that any assistance provided under this provision could be in subordination to the rights of owners of obligations and other creditors (Sec. 5.62(a)(4).)

Annual reports.—The *House* bill would require the Insurance Corporation, in its annual report to Congress, to report the total amount it has saved, or estimates it has saved, by exercising the authority provided under this provision. (Sec. 5.62(a)(5).)

Authority to pledge or sell assets.—The *House* bill will authorize the Insurance Corporation, in its discretion, to make loans on the security of, or purchase and liquidate or sell any part of the assets of, any insured System bank that is placed in receivership on account of inability to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner. (Sec. 5.62(b).)

Subrogation.—The *House* bill provides that, on the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Insurance Corporation will be subrogated to all rights of the owner against the bank to the extent of the payment. The subrogation must include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation. (Sec. 5.62(c).)

Rights to assets.—The *House* bill provides that any agreement that tends to diminish or defeat the right, title, or interest of the Insurance Corporation in any asset acquired by it under this provision will not be valid against the Corporation unless the agreement—

(a) is in writing;

(b) is executed by the bank and the persons claiming an adverse interest thereunder, including the obligator, contemporaneously with the acquisition of the asset by the bank;

(c) has been approved by the board of directors of the bank or its loan committee, which approval is reflected in the minutes of the board or committee; and

(d) has been, continuously, from the time of its execution, an official record of the bank. (Sec. 5.62(d).)

PCAs.—The *House* bill provides that this provision will apply to production credit associations. (Sec. 5.62(e).)

Effective date.—The *House* bill will prohibit the Insurance Corporation from exercising any authority under this provision during the five-year period beginning on the date of the enactment of the bill. (Sec. 5.62(f).)

The *Conference* substitute adopts the *House* provision.

(14) Exemption from taxation—House bill

The *House* bill provides that the Insurance Corporation, including its franchise, and its capital, reserves, surplus, and income, will be exempt from all Federal, State and local taxes, except that real property of the Corporation will be subject to State, county, and local taxation to the same extent according to its value as other real property is taxed. (Sec. 5.64.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(15) Reports to Congress

(a) The *House* will require that the Insurance Corporation make reports of its operations to Congress as soon as practicable after the first day of January in each calendar year. The report must include—

(i) the aggregate amount in the Insurance Fund at the close of the preceding calendar year;

(ii) projections of the costs to be incurred by the Corporation during the calendar year; and

(iii) Estimates of the aggregate amount to be collected as premiums during the calendary year. (Sec. 5.65(a).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(b) The *House* bill will require that within 12 months after a working majority of the Board is appointed, the Corporation report to Congress an estimate of the aggregate amount that will be in the Insurance Fund five years after the date of the enactment of the bill. If the Corporation estimates that, at that time, the aggregate amount will be less than the secure base amount (defined as described in item (7)(c)), the Corporation must recommend alternative methods to increase the aggregate amount to the secure base amount. (Sec. 5.65(b).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(c) The *House* bill provides that the financial transactions of the Corporation be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under rules and regulations prescribed by the Comptroller General. (Sec. 5.65(c).)

The *Senate* amendment contains no comparable provisions.

The *Conference* substitute deletes the *House* provision.

(16) Certain prohibitions—House bill

The *House* bill—

(a)(i) will make it unlawful for the use by any person or entity of the words "Farm Credit System Insurance Corporation" or any combination of the words that would have the effect of leading the public to believe that there is any connection between the person or entity;

(ii) provides that it will be unlawful for any person or entity to falsely represent by any device that its obligations are insured or in ajy way guaranteed by the Insurance Corporation. It also will be unlawful fkr any insured Systei bank or person that markets insured obligations to falsely represent the extent to which or the manner in which the obligations are insured by the Corporation; and

(iii) provides that any person or entity that willfully violates these provisions will be fined not more than $1,000, imprisoned for not more than one year, or both;

(b) make it unlawful for any insured System bank to pay any dividends on its stock or interest on its capital notes or debentures (if interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any premium due the Corporation. Each director or officer of any insured System bank who willfully partici-

pates would be subject to fine and imprisonment;

(c) provides that any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required will be subject to a penalty of not more than $100 for each day that the violations continue, which penalty the Corporation could recover for its use; and

(d) provides that, except with the prior written consent of the Farm Credit Administration, it will be unlawful for any person convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank. For each willful violation of this provision, the bank involved will be subject to a penalty of not more than $100 for each day the violation continues (which penalty the Corporation could recover for its own use. (Sec. 5.66.)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(17) Joint and several liability of banks

Both the *House* bill and the *Senate* amendment will revise section 4.3(a) of the Farm Credit Act of 1971 (which deals with joint and several liability of FCS banks) to—

(a) eliminate the so-called "tiered liability" provisions; and

(b) add (i) a definition of "available collateral", (ii) subrogation rights, and (iii) a requirement that defaulting banks be placed in receivership.

(a) The *House* bill provides that, when a call is made on FCS banks, such calls—

(i) first will be made on all nondefaulting banks, in proportion to each bank's proportionate share of the aggregate available collateral held by all such banks; and

(ii) then, as necessary, on all nondefaulting banks in proportion to each such bank's remaining assets. (Sec. 106(b).)

The *Senate* amendment provides that calls will be made only as stated in clause (i) in the description of the *House* bill—in accordance with the proportionate share of available collateral. (Sec. 207(b).)

The *Conference* substitute adopts the *House* provision.

(b) In defining "available collateral", the *Senate* amendment states that it means a bank's excess collateral *as of the close of the last calendar quarter ending before the call.* (Sec. 207(b).)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(18) Enhancement of Capital Adequacy of Banks

The *House* bill provides that collateral adequacy provision of section 4.3(c) of the Farm Credit Act of 1971 will apply to all consolidated and System-wide debt obligations, not just long-term obligations as provided currently. In addition, the *House* bill adds acquired real and personal property to the category of eligible collateral to secure such obligations. (Sec. 106(b)(2).)

The *Senate* amendment is comparable, except that it makes the collateral adequacy provisions applicable to all debt obligations issued by System institutions. (Sec. 207(a).)

(NOTE.—Under another provision of the *Senate* amendment (Sec. 101) debt obligations issued by System institutions to refinance the principal of the guaranteed assistance bonds are exempted from the collateral adequacy provision of the Act.)

The *Conference* substitute adopts the *House* provision.

(19) Insurance Fund/Reserve Account called on before invoking joint and several liability of banks

The *House* bill provides that, beginning five years after the date of enactment of the bill, the Farm Credit Administration could not call on any FCS institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable before the Farm Credit Insurance Fund is exhausted. (Sec. 106(b)(3).)

The *Senate* amendment provides that (if the Reserve Account Board is called on to make payment of principal or interest to satisfy consolidated or System-wide obligations to the extent that a participating institution is unable to make payments of principal or interest for which the institution is primarily liable, and if the amount due exceeds the funds available in the Reserve Account), the Reserve Account Board is to make a partial payment on the obligation to the extent of the funds available in the Reserve Account and each FCS bank will be jointly and severally liable for the payment of the additional amounts necessary to retire that obligation. (Sec. 4.9A(f).)

The *Conference* substitute adopts the *House* provision with a modification making it clear that all of the available funds in the Insurance Fund must be exhausted before invoking joint and several liability, even if the Insurance Corporation Board can only make a partial payment due to insufficient funds.

(20) FICB assessment power

The *House* bill will authorize each Federal intermediate credit bank to assess each production credit association and other financing institution (OFI) in the district in which the bank is located to cover the costs of making premium payments to the Insurance Corporation, using the same premium formula as described in item (7)(a) above. (Sec. 106(c)(1).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

(21) Conservators and receivers

The *House* bill will authorize the Farm Credit Administration to appoint a conservator or receiver for any FCS institution on the determination that the institution is unable to timely pay principal or interest on any note, bond, debenture, or other insured obligation issued by the institution. The *House* bill also provides that any conservator or rec eiver under the Farm Credit Act of 1971, after the five-year period beginning on the date of enactment of the bill, will be the Insurance Corporation. (Sec. 106(c)(2).)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision.

From the Committee on Agriculture, for consideration of title I of the House bill, and titles I-IV, and VIII (except section 801) of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLER,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
STEVE GUNDERSON,
JIM JEFFORDS,
SID MORRISON,
CLYDE C. HOLLOWAY,

For consideration of title I (except sections 103-105) of the House bill, and titles II, III, and VIII (except section 801) and section 101 of the Senate amendment:

FRED GRANDY,

For consideration of section 103 of the House bill, and section 402 of the Senate amendment:

RON MARLENEE,

For consideration of section 104 of the House bill, and title IV (except section 402) of the Senate amendment:

BILL SCHUETTE,

For consideration of section 105 of the House bill and title I of the Senate amendment:

LARRY COMBEST,

From the Committee on Agriculture, for consideration of title II of the House bill, and titles V and VI (except section 611) and section 801 of the Sejate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
HANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLER,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
RON MARLENEE,
JIM JEFFORDS,
SID MORRISON,
STEVE GUNDERSON,
CLYDE C. HOLLOWAY,

From the Committee on Agriculture, fkr consideration of title III of the House bill (except insofar as section 301 would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and section 611 of the Senate amendment, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,
GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLER,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
JIM JEFFORDS,
SID MORRISON,
STEVE GUNDERSON,
BILL SCHUETTE,
CLYDE C. HOLLOWAY,

From the Committee on Agriculture, for consideration of title IV of the House bill, and modifications committed to conference:

DE LA GARZA,
ED JONES,
ROBIN TALLON,
LANE EVANS,
RICHARD H. STALLINGS,

GLENN ENGLISH,
TIMOTHY J. PENNY,
DAVE NAGLER,
CHARLIE STENHOLM,
JIM JONTZ,
TIM JOHNSON,
ED MADIGAN,
TOM COLEMAN,
STEVE GUNDERSON,
BILL SCHUETTE,
LARRY COMBEST,
FRED GRANDY,
JIM JEFFORDS,

As additional conferees from the Committee on Banking, Finance and Urban Affairs, for consideration of section 301 (except insofar as that section would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971) of the House bill, and title VII (except insofar as section 702 would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971) of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
HENRY B. GONZALEZ,
CARROLL HUBBARD,
MARY ROSE OAKAR,
BRUCE F. VENTO,
DOUG BARNARD, JR.,
RICHARD LEHMAN,
BRUCE A. MORRISON,
MARCY KAPTUR,
CHALMERS WYLIE,
JIM LEACH,
DAVID DREIER,
DOUG BEREUTER,
TOBY ROTH,
ALEX MCMILLAN,

From the Committee on Energy and Commerce, solely for consideration of section 301 of the House bill (insofar as it would add a new section 5.90 (a)-(c) to the Farm Credit Act of 1971), and for section 702 of the Senate amendment (insofar as it would add a new section 8.12 (a), (b), (c) (1) and (4) to the Farm Credit Act of 1971), and modifications committed to conference:

JOHN D. DINGELL,
ED MARKEY,
TERRY L. BRUCE,
NORMAN F. LENT,
MATT RINALDO,

Managers on the Part of the House.

PATRICK J. LEAHY,
DAVID L. BOREN,
TOM HARKIN,
TOM DASCHLE,
JOHN BREAUX,
JOHN MELCHER,
RICHARD S. LUGAR,
RUDY BOSCHWITZ,
JESSE HELMS,
THAD COCHRAN,
DAVE KARNES,

Managers on the Part of the Senate.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the conference report on the bill, H.R. 3030, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, it is my understanding that we are using this unanimous consent process in order to bring the bill to the floor in such a way as to prevent us from having to utilize a rule, is that correct?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. The gentleman is correct. The Committee on Rules has granted us a rule but the press of time is such that we are taking this avenue not to have to consider the rule.

Mr. WALKER. Further reserving the right to object, it is my understanding in that rule we waive points of order against consideration of the bill. There was some concern that in waiving those points of order that we were waiving provisions of the Budget Act and possibly provisions relating to appropriations. I have heard more recently that that was not a problem.

Can the gentleman give us some assurance that that indeed is not a problem as it relates to 1988 and the budget for 1988?

Mr. DE LA GARZA. I would tell the gentleman that the reason for the all-encompassing waiver was that at the time the bill had not been fully drafted so we did not know the question of the scope of it, we still do not know questions of scope here and there, a word here or there and so on.

The other reason was that not having to wait the 3 days with the report.

With regard to the budget, I would tell the gentleman that two of the budget waivers that would be waived are technical in nature, one is that we have within the legislation authorization for spending in 1989 and since there is no resolution in place, no budget resolution in place for 1989, we have to have the waiver.

Then I have been informed that the budget outlay for the committee and the current level of spending will be exceeded in 1988 by $70 million of which $50 million in 1989 will be the savings. So we are now having to do the waiver for the $20 million that will not be saved in 1989. The outlays for the budget for the House passage of this bill, we were spending $2.5 billion, and that was encompassed within the budget then, but now since we have to deal with the reconciliation we must have a waiver for that reason.

Mr. WALKER. Mr. Speaker, further reserving the right to object, do I understand the gentleman to say that insofar as the 1988 budget is concerned, that this bill is $70 million under the committee's allocation?

Mr. DE LA GARZA. No, above.

Mr. WALKER. We are $70 million over the committee's allocation for this budget year?

Mr. DE LA GARZA. On the expenditures for the Farmers Home Administration to protect borrowers who will be given allowances to restructure their bills, but it will be under the legislation where we save in 1989 $50 million under the Farmers Home legislation as we have it in the bill.

Mr. WALKER. Further reserving the right to object, that is the portion of the budget that we cannot get to because we do not have a budget for 1989 so that we are waiving that part of the Budget Act as well?

Mr. DE LA GARZA. We have money coming in but the reason is that we are paying the interest on the loans, the Government will pay the interest on the loans until the system can pick it up on its own and then all of that will be repaid in the end. But the budget forces us to go this route.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I understand that we are in the process of waiving the Budget Act in a real sense to the tune of about $70 million, is that correct?

Mr. MADIGAN. Mr. Speaker, will the gentleman yield to me?

Mr. WALKER. I will be glad to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Speaker, we concluded last night the agriculture portion of the reconciliation bill. Aside from this bill, it has savings for the next fiscal year of $50 million more than we were required to save under the budget resolution. So we are talking here about a difference of only $20 million in the next fiscal year which I believe is more than picked up in 1989 by the savings that then occur as the gentleman from Texas [Mr. DE LA GARZA] has attempted to explain.

We are now talking about $70 million although that is the item at issue here, but we have in the overall agriculture reconciliation function a savings of $50 million so we are talking about waiving $20 million.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Texas?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, we are taking this bill up under what procedures?

The SPEAKER pro tempore. The Chair will announce that this bill is being considered under a unanimous-consent request for immediate consideration of the conference report.

If there is no objection, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 1 hour, and I am sure it would be his intention, the customary procedure to yield 30 minutes of that 1 hour to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1800

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore (Mr. GRAY of Illinois.) Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of today.)

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] is recognized for 1 hour.

Mr. DE LA GARZA. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Illinois [Mr. MADIGAN], pending which I yield myself such time as I may consume.

Mr. Speaker, this legislation has been drafted by the Committee on Agriculture of the House and the Committee on Agriculture in the Senate, passed by both the Senate and the House. Now we have arrived at a consensus and an agreement in the conference.

Explanations of the legislation have been at both cloakrooms for more than 2 hours, which explain better than I could at this point.

Let me just say that the situation in rural America is such that we need to act. The situation is getting slightly better. The 1985 act is falling in place properly. We are hopefully having a turnaround in the terrible problem that our farmers and ranchers in rural America have experienced during the past several years.

Mr. Speaker, I hope that my colleagues will join with us to send the message at this point that we care, that we would like for them to have another tool at their disposal, which is credit of an acceptable nature so that they could continue providing us with the excellent food and fiber that they have done in the past.

Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in support of this bill.

I want to ask the chairman a question. One part of the bill deals with the reorganization of the system, and I just want to make sure that nowhere in this bill is there any forced reorganization of systemwide districts. I realize there is some reorganization of land banks into intermediate credit banks in each district, but nowhere are we in Congress mandating that the district banks merge with each other, is that correct?

Mr. DE LA GARZA. The gentleman is correct.

Mr. GLICKMAN. I think it is important to recognize because there were great fears that some of the banks would be merged out of existence through an act of Congress. All of that is to be determined by the decision of the banks and the stockholders themselves, and given that I rise in support of this bill.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, the Agricultural Credit Act of 1987 is legislation that should be sent to the President and signed into law. This conference report before us today is the result of months of work on the part of the 100th Congress, and the House-Senate conference committee has arrived at a compromise that is both responsible and, I believe, workable.

It might have done more in the area of reforming the Farm Credit System. The Congress might have adopted a more stringent reorganization package, but I must agree with the conferees that the solution in this conference report gives the System the tools to reform itself. Because of the economic situation the System currently faces—I believe the law provides the impetus to reorganize. I would rather have taken the House Agriculture Committee's version of how to reorganize the System; it would have provided more efficiencies, more effectively, than the compromise that is before us today. But, the Congress has decided that the borrowers of the System should decide precisely the reorganization plan and vote on it—and it is difficult to debate that issue.

I wholeheartedly endorse the funding mechanism that the conference committee adopted. Essentially, it backed away from the direct appropriation adopted by the House when it passed H.R. 3030 and decided that the System would sell bonds to fund the necessary financial assistance. By using this device the assistance may be provided with a Federal guarantee that takes the funding off-budget. The Federal Government ultimately is responsible only for 95 percent of any default on the assistance package, with the other 5 percent paid for with the surpluses of the healthy institutions. This gives the buyers of the bonds the assurances they require, and it retains the cooperative nature of the System in that the healthier institutions still pledge their support to the ailing institutions.

This legislation also provides borrowers of the Farmers Home Administration a greater chance to restructure debt and to make certain they know and understand the rules under which they receive loans from the Federal Government. It will give them the chance to remain on the farm.

Finally, Mr. Speaker, this legislation also provides lenders a secondary market for agricultural loans. By using this facility, lenders to farmers will be able to provide more liquidity to the farm sector, thus assuring a healthier, more productive American agriculture.

Mr. Speaker, in conclusion let me say that this is not a perfect piece of legislation. I think it will do the job that Congress intends it to do, but I must say that the Congress, especially the Agriculture Committees, must continue adequate oversight as this legislation is implemented. We have pledged a great deal of Federal support to these lending institutions, a great deal of taxpayers' support obviously, and we have given the institutions many authorities and much latitude in my view to make themselves whole. The Congress must remain vigilant during this process.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I was the sole member of the committee that voted against this bill upon final passage. I have actively participated in the conference and believe now that I have a bill that I can enthusiastically support, and I urge the adoption of the conference report.

Mr. Speaker, for the third consecutive year, the Congress has considered legislation to help the financially troubled Farm Credit System. Two years ago, I would remind my colleagues that we established the Farm Credit System Capital Corporation to be the mechanism to coordinate System self-help, and, once the System had done all that it could, it would be the vehicle for Federal assistance.

Today, we are considering the conference report to H.R. 3030. I want to applaud the conferees on this bill, and particularly single out the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, for diligence and thoroughness in resolving very complex issues.

Mr. Speaker, while H.R. 3030 is often referred to as a bill to rescue the Farm Credit System, we must not lose sight of the fact that in providing assistance to the System we are looking through the System to the farmers and ranchers of this country.

One of the guiding principles followed during the development of the System rescue plan was that it must subtantially benefit farmers and not just the System. I am pleased to say that the conference report on H.R. 3030 does that.

First, we protect our farmers' investment in the System by ensuring that their stock will be redeemed at par value. Since the producers who borrow from the System also own and help capitalize the System, their stock investment is sometimes a substantial sum of money.

Second, in H.R. 3030, we stress that the policy of the System regarding troubled debt is that whenever possible the System should strive to keep the borrower on the land. Restructuring of a loan will always be required when it si the least-cost alternative.

Third, we have created in H.R. 3030 a secondary mortgage market for agricultural loans. This will provide producers with access to long-term fixed-rate loans for the purchase of agricultural property.

Fourth, by providing financial assistance to the System, we are confident that in the long term our producrs will continue to have access to credit from people who understand their credit needs, and, as important, this credit will be available at reasonable rates and terms.

Fifth, I am pleased to see that the right of self-determination by our bank for cooperative members was restored. I supported this provision both in committee and on the floor.

Sixth, this compromise bill provides for an FDIC type insurance fund to be financed by the Farm Credit System. It should provide a means by which the System will be able to protect itself in future years. I am happy that this provision contains major portions of a study which I requested from the Congressional Research Service in March of 1987.

Finally, we provide board authorities for the System's stockholder-borrowers to restructure the System to better meet the changing credit needs of American agriculture. The restructuring provisions of the bill will allow its produce/owners to achieve efficiencies in delivery of credit which will reduce the overhead costs of the System. The savings recognized from these efforts should also help ensure that credit provided through the Farm Credit System is at a competitive rate to our farmers.

Mr. Speaker, I am pleased to be able to rise in support of the conference report on H.R. 3030 because it truly does provide substantial benefits to the farmers and ranchers who borrow from the Farm Credit System.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time. I congratulate him and the minority and all who have worked on this piece of legislation.

The gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce, and I have worked on this bill, and our involvement has been focused upon the securities-law aspects in the secondary market, and that is where I wish to direct my remarks.

Mr. Speaker, I rise in support of the conference report on H.R. 3030 and ask unanimous consent for 5 additional days to revise and extend my remarks.

The Agricultural Credit Act of 1987 has gone through an extraordinary journey to get to where it is today. I want to commend the Members and staff who have worked tirelessly on this legislation, in particular the chairman of the Energy and Commerce Committee, Mr. DINGELL, the chairman of the Banking Committee, Mr. ST GERMAIN, the chairman of the Agriculture Committee, Mr. DE LA GARZA, as well as the ranking minority members of the relevant committees. In addition, I want to commend the Members of the other body who helped fashion this bill. As the chairman of the Subcommittee on Telecommunications and Finance, my involvement has been focused on the securities law aspects in the secondary market provision, and that is where I wish to direct my remarks.

Mr. Speaker, Members have several reasons to be pleased with the bill's new secondary market for agricultural loans. We have addressed the concerns of many in the farming community by spreading the risk of long-term farm mortgages and increasing liquidity for commercial agricultural lenders.

While infusing the farm economy with needed long-term capital, we have also upheld our equally important mission of protecting the investors in these new securities. No action in the securities area takes place in a vacuum, and the startup of Farmer Mac occurs in the midst of the most heightened public focus on our securities markets in the last 50 years. In the last year, insider trading, market manipulation, municipal securities fraud, and a shocking stock market crash have filled the media and gravely threatened the integrity of the public confidence in our financial markets. We must take pains to help restore that integrity and confidence.

The new Farmer Mac securities will be issued subject to the full range of investor protections provided in the Securities Act of 1933 and the Securities Exchange Act of 1934. The registration requirements for securities and the disclosure, reporting, and capital requirements for securities brokers and dealers are the pillars of Federal efforts to endure an informed investing public. The availability of material information and vigilant enforcement by the SEC are critical to the continued participation of the public in our financial markets.

In summary, Mr. Speaker, I am confident that the creation of the new Farmer Mac secondary market has been suitably crafted to meet its dual missions of aiding our farm community and ensuring integrity in our securities markets. I urge my colleagues to support the conference report.

Mr. Speaker, I want to once again congratulate the gentleman from Texas [Mr. DE LA GARZA], chairman of the committee, as well as the gentleman from Tennessee [Mr. JONES], and of course, I compliment my own chairman, the gentleman from Michigan [Mr. DINGELL], for their work in this effort.rticipation of the public in our financial markets.

In summary, Mr. Speaker, I am confident that the creation of the new Farmer Mac secondary market has been suitably crafted to meet its dual missions of aiding our farm community and ensuring integrity in our securities markets. I urge my colleagues to support the conference report.

Mr. Speaker, I want to once again congratulate the gentleman from Texas [Mr. DE LA GARZA], chairman of the committee, as well as the gentleman from Tennessee [Mr. JONES], and of course, I compliment my own chairman, the gentleman from Michigan [Mr. DINGELL], for their work in this effort.

Mr. MADIGAN. Mr. Speaker, I yield 5 seconds to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding me these 5 seconds just to say that this is a marvelous combination of efforts on behalf of agriculture.

Mr. Speaker, I rise in support of the conference agreement on H.R. 3030, the Agricultural Credit Act of 1987. As one of the conferees on this legislation, I've seen the step-by-step progress on a farm credit package. And, after many months of review, I'm pleased with the final product, crafted by the House and Senate Agriculture Committees, in concert with the House Committees on Banking, Finance and Urban Affairs and on Energy and Commerce. The conference agreement to H.R. 3030 represents a comprehensive plan to boost our ailing Farm Credit System as well as allow it to restore its longer term financial health.

Built into this conference agreement is an incentive for the Farm Credit System to downsize itself to achieve lower operating costs and efficiencies in servicing borrowers. The mergers of like and unlike entities will be based on stockholder votes, giving borrowers an opportunity to help reshape existing entities into new institutions which are tailored to fit the needs of the local borrowers. I was a strong supporter of the House version, which mandated mergers of the existing 12 districts into no less than 6. However, the approach set forth in the conference agreement is a positive alternative, combining an immediate mandate for a merger of the Federal land banks and Federal intermediate credit banks with interdistrict mergers and association mergers dependent upon stockholder votes. Borrowers will benefit from the one-stop shopping opportunity this creates for long- and short-to-intermediate-term loans.

The conference agreement also provides Federal assistance to Farm Credit System entities to guarantee borrower stock, a critical element of the package necessary to maintain confidence in the System. Government assistance, in the form of 15-year guaranteed bonds, will be repaid by the System within 15 years. This form of assistance should be the least costly to the Federal Government, and should serve the purpose of helping the System get back on its feet. It will be metered by the Federal Assistance Corporation, which

is initially capitalized by the System. Districts like Spokane will have assessments returned from past Capital Corporation and loss-sharing assessments before being evaluated for Federal assistance. This should offer some immediate relief to 12th District borrowers.

Borrowers are protected by this agreement. We included several provisions to protect borrowers rights and encourage Farm Credit System lending entities to work with borrowers to find the least-cost alternatives in troubled times. I'm particularly pleased that this opens up communication between the Farm Credit System entities and their borrowers.

I did have some concerns about the inclusion of provisions affecting Farmers Home Administration lending. The conference agreement modifies many of the provisions contained in the House version and, while it does not eliminate the constraints I'm worried about, does make the requirements less costly. I recognize the need in some areas for the creation of parallels between Farmers Home and the Farm Credit System.

Finally, I strongly support the secondary market created for farm real estate loans in this package. I'm an enthusiastic believer that this is an avenue to give increased access of farm lenders to capital markets, which will in turn step up competition in agricultural lending. Ultimately, I think that the net effect will be lower interest rates to the benefit of borrowers and farm lending in general.

Mr. Speaker, my point is that this package does not represent a quick-fix solution to the Farm Credit System's problems. It is a long-term plan laying out real changes in structure and practice in exchange for Federal assistance. We need to recognize that timely passage of this legislation is crucial to the Farm Credit System's financial health and long-term viability. The Farm Credit System is ready to begin putting its financial house in order. Let us today show our support for and commitment to working with them to achieve this goal.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this point I want to thank the chairman and the members of the Committee on Energy and Commerce and the chairman and the members of the Committee on Banking, Finance and Urban Affairs for their cooperation, their understanding of the plight that we and rural America face, and their willingness to work with us.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], our distinguished chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report on H.R. 3030.

I would like to commend the leadership and conferees of the Senate Committee on Agriculture, and the House Committees on Agriculture and Banking for their hard work and the spirit of compromise which enabled us to come forward with this historic piece of legislation on behalf of America's farmers. I also want to commend the gentleman from Massachusetts, Mr. MARKEY, who chairs the Telecommunications and Finance Subcommittee of the Energy and Commerce Committee, for his fine work on this measure. In particular, I would like to commend my colleagues in the Senate for agreeing to strong investor protection provisions. The secondary trading market will no doubt benefit in liquidity and viability because of the provisions of the conference substitute.

The conference substitute provides that the securities for which Farmer Mac provides credit enhancement will not be deemed to be securities issued or guaranteed by an instrumentality of the United States for purposes of section 3(a)(2) of the Securities Act of 1933. As a result, offerings of these securities will be required to be registered under the act with the Commission, unless another exemption from registration, such as the exemption found in section 4(2) of the act for private placements of securities, applies.

By stating that the securities will not be Government securities under the Securites Exchange Act of 1934, we ensure that brokers and dealers in these securities will be regulated as conventional broker-dealers and not as Government securities dealers and that issuers of these securities must comply with the periodic reporting and other provisions of the Exchange Act.

Finally, we delete provisions implicitly and explicitly authorizing banks to underwrite, purchase, and sell securities and obligations backed by credit-enhanced pools in title III of the bill.

An issue of significant importance during the conference debate was whether or not to treat these securities as "Government securities" for purposes of the Securities Exchange Act of 1934. The conferees decided against this for a number of important reasons.

The administration, Treasury Secretary Baker, and the SEC opposed designation of the Farmer Mac-guaranteed securities as "Governemnt securities" for purposes of the Securities Exchange Act of 1934.

INVESTOR PROTECTION REASONS

The scheme of regulation under the Government Securities Act is inappropriate and insufficient for Farmer Mac-guaranteed securities.

First, there is no Securities Investor Protection Corporation insurance fund protection for investors' accounts with Government securities dealers. In the event of failure of a Government securities dealer, investors' moneys and securities are not protected from loss by an insurance fund. FDIC insurance does not cover securities left with a bank.

Second, Government securities dealers are not covered by SRO sales practice rules or suitability requirements. There is only general antifraud authority under rule 10b–5 which is narrower, requires proof of scienter, and is after the fact.

Third, the Government Securities Act specifically insulates banks from SEC oversight except for fraud. This compromise was based on the lack of risk associated with Government securities and the good track record of banks on sales practice abuse with these virtually risk-free securities. Here banks have no track record, the securities are complicated, and this could lead to sales practice abuses. Therefore, SEC oversight is essential.

GLASS-STEAGALL REASONS

While on the one hand the Senate staff proposal recedes to the House on Glass-Steagall issues by deleting language in the Senate amendment authorizing banks to deal in and underwrite securities, designating these securities as "Government securities" would authorize underwriting through the back door, since banks are currently authorized to underwrite Government securities. The banks have indicated this is the real reason why they want the Senate proposal.

It is imperative that new bank securities powers be granted only where there is an appropriate regulatory system in place for them—that is, the system currently applicable to broker dealers with additional conflict-of-interest protections to account for special problems arising out of bank underwriting of securitized bank loans.

FINANCING COSTS

The argument that the Senate staff proposal would help farmers by lowering financing costs is a canard. The investment bankers who make markets in similar securities assure us that Farmer Mac-guaranteed securities will be traded like agency securities and thus that their financing costs will be approximately the same. Since there are several investment banks that would be competitors in this market, the saving that additional competitors would bring do not offset the risk to investors. Nonetheless, the conference substitute requires the Secretary of the Treasury, in consultation with the SEC and the Fed, to report back to Congress, once the market is operating, on any problems relative to the basis point spread. The Committee on Energy and Commerce will hold careful hearings on this report and, in general, on the operation of this new secondary trading market.

Mr. MADIGAN. Mr. Speaker, I yield a full 20 seconds to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Speaker, I am pleased to add my support to title III of H.R. 3030, the farm credit bill. Title III of the bill creates the Federal Agricultural Mortgage Corporation, which will facilitate the development of a secondary market for securitized agricultural loans. This title will improve farmers' access to capital, will provide good investment opportunities, and will not jeopardize the taxpayer.

I wish to commend the members of the House and Senate Conference Committees, for their fine work. Because of this excellent cooperation, I am confident that Farmer Mac is built on a solid foundation.

The structure of Farmer Mac has been designed to work effectively in the agricultural loan market. Title III will improve the ability of private lenders to make agricultural loans that can be pooled and resold as Farmer Mac-guaranteed securities. It includes practical underwriting standards to ensure the financial integrity of the loans composing the pools, yet these standards are not set so high as to defeat the purposes of the title.

I particularly wish to emphasize the securities law aspects of title III. The Farmer Mac market is expected to develop into a billion dollar securities market. The regulatory requirements included in the title will provide for initial SEC registration of the securities, periodic SEC reporting regarding those securities, and SEC registration of underwriters as broker-dealers. These provisions will make certain that investors can receive adequate information about the Farmer Mac bonds that they are buying. Customer accounts at SEC-registered broker-dealers will be insured by the securities investor protection corporation. In addition, title III includes provisions for book-entry transfer and safekeeping of the securities.

Only a few years ago, this Nation learned a hard lesson about the problems that can develop in an unregulated Government securities market. Lack of regulation caused losses of billions of dollars in investors' funds and the failure of many savings and loan institutions in two States. I believe that title III demonstrates that Congress has learned from that debacle and has taken strong steps to avoid a repeat.

There are many who worry that we are imposing unnecessary regulatory burdens and costs on Farmer Mac that will put it at a competitive disadvantage to other, comparable securities. I am loath to impose any unnecessary regulatory costs on our capital markets, or indeed, on any sector of the economy. But these regulatory requirements are tailored to the special structure of Farmer Mac. Moreover, the experts I have consulted on this issue assure me that if Farmer Mac bonds have higher interest rates as a result of these regulations, the additional cost will be very small indeed—perhaps 10 to 25 basis points. We should also remember that when investors have confidence in an investment, they demand a lower risk premium, which will mitigate the higher costs of regulation.

For these and other reasons, I believe that title III is a carefully balanced piece of legislation and I urge my colleagues to support it.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Tennessee [Mr. JONES], chairman of the subcommittee that initiated the effort and handled in his subcommittee the major work on this legislation.

Mr. JONES of Tennessee. Mr. Speaker, we have worked for 1 solid year in bringing together this blueprint that in my opinion is historical as far as legislation goes. I feel we have done the very best job that could possibly be done. I do want to congratulate everybody for what they did and the contributions they made, both in the Committee on Agriculture in the House and in the Senate and in the Banking, Finance and Urban Affairs Committee and in the Committee on Energy and Commerce.

This bill provides a blueprint for rebuilding the Farm Credit System to serve the next generation of America's farmers and their cooperatives. It strikes the appropriate balance by mandating certain initial actions and by requiring the system to continue the restructuring process.

The bill will mandate the mergers of Federal Land Banks and Federal Intermediate Credit Banks. This action will accomplish certain management and financial efficiencies that will minimize the amount of Federal assistance that is required. It will also guide future structural changes to facilitate one-stop lending for the system's borrowers. Some years after the creation of the Federal Land Banks, the system's long-term agricultural lenders, the Federal Intermediate Credit Banks were formed as separate entities to facilitate short- and intermediate-term loans. Today, there is no sound reason why farmers should be forced to deal with separate institutions to meet their short- and long-term credit needs. For many years these institutions have been tied together on the funding side through the issuance of joint and several obligations. Operationally, almost all of the districts are now governed through joint management. This bill will close the loop by joining the Federal Land Banks and the Federal Intermediate Credit Banks into a single corporation whose mission will be to provide premier lending services to local associations and their farmer/borrowers. It is critical that the assistance board provide whatever funds are necessary to ensure that the stock investments of associations in healthy banks which are required to merge with distressed banks are not impaired as the result of these required mergers and that the resulting institution has the resources to be a viable bank going forward. I believe the agriculture board should use cash assistance to restore stock to par value.

However, the merger of the FLB's and FICB's is merely the first step. It is expected that the system will move expeditiously to reduce the number of districts and to consolidate the operations of the local lending associations into efficient, well-managed, one-stop credit facilities for their farmer-borrowers. I believe those responsible for designing the voluntary merger plan of PCA's and FLBA's should give serious consideration to establishing single statewide associations. I believe a merger of PCA's and FLBA's in my State into the Tennessee Farm Credit Association would maximize efficiency and give Tennessee farm borrowers a close identification with it. It is expected that the banks for cooperatives will promptly present to their stockholders a concrete proposal for a new, national bank for cooperatives that will be in a position to better serve the growing credit needs of their cooperative borrowers.

The Members of Congress who spent months deliberating on the future of the system have high expectations that the new authorities will be utilized in a timely and businesslike manner. We expect the Farm Credit Administration, as the system's arms-length regulator, to: First, expedite shareholder consideration of restructuring proposals; second, ensure that the business decisions made by system institutions concerning strucure are in compliance with the law; and third, ensure that the disclosures provided to the stockholders are accurate and complete. We do not, however, want the FCA to utilize its approval authority to second-guess the business decisions of the system's directors and stockholders or to attempt to manipulate or otherwise interfere with those decisions through administrative actions.

In certain instances the FCA is directed to issue regulations that will reconcile the powers and authorities of unlike system institutions that are authorized to merge and otherwise guide the operations of such merged entities. We expect the FCA to promptly comply with that mandate and to pay particular attention to the ideas and comments provided during the regulations process by system institutions. These institutions have the firsthand knowledge of day-to-day business requirements that must be satisfactorily addressed in the regulations in order for the new entities to carry out their statutory functions.

In summary, I want to let the system and FCA know that together they destroyed the integrity of the 1985 Farm Credit Act and necessitated this year's legislation. The Congress cannot tolerate such irresponsible action again and we expect the system and its regulator to diligently undertake their respective responsibilities and to cooperate in those matters that are necessary to ensure that full advantage is taken of the provisions of the new law.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3030, the Agricultural Credit Act of 1987.

This bill, among other things, would create the Federal Agricultural Mortgage Corporation whose job would be to facilitate establishing a secondary market for farm real estate mortgages.

We are all familiar with the highly developed secondary market for home mortgages made possible in large part by the creation of Ginnie Mae, Fannie Mae, and Freddie Mac. The Agricultural Mortgage Corporation—or "Farmer Mac"—is patterned after those organizational and hopefully Farmer Mac will have the same success in ensuring a long-term stable source of funds to agricultural real estate borrowers.

Mr. Speaker, the conference agreement on the agricultural secondary market provisions preserves all of the important safeguards and prudential provisions included in the bill passed by the House on October 6. We did agree to accept the Senate provisions on the composition of the Farmer Mac board—five directors elected by Farm Credit System institutions, five directors elected by banks and insurance companies, and five directors, including the Chairman, appointed by the President. However, the prudential loan underwriting and pooling standards contained in the House-passed bill have been retained.

In short, Mr. Speaker, the secondary market provisions are good and I urge my colleagues to support the conference report.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Speaker, as a House conferee on the Agricultural Credit Act of 1987, I would like to point out the most important components of this legislation and note the impact it will have on the Farm Credit System and the heartland of our Nation.

My primary objective as a member of the Agriculture Committee from the beginning has been to make the Farm Credit System a more competitively priced and fair place for farmers to do business. To achieve these objectives, I have worked hard on the conference committee to provide assurance that merging district banks will lower the costs of services and money provided to local associations. I successfully added a requirement that merging banks must first reduce administrative costs and remove duplicative functions at the district level when receiving money from the Assistance Board. This will cut waste and lower overhead costs making more low-cost funds available to farmers. It is important that everyone involved with the system understand that the Farm Credit Service will only regain its financial health by becoming more efficient in loaning money.

The conferees have reported a bill that will increase the efficiency of the system in other ways by mandating each district office to consolidate their respective Federal Land Bank Association and Federal Intermediate Credit Bank. This required streamlining will have the direct effect in our rural communities of lowering the cost of funds provided by the FCS and will therefore ease the demands on the borrowers of the system. Additional mergers, whether at the district level or amongst local associations, are all subject to informed borrowers' approval by a majority vote. While I agree this certainly gives the owners of the system a voice in the direction of their future, I want you to know that the final form of this bill does not provide the degree of local control that I had fought for in the committee bill. If we truly want an effective and efficient FCS, the capital of the system should be in the hands of the people where they farm, not several hundred miles away.

The Agricultural Credit Act will provide immediate relief to the areas of our country hardest hit by these painful times in two ways. First by repaying those who last sent help to faltering banks during the third-quarter assessment, and second, by allowing the FCS access to $4 billion of Government-backed bonds over the next 5 years to stabilize these weaker banks. This is not a Federal giveway, because the system shares in the cost of this assistance, and in when the system begins to profit, Federal dollars will be repayed.

Beyond the improvements provided to the system's structure and the infusion of this needed capital, this bill will create a secondary market for agricultural real estate and rural housing loans. This is very important because many rural agricultural banks are experiencing the same portfolio pressures as the FCS. With this secondary market, and its $1.5 billion Government endorsement, farmers will have access to lower cost moneys and rural communities benefit additionally because the new market will be used to build rural homes.

It has been my clear intention and that of both Houses of Congress, to guarantee the farmers investment in the system's borrowers' stock from the first day of this bill and throughout my involvement on the conference committee. This has successfully been done. I am also grateful for the support and input of the farmers in Michigan on the important issue of the farmer's rights in dealing with the FCS. Their position will be substantially improved by this legislation. Included in these rights will be two amendments I authored to improve the relationship between lenders and borrowers. The first will require the system to give advance notice to farmers when the system intends to foreclose. My second amendment will require that the farmer be notified of any adverse action contemplated by the FCS upon changing a farmer's loan from accrual to a nonaccrual status.

The bill as it now stands, is on the whole, an even better will than the one this House passed overwhelmingly on October 6. It will make definite improvements to our Nation's agricultural lending industry. It is vital to both agriculture and rural America that we pass this important bill today. I ask my colleagues to support H.R. 3030, America's heartland depends on it.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I stand in support of this critically important legislation to the agricultural community of our Nation, and I would like to thank both the majority and the minority on the Committee on Agriculture and the subcommittees for their great work.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. TALLON], a distinguished member of our committee.

Mr. TALLON. Mr. Speaker, I rise in support of the conference report to accompany H.R. 3030, the Agriculture Credit Act of 1987.

This legislation is the result of many hours of subcommittee hearings, committee markup, and negotiations between the conferees. Its passage is vital to the economic survival of the Farm Credit System [FCS] and, therefore, the ability of our Nation's farmers to have access to affordable and available credit.

The Farm Credit System nationwide serves over 600,000 borrowers through a $50 billion loan portfolio. In South Carolina, there are 13,853 borrowers of the FCS banks, which include the Federal Land Bank, the Production Credit Association and the Bank for Cooperatives. Loans outstanding in the State currently total $551.9 million.

These figures show the major economic importance of the Farm Credit System in South Carolina. But we have to further realize the FCS dollars for agricultural real estate and production loans are like the stone thrown in a pond. They create a ripple effect that goes through every part of the community.

The conference committee has crafted a compromise bill that will provide for Federal assistance to the Farm Credit System; new FCS and Farmers Home Administration [FmHA] borrowers' rights; a mandatory merger of the Federal Land Bank and Federal Intermediate Credit Bank at the district level, with association mergers permitted with stockholder approval; and a secondary agricultural real estate market.

I strongly support a secondary market for agricultural real estate loans because access to more capital will result in lower interest rates.

While the Farm Credit Bank of Columbia is not one of the financially stressed institutions in the system, the legislation would provide, through the sale of up to $4 billion in bonds, funds to assist those ailing institutions in the country. All funding will be repaid by System banks.

I am particularly pleased the conference committee adopted the House language providing for the return of the Columbia banks' assessments to the Capital Corporation, roughly $20 million, plus the reversal of third quarter 1986 system loss-sharing payables, amounting to $94.5 million.

This will further strengthen the position of the Farm Credit Banks in South Carolina, and hopefully lead to a downward trend in interest rates to its borrowers.

The extensive rights and protections for both FCS and FmHA borrowers include specific collections procedures and options available for high risk and delinquent borrowers and should assist those with a chance of economic survival the opportunity to continue farming.

Mr. Speaker, I urge the House to overwhelmingly agree to the conference report and therefore, send a strong message to the White House that this legislation must be signed into law.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. STANGELAND].

Mr. STANGELAND. Mr. Speaker, I commend the gentleman from Texas [Mr. DE LA GARZA], chairman of the full committee, the gentleman from

Tennessee [Mr. JONES], chairman of the subcommittee, the gentleman from Illinois [Mr. MADIGAN], the ranking member of the full committee, and the gentleman from Missouri [Mr. COLEMAN], the ranking member of the subcommittee, for doing this excellent piece of work, not perfect, but certainly in the spirit of compromise and it ought to help the Farm Credit System along the way.

Mr. Speaker, the conference committee has completed its work on H.R. 3030, which would provide much needed help for the Farm Credit System.

This very complex and important piece of legislation is designed to bring affordable credit to America's farmers and to save a system that has fallen on hard times.

Even though I am not a member of the Subcommittee on Conservation, Credit, and Rural Development, I was present at most the hearings on the problems and issues facing the Farm Credit System and was able to incorporate some of my concerns into the House passed farm credit bill, which I supported. Now that the conference has completed its work and a compromise bill has been created I am pleased to see that my ideas regarding protection of borrower stock as well as some of my interests in reorganizing the Farm Credit System and creating a secondary market have been addressed.

This is not a perfect bill. We all know that the final product was developed in the spirit of compromise, and in that spirit, some changes have occurred. However, I believe the final bill goes a long way in creating a stable and efficient Farm Credit System. A system, which after given the necessary help, should be able to be sympathetic and directly responsive to the credit needs of America's farmers. I urge my colleagues to support the bill.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I rise in support of H.R. 3030, the Agriculture Credit Act of 1987 as it has been refashioned and reworked by the conferees. And I urge my colleagues here to act quickly to pass this critical bill into law before the close of this day.

Today's issue is critical to American agriculture. In order to feed America and much of the world, affordable, available credit resources are as important to American agriculture as investment is to our industry and business.

The system which fuels the financial needs of agriculture has walked along the edge of total collapse for far too long. America's shift from an inflation-cautious economic base to a noninflationary one, cost the Farm Credit System fully 50 percent of its equity base, leaving some $60 to $80 billion worth of this Nation's banking power in danger of total ruin.

If we don't solve it before the close of 1987, no bank in this Nation will be truly safe.

No one disagrees about the fact that America's farmers, ranchers, and cooperatives must have a viable farm credit system to meet the Nation's needs now and for the future.

H.R. 3030 answers these needs, in part, by guaranteeing "B" stock, opening the door to restructuring of the system, and by pursuing an ambitious secondary market involvement.

This bill offers working capital to the system, to assure that it will remain available and viable while it rights itself. I think it is particularly notable that the funds being offered are not, as in previous bills, made available as direct treasury transfusions. They will be provided through a bonding process, in keeping with good investment practices commonly used to support all aspects of American business.

By guaranteeing borrower stock for 5 years and providing the necessary funds for failing institutions, we can create a stable climate to allow the system to build on its past success.

That this bill recognizes that we can't go on with "business as usual." Streamlining the system may become absolutely essential as the system faces today's rapidly changing credit and financial services market, and this bill opens the door to voluntary streamlining, as well as retaining the right to insist on changes if they're needed.

The conference committee's bill makes possible a reduction of the district banks from 12 to 6 and gives production credit associations and Federal land banks the opportunity to merge if approved by stockholders.

In effect, these provisions can lead to a decentralization of the system if that's needed, moving it toward local control and additional independence from regional institutions.

At the same time, secondary market provisions have been added to the bill to allow the system to replenish needed capital reserves and be more competitive in the long run. These are necessary changes that will bring the farm credit system back to life.

Congress has been very certain to ensure that the member-borrower basis on which the farm credit system was founded can meet the future needs of our agricultural community.

On that basis, I urge you to join me in supporting this bill. Without it, America stands to lose fully one-third of it's agricultural production capacity, a loss which would be felt in every home and every market in this Nation.

Without the timely passage of this bill, the Congress' historic dedication to a cheap food policy for American families will be effectively killed.

Be assured that the farm credit system is not asking for a bailout, they're asking for help. The bonding process, by definition, demands repayment and exposes our Treasury only to the extent of assuming a small portion of interest, and that for only a limited time. But in return for this minimal help, every American will reap the rewards of a continued, affordable food supply.

One other thing. We'll also enjoy a renewed opportunity to aggressively pursue world food markets.

Through most of the recent history of this country, we've fed far more people than occupy our own 50 States. American agriculture has stocked the shelves of much of the world's markets. Their productivity kept America out of the foreign trade basement for generations, and it can pull us out of this one. But if we lose producers because of a loss of credit, our last best hope for world trade supremacy will have been lost.

There are many reasons for voting, with me, in favor of H.R. 3030: affordable food for Americans: World trade opportunities; stability in the Nation's economic system.

We have seen to it, as a Congress, that America is adequately defended. We have attempted to see to it that adequate housing is available and, through S&L help, that the crusade for shelter is answered.

Now it's time to attend to our needs for nourishment.

Since the beginning of our Nation, the independent, hard working farmers have been the backbone of our country's economy. The farm credit system has an historical importance to a thriving national agricultural economy, and Oregon is no exception. Our help and support is desperately needed in order for the family farmer to survive these troubled times.

I urge my fellow colleagues to vote for H.R. 3030.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I like everyone else rise in support of H.R. 3030 and commend all of the great chairmen and subcommittee chairmen for a job well done.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding and rise in strong support of the farm credit assistance legislation which is needed. It is amazing what a snip or sprig of holly in the air can do. I am surprised and pleased, and it is a great job, well done, and commendations to the subcommittee, the committee and the staff for its terrific bill which ought to be passed.

Mr. Speaker, I rise in support of the farm credit assistance legislation that is needed to keep agriculture's largest lender in business.

I am surprised and pleased that the conferees could reach this agreement before we adjourn. It's incredible what kind of work incentive a little wiff of holly can be.

System borrowers need lower and more competitive interest rates. With a number of system banks on the verge of collapse, not only might these interest rates stay uncompetitive, they could shoot up dramatically if banks start to go under.

I'm one farm State member who admits that many of the system's wounds are self-inflicted. The Government Accounting Office said that in 1985 and 1986 the system mismatched the maturities of assets and liabiiities so badly that it cost the system, and that means it cost the farmer-borrower, $3.4 billion.

But if we let this system go under the results would be disastrous for the farmer-borrower, disastrous for rural America and disastrous for the Federal Treasury.

This bill guarantees farmer stock, imposes a more streamlined, less bureaucratic structure, expands borrower rights and provides the necessary financial aid.

The bill also provides for the reimbursement of borrow stock lost by farmers when lending

institutions in the past failed. Borrowers in the O'Neill and Valentine, Nebraska areas have already suffered this fate. This bill would reimburse them for their losses.

The farm credit bill contains the necessary ingredients we need for financial help, borrower rights, stock guarantees, a secondary mortgage market and the reorganizing directions that makes sense. I support it and I hope my colleagues do as well.

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Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, like all the other Members, I rise in strong support of this legislation. I would just point out that this conference convened on December 10 and finished its business on December 16.

Mr. Speaker, if this was the budget conference, we would be home by now.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I thank the chairman of the committee and the gentleman from Illinois [Mr. MADIGAN] for their efforts on this bill, especially regarding the provisions on affirmative action.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Speaker, if I may I wish to discuss this legislation with the chairman of the Agriculture Committee.

When the House of Representatives considered this legislation DAN ROSTENKOWSKI wrote to you on September 23, 1987, regarding jurisdictional concerns of the Committee on Ways and Means with respect to the legislation. We worked together to alleviate these concerns, and you made revisions to the legislation to respond to these jurisdictional concerns. The modifications made to the legislation are described in my statement in the CONGRESSIONAL RECORD of October 6, 1987 (Pages H8195-H8196).

When the Senate version of the bill was passed, he had further jurisdictional concerns with that version of the legislation. Mr. ROSTENKOWSKI wrote you about those in a letter dated December 14, 1987, a copy of which is attached.

I understand that because of the extreme time pressure the staff has operated under in preparing this compromise legislation, my staff has been unable to review the final language of the statute. Am I correct in my presumption that the conference report before us maintains the tax treatment which was provided in the House-passed bill?

Mr. DE LA GARZA. Mr. Speaker, if the gentleman will yield, let me state that the gentleman is correct.

Mr. FLIPPO. I thank the chairman for his consideration of the concerns of the Committee on Ways and Means.

COMMITTEE ON WAYS AND MEANS,
Washington, DC, December 14, 1987.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I wish to thank you again for your efforts in modifying the House version of H.R. 3030, the Agricultural Credit Act of 1987, to respond to the jurisdictional concerns of the Committee on Ways and Means. Since I understand that the House-Senate conference on H.R. 3030 will convene this week, I would like to express my strong concerns regarding provisions in the Senate version of that legislation which raise issues properly within the jurisdiction of the Committee on Ways and Means. These provisions are similar to those in the House bill which you modified prior to floor action on H.R. 3030. I would hope that the Senate provision could be modified in conference.

Unless the tax provisions contained in the Senate amendment are revised to address my jurisdictional concerns, I will be constrained to make a point of order to the conference agreement under House Rule XXI Clause 5(b), which provides that no bill or joint resolution carrying a tax or tariff measure shall be reported by any Committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposal by the Senate carrying a tax or tariff measure be in order during consideration of a bill or joint resolution reported by a Committee not having jurisdiction.

Specifically, section 7.2 (page 78), section 7.6 (pages 81-82), section 7.8 (page 85) and section 7.10 (page 87) of the Senate amendment provide for the merger of unlike institutions in the farm credit system. These sections would allow certain organizations which are currently tax exempt to merge in fact or effect with organizations which may be currently taxable, such as certain production credit associations (and presumedly continue the business of the former organizations). Sections 7.2 and 7.10 of the bill contain language which may be interpreted as allowing the new organization to have the attributes of all the constituent parts of the organization, possibly including a tax exemption. As a result, in certain circumstances an organization currently taxable will effectively become tax exempt.

These provisions raise serious jurisdictional and policy issues regarding the appropriate taxation of certain taxable entities in the farm credit system. Last year, during deliberations on the Tax Reform Act of 1986, the House and Senate conferees decided that taxable production credit associations and banks for cooperatives should be treated consistently with all other finance companies (as opposed to banks or savings and loan institutions) for purposes of the repeal of the deduction for bad debt reserves. It is possible that these provisions in the Senate amendment to H.R. 3030 could override the rules, enacted into law by the Tax Reform Act of 1986.

This provision could result in a substantial revenue loss for the Federal Government. I believe it is important to revise the Senate bill to clarify that the continued status of taxable institutions within the farm credit system will follow normal tax rules. In addition to my concerns that it is appropriate under the Rules of the House for the Committee on Ways and Means to consider changes to the tax treatment of these organizations, you should be aware that the Congressional and Administration negotiators on deficit reduction agreed that there will be no revenue losing legislation enacted this year.

In addition, as I'm sure you realize, I would expect that any conference agreement accepting House bill provisions would continue to contain our agreed-upon revisions and clarifications.

Thank you for your consideration of these issues. I hope that this is a comprehensive list of our concerns regarding the Senate version of the bill, but our review of the bill has begun only very recently. It is my expectation that our staffs can work together to suggest revisions in the Senate version of the bill to respond to these jurisdictional concerns so that I will not be constrained to take further action regarding this legislation.

Sincerely,

DAN ROSTENKOWSKI,
Chairman.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from California [Mr. BROWN] a member of our committee.

Mr. BROWN of California. Mr. Speaker, we have now heard from 25 States and 12 committees, and I want to put us over the top by weighing in for California and the Committee on Science, Space, and Technology and indicate my support for this great conference committee report and urge all the Members to vote for it.

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I rise in support of the conference report on H.R. 3030. This bill is clearly the most important piece of farm legislation considered in the 100th Congress, and I want to commend the leadership of the Agriculture Committee for moving forward with this legislation prior to our adjournment.

This legislation should not be construed as "all things to all people." It's not everything I'd ask for. It is, however, good compromise legislation which will go a long way toward improving credit conditions in my district in southeast Missouri and in other rural districts across the nation.

For potential budgetary critics of a farm credit rescue package, this legislation should soothe some of your fears. We all recognize the need to reduce the Treasury's exposure to deal with the current budget deficit. Every effort has been made in this compromise to ensure that assistance to the system will eventually be paid back.

From the farmer's viewpoint, I think we've made considerable progress through the inclusion of loan restructuring requirements, guarantees on borrower stock, a secondary mortgage market for new farm credit funds, and more stockholder input on the system's organization.

In sum, this package is good for the farmer and good for the taxpayer. I urge my colleagues to support what is undoubtedly a very historic and innovative farm credit assistance legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. PENNY], a member of our committee, who did yeoman work on this legislation in relation to the Farmer's Home Administration part of the bill.

Mr. PENNY. Mr. Speaker, I rise in strong support of H.R. 3030, the Agricultural Credit Act of 1987. During the last week the conferees and their staff have worked very hard to put together this comprehensive credit bill for farmers.

This compromise version is designed to shore up the Farm Credit System's finances and require debt restructuring by both the FCS and the Farmers Home Administration.

This legislation will keep the System afloat and farmers in business. This bailout is only a guaranteed loan to FCS that they will have to pay back over time.

I am particularly pleased with the package of borrower rights that I helped author, which includes debt restructuring as well as specific criteria to deal with right of first refusal, mediation, right of review of a denial of restructuring and borrower access to loan documents. Debt restructuring will be an option for troubled borrowers if it is less than the cost of foreclosure. This benefits not only the farmer in trouble, but all borrowers in the System. If FCS losses are lower, they won't have to charge higher interest rates to cover higher losses.

In addition to protecting borrower stock and shoring up FCS finances, the compromise package also reorganizes the System to cut down on overhead costs and make it more efficient. We should be able to save about $130 million per year by requiring FCS district offices to merge. The bill retains some stockholder control by allowing the Members to vote for the merger of a district bank.

Finally, I feel that the secondary mortgage market provides another credit opportunity for farmers. This concept has worked well in the housing industry, it should make more capital available to farm borrowers at lower interest rates.

I believe that this conference report is a good compromise between the many concerns and wishes of the different groups that are involved in the farm credit issue. I believe this bill provides the most protection to the farmers at the least cost to the taxpayer. I urge my colleagues to support the conference report.

STOCK PROTECTION

Mr. Speaker, the conference report on H.R. 3030 contains many provisions designed to benefit the borrowers of Farm Credit System institutions. Among the most important are provisions protecting the stock in those institutions held by their borrower-members. To achieve the purpose of stemming the flight of borrowers from the System, and enhancing their confidence in their lender, the report protects, at par or face value, a wide range of ownership interests in System banks and associations. Protection is afforded to all kinds of stock and participation certificates, as well as equity in System institutions that have, under cooperative principles, been allocated to borrowers.

Equitable treatment of borrowers' interest compels this result. For example, financially sound borrowers, if they anticipate possible impairment of the value of stock, have the option of repaying their loans and thereupon retiring their stock at full value. However, allocated equities are customarily retired under revolving cycles utilized by cooperatives that may be of several years' duration. The opportunity to "pay off" the loan and simultaneously retire their ownership interests is not an option to holders of allocated equities.

Mr. Speaker, in a uniform and fair manner, the conference report affords protection to borrowers for their ownership interests, including allocated equities, in System institutions.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Illinois for yielding this time to me.

Mr. Speaker, I rise today in strong support of the conference report on H.R. 3030, the Farm Credit Act of 1987.

Mr. Speaker, I want to commend the members of the Agriculture Committee of the House and my colleagues and the leadership, the majority and minority, on the Committee on Banking, Finance and Urban Affairs for their effort.

I am particularly interested and pleased with the secondary market title. I believe we have combined the best from the House and the Senate. I believe also that for the first time some of the inequities that have existed as far as the securitization of home loan mortgages for small communities have been corrected or will be corrected. This should provide a competitive source of long-term agriculture real estate credit through commercial bankers, the insurance sector, and the Farm Credit System.

Mr. Speaker, I commend my colleagues for their excellent work, and I am pleased to have been a part of that effort.

I want to thank my colleagues on the Banking Committee and Agriculture Committee for their earnest and sincere commitment to passing this legislation before the end of this year. For the farmers and ranchers of this country, this is an appropriate action before the holidays as it holds improved promise for the new year, and the future of agriculture.

H.R. 3030 assists not just the Farm Credit System, but most importantly the current and future borrowers from the System and the Farmers Home Administration and the private sector. The members of the Agriculture and Banking Committees of the House and the Senate have together labored long hours. The result is a product which is fair and favorable to both agricultural borrowers and their lenders.

An important provision of this legislation, which I want to address today, is the creation of a secondary market for fixed-rate, long-term agricultural real estate loans. As an original sponsor with my colleague from California [Mr. LEHMAN] of secondary market legislation in the 99th Congress and also in this one, I am especially pleased that we have included Farmer Mac in this comprehensive farm credit package. Farmer Mac is a progressive approach to farm and rural credit that will contribute significantly to the future of agriculture and rural America.

It is said that good ideas sell themselves. That wasn't the case here, but Farmer Mac is one of those good ideas whose time has finally arrived. I believe that Farmer Mac will prove to be the most positive, forward-thinking agriculture legislation which Congress has passed in many years.

The concept of a secondary market for agricultural loans is supported by literally every farm and banking organization. This support is uniquely unprecedented in the history of either farm, or banking legislation.

Farmer Mac will enable farmers and ranchers to secure loans for real estate long-term, fixed-rates of interest from commercial financial institutions. Farmer Mac fills an existing gap in the rural housing market by providing a source of home mortgage credit for individuals who want to buy or build homes in rural communities.

Commercial lenders, especially rural agricultural commercial banks, will be able to expand and diversify their loan portfolios. The Farm Credit System will be able to more closely match and stabilize the interest which it pays on its bonds with the long-term real

estate loans made to Farm Credit System borrowers.

During the House-Senate conference, the best secondary market provisions of both bills were combined and included in this report.

To protect the interests of both the Farm Credit System and commercial lenders, the permanent Farmer Mac Board provides for equal representation on the Board by the Farm Credit System, commercial lenders and the public sector. The Board will consist of 15 members; 5 appointed by the President, 5 elected by the commercial lenders, and 5 from the Farm Credit System.

To insure and protect the public's interest in the Board, the President will be permitted to appoint the Chairman of the Board from among the public members on the Board.

The structure of the secondary market has also been streamlined to insure the sound and successful sale of the Farmer Mac securities. In conference, we agreed to one secondary market that will securitize agricultural real estate loans, and home mortgages in rural communities of 2,500 or less. Future GAO studies will determine the feasibility of securitizing agricultural production and equipment loans, co-op loans, and rural community development loans.

To insure that the market serves farmers, ranchers, and rural communities, loans securitized through Farmer Mac will be limited to loans no larger than 1,000 acres or $2.5 million. Important restrictions are also included to prevent Farmer Mac from being used as a tool for real estate and development speculation by nonfarmers.

Farmer Mac is also structured to serve agricultural interests nationwide, not just regional interests. Specific pooling standards will require pools to consist of loans which are widely distributed geographically, vary in principal amount, and are secured by agricultural real estate producing a range of commodities.

Again, I thank my chairman and colleagues on the Banking Committee, and the chairman and members of the Agriculture Committee for their support of Farmer Mac.

Mr. Chairman, I urge all my colleagues to support the adoption of the conference report on H.R. 3030.

Mr. DE LA GARZA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, I rise in strong support of this legislation. I am particularly pleased with the unified response the committee has given to this legislation. The chairman, as well as the entire committee, have done a tremendous job. This means a lot to my district and to my State of Idaho.

Mr. Speaker, I think this is a tremendously important piece of legislation.

It is important because it represents months of effort on a bipartisan basis to address the concerns of farmers and ranchers regarding agriculture credit. This legislation addresses the immediate needs of the Farm Credit System and its borrowers; but it also speaks to reforms for the Farmers Home Administration on behalf of its borrowers, and it enables the creation of a secondary market for agriculture real estate—a major step forward for farm financing.

Since the beginning of the current agriculture depression in the 1980's, I have heard repeatedly from farmers and ranchers that because of the collapse of foreign markets, fallen commodity prices, and plunging collateral values of their farms, credit became increasingly difficult to obtain and retain. Thousands upon thousands of borrowers have been placed in the credit squeeze and many have been unable to survive the outcome. As much as 20 percent of the farmers and ranchers in my State of Idaho are in such a tight position that they may be unable to continue for another year. Another 40 percent are on the border line, depending on crop prices and interest rates. That leaves less than half of the current farm borrowers in a viable financial condition—and that is why we need this legislation.

Farmers and ranchers have been at the mercy of lenders as prices fell and collateral values plummeted. Lenders signed loans on the same assumptions as borrowers taking the money. In retrospect, an overextension of optimism was evident on the part of both parties. Unfortunately, some lenders have been quick to enforce debt obligations at times when doing so was actually imprudent, costing the institution more through foreclosure and court proceedings than would have been the case if the lender had worked through the crisis with the borrower.

I have witnessed a change by some lenders which reflects the intent of the legislation we are now considering. But because the application of the concept of restructuring, when doing so is the least-cost alternative, is still not being applied in some areas, this bill mandates that lenders of the Farm Credit System and the Farmers Home Administration take this approach from here on in assessing distressed loans.

This legislation also outlines the reorganization of the Farm Credit System to streamline its operations and remove duplicative services. It also creates a mechanism for assistance which, coupled with the reorganization, should bring about lower interest rates to farm borrowers. In fact, I stress to the System that this is indeed the intent of this member in this legislation—lower interest rates for borrowers. This legislation contains the incentive and tools for the System to become more competitive and at lower administrative costs. It establishes an insurance fund similar to FDIC institutions in the event of future financial need. And, it does all this with the least impact on the taxpayer.

As the author of the amendment which included the secondary market for agriculture real estate, I am especially pleased to see the inclusion of this provision in the legislation. Not only does this market enable a qualifying borrower to have his loan resold in packages or "pools" with other agriculture loans to investors, bringing about lower interest and dispersed risk, it also enables lenders to obtain additional liquidity and competitive markets similar to those in home real estate.

A properly administered secondary market for agriculture real estate will bring about increased competition in agriculture mortgages, which will mean better services and lower interest rates. It will mean stabilizing agriculture real estate markets, limiting speculative investing, and spreading the regional risks across investment pools of agriculture loans.

Mr. Speaker, this legislation is monumental; it will shape the nature of agriculture lending for the next decade, maybe beyond. It represents a good compromise of interests and concerns. I am happy to support it and again encourage lenders and borrowers alike to take advantage of the tools provided in this package to work together through the current situation—we still have a long way to go to work out of this dilemma.

Mr. OXLEY. Mr. Speaker, I wish to express my support for H.R. 3030, the Agricultural Farm Credit Act of 1987.

This bill provides credit assistance to farmers, strengthens and reorganizes the Farm Credit System, establishes a secondary market for agricultural loans, and provides additional protection for farmer-borrowers under financial stress in the Farm Credit System (FCS) and Farmers Home Administration (FmHA).

The FCS is the major source of credit for Ohio farmers. The system, with a bonded debt of $50 billion, is in jeopardy. This will restore financial stability and will be a major contributor to maintaining the most productive agricultural the world has ever seen.

I wish to stress that the FCS exists only to serve farmers and that Congress is responding through this bill to the need to help this institution serve their members better and more efficiently.

Under this measure, up to $4 billion of financial assistance of government-guaranteed bonds will be sold to farm system banks. A secondary market for both farm mortgages and rural housing loans will be backed by a $1.5 billion loan of credit from the U.S. Treasury. This will allow commercial farm lenders

and FCS institutions to gain new access to capital markets and to finance farm borrowers at competitive interest rates.

Of particular concern to me as a member of the Energy & Commerce Committee, with jurisdiction relating to the underwriting of securities and their registration, was the pooling of these loans and the resale to mortgage marketing facilities. I feel it is imperative that investor protection be provided by requiring securities to be registered as conventional securities and that underwriters and dealers in the secondary bond market be required to be registered. I am now satisfied that adequate safeguards for investors have been incorporated into the bill.

I also fully support the bill's provisions to restructure the FCS and FmHA loan programs to help financially stressed farmers, to guarantee par value stock, and to assure grassroots reorganization of the FCS by voting members of each local association.

In sum, this bill provides needed Federal help to borrower-members of the FCS while limiting costs to the taxpayer—essential to providing quality food at affordable prices to all Americans.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. ESPY], a member of our committee, who has done tremendous work on this legislation.

Mr. ESPY. Mr. Speaker, I rise in support of the conference report on H.R. 3030, the Agricultural Credit Act of 1987. I wish to commend the leadership of Agriculture Committees of both the House and Senate for their efforts to bring final farm credit assistance legislation to the floor before adjournment. I also know that this required extraordinary efforts by numerous Members and their staffs during the waning, hectic days of this session. I think it is important for all the Members to know why it was so critical that this legislation be enacted this year.

As the Members know, Congress has enacted emergency farm credit legislation during each of the past 2 years. Unfortunately, in neither case did the legislation result in any financial assistance to the System. The System, which has incurred extraordinary losses over the last several years, has been held together by regulatory accounting practices and internal self-help measures. The limits of regulatory accounting have been reached and there are simply not enough resources available within System banks to justify further Band-Aid remedies to the very serious problems facing several of those banks. The System knows this and we know this.

Last week, the Federal Land Bank of Jackson announced that it faced imminent insolvency and temporarily suspended the retirement of borrower stock. This reminded all of us just how critical this legislation is to the borrowers who depend on the Farm Credit System. Borrowers need the assurance provided by this bill that their investments in System institutions will not be lost. It is critical that the assistance board created by this bill be chartered within the 15-day period prescribed in the bill and that it promptly be staffed with qualified personnel. In the meantime, we have provided transition authority for the Farm Credit Administration [FCA] to utilize the System's revolving fund to ensure that borrowers will continue to be served in all districts pending implementation of this legislation. The purpose of this specific transition authority is to avoid a financial crisis during the period it will take the assistance board to become operative. We trust that this authority will be used by the FCA in appropriate cases.

We also trust that FCA will devote all the resources that may be required to issuing the regulations necessary to implement other provisions of the act. As evidenced by the resources committed by Members of Congress and their staffs, it is essential that this task be handled in a professional and expeditious fashion. The American farmer cannot afford further delays in the implementation of the efforts that have been made to date. The bill places a unique responsibility on the Farm Credit Administration to ensure the prompt implementation of this legislation.

Mr. MADIGAN. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. TAYLOR].

Mr. TAYLOR. Mr. Speaker, I strongly support this conference report and urge it to be approved in order to recapitalize and reorganize the vast and intricate system that holds about one-third of the Nation's farm debts, the Farm Credit System.

I want to commend the gentleman from Texas [Mr. DE LA GARZA] and the gentleman from Illinois [Mr. MADIGAN] for their unique abilities to bring this conference report to the floor under a unanimous-consent request.

The conference report is a comprehensive revision and a major overhaul of the Farm Credit System, and I believe it deserves the overwhelming approval of this House.

The Committee on Rules was prepared to go forward with House Resolution 336, but that will not now be required.

The conference report was still being prepared when the Committee on Rules met Thursday afternoon to consider a rule, and I am informed that work on the report and the bill language continued through the night.

Mr. Speaker, the managers on the part of the House had initially hoped to file the conference report by midnight last night, but they were unable to do so. I am informed that they filed it only moments ago.

Mr. Speaker, the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA], and the ranking Republican member, the gentleman from Illinois [Mr. MADIGAN], specifically requested the rule which the committee reported.

The rule waived all points of order because the gentleman from Texas [Mr. DE LA GARZA] could not specifically identify the provisions of the conference report that may be in violation of Rules of the House or of the Budget Act.

Since the bill language was not finished, the Parliamentarian could not provide any guidance to the Committee on Rules on what specific waivers would be required.

All of us prefer to know ahead of time what rule or what provision of the Budget Act is being waived, but in this situation it was simply impossible for us to know.

Mr. Speaker, the Committee on Rules did have a detailed outline of the conference agreement before us when we granted this rule. It is my understanding the methods by which the Farm Credit System will be allowed to finance new capital closely resemble the provisions of the Senate bill.

The conference agreement reorganizes the Farm Credit System along the lines of the bill the House passed in early October. The conference agreement incorporates numerous provisions from the House bill to protect and assist farm borrowers who are under financial stress without adversely affecting creditor rights.

Mr. Speaker, one of the most important protections for those who produce the Nation's food and fiber is the requirement that Farm Credit System institutions redeem at par value all farmer-held stock. This guarantee will ensure that the value of stock held by farmers, who are required to invest in the System in order to borrow from it, will be preserved.

The agreement specifies a complete range of new farmer-borrower rights. It prohibits farm foreclosures by lenders due to declining collateral value or previous delinquency, if the farmer-borrower has made or brings current all accrued payments of loan principal, interest, and penalties.

Under the agreement, creditors will have an obligation to restructure delinquent loans and to help family farm borrowers repurchase or lease foreclosed property they previously owned.

According to the managers from the Committee on Agriculture, the landmark reforms contained in the conference report will provide up to $5 billion in financial assistance through the sale of 15-year bonds. The capital raised from the sale of these bonds, which will be guaranteed by the Government, will be private capital.

Mr. Speaker, I suppose most Members know that our Farm Credit

System is in financial trouble. It is important for all of us to recognize how and why this has happened.

During the 1970's, farmland values were increasing at such a pace, that farmers were able, and in many cases encouraged to take out large loans. Like a roller coaster, however, land values began a down-the-hill slide, and many of our Nation's most productive and hardest-working citizens—our farmers—found themselves facing huge debt payments and having insufficient income to meet their obligations.

When land values and crop prices began falling in 1982, the difficulty faced by creditors was almost unavoidable. By the end of 1985, the Farm Credit System held $10.2 billion in bad assets; and by the end of 1986, the amount was $13.9 billion, mostly in bad loans and overvalued, foreclosed-on land.

The Farm Credit System is both a farmer-owned banking system and a Government-sponsored corporation, with assets of more than $5.5 billion. If it were a commercial bank, it would be one of this country's five largest.

The Farm Credit System has a debt of about $53 billion, and about one-fourth of its loan portfolio is in serious trouble. Almost 7 billion dollars' worth of FCS loans are on a nonaccrual basis, they are not accruing interest.

It is little wonder then that the system has posted losses of over $4.6 billion over the past 2 years.

Mr. Speaker, the House-passed version of H.R. 3030 would have provided $2.5 billion in taxpayer funds into the Farm Credit System in fiscal 1988, and a total of $5.4 billion over the next 5 years. The Federal costs were to be offset in the first year by selling government loan assets.

The conference report adopts the bond financing approach, and I am informed that the Congressional Budget Office estimates that this financing mechanism will not cost the U.S. Treasury one red cent in fiscal 1988, and will probably only run about $190 million in fiscal 1989.

Mr. Speaker, the capital raised through the sale of bonds will be provided to troubled Farm System banks by a Federal Assistance Board created specifically for that purpose.

In return for assistance, system banks must follow strict Federal requirements as mandated by the Financial Assistance Corporation, which is also created by the conference agreement.

Mr. Speaker, the conference report is a comprehensive revision of our Farm Credit System. It is a major overhaul of the way Farmers Home Administration and the Farm Credit System does business. It is truly landmark reform legislation.

The report will help revitalize and strengthen the Nation's primary source of agriculture credit.

Agreement on this conference report will move the House one step closer to a resolution of several longstanding and difficult issues facing farm borrowers and farm lenders, and I urge adoption of the report.

Mr. MADIGAN. Mr. Speaker, I yield 30 seconds to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I rise in strong support of the conference report on H.R. 3030, the Agriculture Credit Act of 1987. After many hours of work by the members of the House and Senate Agriculture Committees and their very hard-working staffs, we have finally delivered a bill that should end the uncertainty that the Farm Credit System and their agricultural borrowers have been facing.

I want to congratulate the chairman of the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA], and also our ranking member, the gentleman from Illinois [Mr. MADIGAN], for their tireless efforts in securing passage of this most important piece of Farm Credit legislation. I also want to call attention to the dedicated efforts of the other Agriculture Committee members, and especially the long and arduous hours which our professional staff devoted to this task.

The concerns of the Farm Credit System and their borrowers have been with us for a long time. In January of this year, I held a public forum in Great Falls, MT, to help identify the most important issues relating to Farm Credit Service lending activities, and also those of the Farmers Home Administration.

At that time, it was obvious that if we were going to ensure the availability of affordable credit to America's farm and ranch producers, then Congress would have to take bold, innovative action during this session.

Among the more prominent issues which were discussed at that forum were the actual and perceived abuses of borrowers' rights to access their loan documents and the denial of any right to a reasonable appeal of adverse lending decisions. Also identified was the need to provide not only future availability of credit, but also to ensure that somehow interest rates would be reduced across the board in order to make agricultural production profitable again.

Borrowers and lenders both want to retain as much local input and control over the Farm Credit System as possible, while also guaranteeing that the local institutions would managed and run in an orderly and businesslike manner.

At my Farm Credit forum last January, I heard from more than 25 witnesses representing every sector of agricultural production, as well as those from the Farm Credit System and commercial agricultural lenders. I am most pleased to say that the conference report on H.R. 3030 represents a vital piece of legislation which actually addresses and resolves in a positive manner each and every area of concern which was raised at that forum.

And now it's December, Mr. Speaker, 1 week before Christmas. And I'd like to give those farm borrowers some good news. The best I can think of would be passage of H.R. 3030 by this body and the Senate, and the President's signature on this bill.

H.R. 3030 does many things. It grants a mechanism to raise up to $6 billion in assistance for the System, which is to be repaid. It establishes a Financial Assistance Corporation to guarantee borrower stock and provide System assistance.

The bill establishes an FDIC-type insurance entity funded by Farm Credit System lenders to underwrite bonds and borrower stock after the Financial Assistance Corporation dissolves in 5 years. It also abolishes the Capitol Corporation, which is scorned by many farm borrower because of their hard-hearted policies and heavy-handed foreclosure tactics.

H.R. 3030 includes a guarantee of borrower stock for 5 years and returns borrowers stock that was previously lost by many farm borrowers due to the insolvency of their local PCA's. This part of the bill was one of the major issues that farm borrowers in Montana were concerned about.

Our bill requires the restructuring of nonaccrual and high-risk loans if it would ultimately result in a greater recovery for the System than foreclosure would. This provision also applies to the Farmers Home Administration, which is the lender of last resort for many of our farm borrowers.

Another provision of the bill gives borrowers the right to have negative decisions reconsidered by a creditor's review board and establishes the "right of first refusal" for disposition of property, which gives priority to the prior owner, the family of the prior owner, and family-owned and operated farms, in that order.

By creating a secondary market for agricultural loans and allowing commercial lenders to compete on an equal footing with the Farm Credit System, this bill will increase the availability of affordable credit to producers and should result in lower interest rates for all farm and ranch borrowers.

H.R. 3030 will also reorganize the Farm Credit System, which should result in lower overhead expenses and a greater voice in day-to-day operating policy by individual borrowers.

By approving this final action on the measure as reported to us by the committee of House and Senate conferees,

we will provide new hope and new opportunity to the hard-working men and women of American agriculture.

Mr. Speaker, this issue is important not only to America's farmers and ranchers, but to the 235 million Americans who depend upon our producers for an ample supply of high-quality, nutritious commodities and food products. American consumers spend far less money than any other country in the world when they go to the local grocery store.

It's 1 week until Christmas. Let's let our farmer constituents get this very essential and long overdue Christmas present.

Mr. ALEXANDER Mr. Speaker, I rise in support of the conference report on the Farm Credit Act, and I commend the Agriculture Committee and its dedicated staff for bringing us this vitally important legislation.

An editorial in today's Washington Post states that "the bailout bill is the other shoe in the farm crisis. For several years now farm support costs have been high. They have now begun to recede. But a great deal of financial wreckage remains in the Farm Belt."

The Post is correct. One of the fundamental problems in the farm economy is the massive debt.

Beginning in 1981, the Reagan administration adopted a policy of deflation that produced dramatic asset devaluation, thus causing an economic depression in the Farm Belt.

Commercial banks suddenly didn't want to make farm loans, because with land and equipment values falling through the floor farm loans were by definition undercollateralized.

Within the same period, the Farm Credit System shifted its credit decisions away from the local level and to the regional banks. The Farm Credit System became a bureaucracy, rather than a credit system.

The result was depression in rural America, an economic crisis fully as severe as the depression that ruined American agriculture in the 1920's and 1930's.

In 1984, as the depression deepened, I had a conversation with W.R. Stephens, founder of the Stephens, Inc. investment firm of Little Rock, AR.

We discussed the similarities between the farm depression of the 1980's and the farm depression of the 1930's.

Mr. Stephens recalled that through the Reconstruction Finance Corporation and other means, the Federal Government reduced the burden of debt on farmers that was a product of that earlier depression.

And finally, we came to the conclusion that family farmers needed a political solution to their current economic problem.

It was the conscious policy of the Federal Government under the Reagan administration's management that caused the farm depression. It is that same Government that has the power to solve the farm depression.

This bill is an important initial step toward providing a solution to the heavy burden of debt that hangs over the farm country.

It does so by providing direction for the Farm Credit System and Farmers Home Administration borrowers, and by providing debt relief for farmers through restructuring of farm debt when that costs less than foreclosure—and this is the most frequent case.

Another point Mr. Stephens discussed with me was the concept of a secondary market for farm debt.

For the family farmer, perhaps the most important provision of this bill is the secondary market treatment of farm mortgages in much the same fashion as home mortgages are already treated.

Farmer Mac will increase the supply of farm mortgage credit, and will decrease its cost.

However, the new secondary market will not revitalize and renew farm credit without additional action.

We need to create a larger warehouse where we can store the current farm debt until the economy turns around and the farmer can pay it off. The creation of a warehouse for farm debt would involve restructuring the debt over the long term at lower rates of interest.

A comprehensive warehouse for farm debt should include solving the debt crisis not simply for the farmers, but also for all businesses that serve the farmers. When the farmer is encumbered by debt, the bank, the equipment dealers and the Main Street merchants in the Farm Belt also suffer.

The Reagan administration's policy of deflation led to devaluation, which caused the depression; the depression, in turn, created the cumulative debt. During the Reagan era, the agricultural sector of the economy has suffered vastly more than any other sector of the economy. While the service sectors on the east and west coasts flourished, the farmers in America's heartland were ravaged by an economic holocaust the likes of which we have not seen since the 1930s. Despite their prodigious achievements in the realm of productivity, the farmers have been saddled with an unfair burden of debt. In order to revitalize the farm economy, that debt must be removed from the Farm Belt's economy. A secondary market is a first step toward removing the debt, but a comprehensive warehouse for the entire farm debt—along the lines of President Franklin Delano Roosevelt's farm credit policies—will be needed to finish the quest that we begin now by passing the Agricultural Credit Act.

Since Witt Stephens suggested in 1984 that the Roosevelt administration's example provides a model that is relevant for the farm dilemma today, I've sought various approaches to bring about recovery and remove the agricultural debt burden. I will continue to do so. People of the Farm Belt owe Mr. Stephens a debt of gratitude for giving us the benefit of his wise counsel on finding solutions for the farm crisis.

While the fundamental immediate problem in the farm economy is debt, a vital question over the long term is the creation of new markets for farmers. I have supported a variety of policies designed to expand markets for farmers, such as the adoption of a national alcohol fuels policy, the opening of agricultural trade to Cuba, and other measures designed to expand agricultural exports.

I will continue my efforts to create new markets for farmers; but the immediate goal we must address is the debt crisis, and the Agricultural Credit Act is an important first step in attacking the farm credit dilemma.

For now, this bill provides some measure of immediate relief to the family farmer. I urge its adoption.

Mr. TALLON. Mr. Speaker, for the third consecutive year, the Congress has considered legislation to help the financially troubled Farm Credit System. Two years ago, I would remind my colleagues that we established the Farm Credit System Capital Corporation to be the mechanism to coordinate system self-help, and, once the system had done all that it could, it would be the vehicle for Federal assistance.

Today, we are considering the conference report to H.R. 3030. I want to applaud the conferees on this bill, and particularly single out the distinguished chairman of the Agriculture Committee, Mr. DE LA GARZA, for diligence and thoroughness in resolving very complex issues.

I also want to take this opportunity to talk about a very important aspect of this legislation, the Federal Assistance Board. This board is, without question, central to the success of this legislation. Due to the ability of this board to dispense Federal assistance, I believe that it is the intent of Congress that the Assistance Board have sufficient powers to be effective. This means that the traditional regulator of the Farm Credit System, the Farm Credit Administration, will have a secondary role during the time when the Assistance Board is functioning. There can be no question that, except for purposes of safety and soundness, the authorities of the Assistance Board shall supersede those of FCA.

I am particularly concerned about this, Mr. Speaker, because there was no question that the Farm Credit Administration thwarted the efforts of the Capital Corporation to work with the institutions of the Farm Credit System. We cannot allow such confusion about direction or who has what authority to exist this year. Time is of the essence and the Assistance Board must be able to facilitate the intent of Congress and operate unfettered and unchallenged by the Farm Credit Administration.

Mr. ST GERMAIN. Mr. Speaker, I rise in support of the conference report on H.R. 3030. Your committee on Banking, Finance and Urban Affairs was represented on the conference committee for the consideration of the establishment of the secondary market for agricultural loans. As the Members know, H.R. 3030 was sequentially referred to the Banking Committee as a result of amendments to the original text of H.R. 3030. Our committee worked with the Agriculture and Energy and Commerce Committees to develop an amendment offered by Chairman DE LA GARZA to substantially improve the legislation.

I am pleased to report to the House that your conferees have upheld the House position. We have brought back a conference report which includes provisions which were of the greatest concern for our Members and which has broad based bipartisan support.

Mr. Speaker, I want to briefly describe the major provisions of the conference report. The conference report retains the safeguards and underwriting standards of the House bill. The conference report requires—

An 80-percent loan-to-value ratio;

Sufficient cash flow for the borrower to service the debt;

That the borrower be actively engaged in farming; and

That there be regulations to prevent speculative uses of these loans.

The conference report maintains the concern, evident in the House bill, that a major purpose of this entity be to provide long-term fixed-rate credit to small and family farms.

To accomplish this we have placed a $2.5 million cap on any loan, required that no loan exceed 3.5 percent of the entire pool and that each pool must have at least 50 loans.

The conference report requires that the pools consist of loans which vary widely in terms of geographic location, size of the loan and commodity produced. We have also strengthened the provision in the Senate's bill which requires that private sector poolers pay an annual fee to the secondary market based upon the risk represented in these pools. By requiring these risk based fees, a reserve of at least 10 percent and the restriction on dividend payments, I feel confident that sound management of the corporation will preclude drawing upon the $1.5 billion line of credit.

Mr. Chairman, I want to commend the chairman and members of the other committees in this Congress. I realize how significant this bill is for them. The Banking Committee made every effort humanly possible to complete this conference report today. Without the cooperative effort between our committees, I fear this legislation would have been held over until next year.

I wish to emphasize that nothing in this legislation is intended to authorize the preemption of State-granted borrowers' rights provisions. Such rights, be they granted pursuant to State statute or State constitutional provision, shall remain in effect regardless of a loan's placement in secondary market pools, subject only to other provisions of State law. For example, where State law permits waiver of these borrowers' rights, a borrower may waive such rights and obtain those benefits perceived to accrue to loans without borrowers' rights attached, that is lower interest rates. However, where State law prohibits the waiver of these rights, a borrower may not contractually waiver such rights and will therefore retain these borrower protections provided under State law.

The conferees understand that in some cases a facility or originator may require reasonable fees or discounts for loans secured by agricultural real estate in States with borrowers' rights. The conferees stress that these fees or discounts must be reasonable and related to the cost and expenses arising from such statutes or constitutional provisions. These fees should not be permitted if they are set at such a level as to unfairly penalize borrowers in such States. The conferees intend that the corporation review the incidence of such fees or discounts and determine whether originators or poolers are requiring discounts or fees in excess of what is actuarially sound. If the corporation finds a pattern of an originator or pooler requiring unreasonable fees or discounts, the Board should exercise the authority it possesses, including decertification, if appropriate, to discipline the imposition of the fee or discounts.

In requiring the corporation to establish a cash reserve or subordinated participation interest in an amount equal to "at least" 10 percent of the principal amount of the loans constituting the pool, the conferees intend to ensure that the corporation possess the maximum degree of flexibility in maintaining the financial integrity of these pools. The conferees envision that there could be circumstances where the corporation, in order to protect potential investors and the Treasury from unreasonable risk of loss, would not guarantee a pool unless the cash reserve or subordinated participation interest exceeded the minimum percentage required under this statute. The adoption of the "at least 10 percent" language in this legislation would clearly allow the corporation to adopt such an approach should it consider it necessary to carry out the purposes of this act.

The amendment provides that the Corporation compensate officers, employees, and agents without regard to title 5 of the U.S. Code which covers employment in the U.S. Government, including pay rates and systems. The conferees are aware of the necessity to attract expertise and to pay competitive salaries and benefits to adequately compensate qualified individuals to the Corporation. However, the conferees are also aware of the extremely high salary levels being paid at similar Government-type corporations, and would encourage a careful balancing between the need to attract competent personnel versus the concerns of the conferees and the public at large regarding inordinately high salary levels. The conferees would hope that the corporation, as an instrumentality of the Farm Credit System, will be aware of concerns and take them into consideration in its hiring practices.

Mr. Speaker, the secondary market cannot promise to save hard pressed family farmers. It does, however, hold promise for a solution to one of the most serious problems facing the American farmer. In the years to come, I hope we can look back and see that the provision of long-term fixed-rate financing through the secondary market will have dramatically improved the competitiveness of American agriculture.

Mr. FRENZEL. Mr. Speaker, when this bill passed the House, I voted against it for the several reasons noted at that time. Age and travel to the other side of the Capitol have mellowed H.R. 3030, and I intend to support this conference committee report.

I am still not supportive of the secondary market features. In my own State, our law granting borrowers rights will make lenders unwilling to accept our paper in the secondary markets. Even if my State should see the light, I would prefer the regular lending market without the secondary, taxpaper-guaranteed, secondary market.

Even so, I shall support the bill as a necessary repair on an essential credit system.

Mrs. SMITH of Nebraska. Mr. Speaker, I wish to commend the diligence and determination of the conferees to bring this legislation to the floor before we recess for the Christmas holidays.

I know the Members and staff have worked long, long hours overtime to reach agreements on the important differences between the versions of both Houses so we could vote on this important measure today.

This legislative issue—of saving and strengthening the Farm Credit System—has been at the top of my agenda for more than 2 years.

Major legislation like this bill, H.R. 3030, cannot possibly be perfect. As these many new provisions go into effect, Congress will be called upon to make many adjustments to make the new law work as we intended.

For now, I am pleased that this legislation includes nearly all of the essential items on my checklist of 17 elements published in the RECORD on August 6, 1987.

The Farm Credit System is still one of the most important sources of credit for farmers and ranchers. This bill seeks to make sure the System primarily serves the interests of its borrowers while preserving those of the bond holders.

This bill provides for restructuring of farm loans of financially stressed farmer-borrowers to help keep producers on the land. Restructuring will be required if it is the least-cost alternative to foreclosure. The bill also imposes similar requirements on the Farmers Home Administration with respect to its farm loans.

The bill will require Farm Credit System lending institutions to retire farmer-held stock, known widely as "B" stock, at par value to ensure farmer-borrowers that their investment in the System will be preserved.

Farmers holding such B stock in bankrupt production credit associations, such as in Valentine and O'Neill, NE, will be paid off by the receivers under this bill.

This sounds good and will benefit hundreds of producers in Nebraska and elsewhere who are still in liquidation proceedings. But the bill unfortunately does nothing for farmers whose loans have already been liquidated and who have been forced to make good on loans that included the value of the B stock.

It is not a fair world, of course, but this particular injustice will always rankle me and is one of the bill's major shortcomings. The impact and loss growing out of assets sold off and farm families changing their lives as the result of these liquidations is incalculable and irreversible.

The bill also includes a number of provisions designed to give the Farm Credit System and the Farmers Home Administration borrowers under financial stress a fair opportunity to overcome their credit problems without adversely affecting creditor rights.

These provisions include a review of adverse credit decisions, rights of first-refusal so family farmers can repurchase foreclosed property, borrower access to information concerning his or her loan case, and an improved Farmers Home Administration interest rate buy-down program.

The bill authorizes up to $7.5 million annually for matching grants to States for the operation of farm loan mediation programs.

As for the Farm Credit System itself, this legislation authorizes the sale of up to $4 billion in federally guaranteed 15-year bonds to provide assistance to the financially troubled districts.

Land banks and other FCS institutions may apply for assistance from a newly created Farm Credit Assistance Board, designated for administering the Federal bailout money.

These troubled FCS units may apply for the help when the value of stock held by farmers and ranchers falls below its par value. The new Board may require the System institutions to change their credit and interest-rate policies, replace management, and reduce salaries in order to achieve solvency.

The bill requires that most of the assistance provided will be paid back by the System after it is financially healthy. The U.S. Treasury will pay the interest on guaranteed bonds for 5 years. During the subsequent 5 years, interest payments will be paid equally by System institutions and the Treasury. After that, the System must take over repaying both interest and prinicipal on the bonds.

The bill establishes an insurance program for System institutions similar to the FDIC program for commercial banks. Regulatory powers of the Farm Credit Administration will be strengthened by requiring new capital adequacy requirements and new enforcement authority.

A new secondary market for agricultural loans would be established under which commercial farm lenders and system lenders will gain new access to capital markets.

With this access, farm lenders supposedly can obtain funds to finance their farm borrowers at more reasonable interest rates. The bill provides also for the mandatory merging of the Federal Land Banks and the Federal Intermediate Credit Banks in each of the twelve Farm Credit Districts.

The objective is to reduce overhead costs and eliminate duplication of administrative functions, and, of course, we are all for that.

Nevertheless, I hereby go on record as withholding my approval of these mergers until their impact on service to farmers and ranchers becomes more certain.

If it is proposed, for example, that our Omaha District is combined with, say, the Minnesota District, I am serving notice that I will study any such plan carefully and that I will oppose any arrangements that will adversely affect borrowers in Nebraska.

I pledge that I will do all in my power to remedy any proposed merger tot the mutual satisfaction of both borrowers and system managers.

The debate surrounding Federal assistance to the Farm Credit System has touched upon the most basic social and economic issues facing agriculture today.

The Farm Credit System has always been more than simply a financial institution, it has been a partner to just about anyone who turns the soil for a living.

Chances are that a career in farming begins with a visit to the Federal Land Bank and Production Credit Association. For over 70 years, the Farm Credit System has served agriculture as the link from generation to generation. The Farm Credit System still remains one of the more important elements of this Nation's most important industry, agriculture.

The recent agricultural crisis has taken its toll on borrower and lender alike. But this bill represents a great deal of hope and I urge my colleagues to support it.

Already, too many good farmers and ranchers who might have otherwise made it through recent hard times have seen a lifetime of work evaporate because agriculture's largest lender is operating in an atmosphere of shotgun economics.

Without swift action to save the Farm Credit System, we will face an even wider crisis when we return next year.

I urge my colleagues to approve this conference report so that our farmers and ranchers can more efficiently get on with their incomparable efforts that provide food and fiber for our country and for a significant part of the rest of the world as well.

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise to congratulate the chairman of the Agriculture Committee for his leadership during this difficult time for the Farm Credit System. I would also like to single out the distinguished chairman of the Subcommittee on Conservation, Credit and Rural Development, the gentleman from Tennessee [Mr. JONES] for his thoughtful deliberations on Farm Credit.

Today, we are acknowledging the need to compromise with the other body on this vital legislation. It is particularly important that we remember why this legislation was necessary. The Farm Credit System is facing a desperate financial crisis among many of its individual institutions. For some, these next few weeks could be even more treacherous than the past year because of their financial condition.

Yes, this legislation is for the most stressed, but I would remind my colleagues that it is also to provide financial assistance to those institutions which are less troubled so that they can survive without additional assistance later. This conference report provides for realism to be injected into the process of providing help to entities. In some cases, the additional use of regulatory accounting practices as a form of noncash assistance may be all that is needed to help an institution work through its short-term financial problem. We wish that were the case with all institutions.

However, I believe it is our intent that cash financial assistance to System entities shall be provided no later than when stock falls to 75 percent GAAP par value. I share the concern of many conferees that such a statement may provide little or no flexibility to the Assistance Board. Therefore, it is logical that the Assistance Board also have the opportunity to facilitate a merger, or if it is less costly to liquidate the institution, recommend such an alternative to FCA.

In no event, however, is it Congress intent that stock be allowed to be impaired below 75 percent of GAAP par value. While the Assistance Board has flexibility between 75 and 100 percent, the flexibility and the options to both the receiving entity and the Assistance Board will become self-limiting when the 75-percent stock level is reached. At that time, a decision must be made to either provide cash assistance, merge, or liquidate the entity needing help.

Mr. BRUCE. Mr. Speaker, I am very pleased that we are here today to vote on the conference report for this bill to strengthen the Farm Credit System. Many people have worked many long hours to bring this much-needed legislation to the floor.

On behalf of my constituents, to whom the passage of this legislation means so much, I would like to express my appreciation for the hard work and persistence of the distinguished chairman of the Agriculture Committee; of my colleague from Illinois, the ranking minority member; and of the distinguished chairman of the Agricultural Credit Subcommittee, without whose efforts this legislation would never have come this far.

I especially want to commend the chairman of the Energy and Commerce Committee for his concern and his diligence in the matter of this specific title, by which we establish a secondary market for farm mortgages. His efforts in ensuring the design of the best possible system will be to the benefit of all this Nation's farmers and ranchers by ensuring agriculture's access to national capital markets. With this access, farm lenders will be able to obtain funds to finance their farm borrowers at reasonable interest rates.

To that end, I would also like to commend the distinguished chairman of the Finance Subcommittee; our colleagues on the other side of the aisle, including the ranking minority member; as well as our esteemed colleagues on the Banking Committee for their part in developing this title of the legislation.

I am pleased to have been a part of these negotiations, and I thank the chairman for yielding me this time.

Mr. GEPHARDT. Mr. Speaker, I support H.R. 3030 and encourage my colleagues to do the same. I am proud to have helped push this legislation, and I want to congratulate the House leadership, the Agriculture Committee and the many Members who have worked so hard on this bill. It addresses many difficult problems fairly and intelligently.

This legislation is a victory for all farmers. Besides strengthening the agricultural credit sector as a whole, it contains important borrowers rights and debt restructuring reforms—including some from the Harkin-Gephardt bill—that will help farmers get a fair chance to obtain meaningful debt restructuring.

The fact that this legislation contains important reforms for farmers, that it is fairly comprehensive, is testimony to how far we have come in the last year.

We have always had legislation to provide aid to the System in the 1985 farm credit bill. The real problem was the need for a more comprehensive approach, for reforms to the procedures of the Farm Credit System and the Farmers Home Administration so that all farmers have a fair chance to restructure their debts and keep their farms.

This bill is important now because it makes those reforms. It contains important provisions and concepts from Harkin-Gephardt bill including matching grants to help States fund farmer-creditor mediation; explicit instructions requiring FmHA and the Farm Credit System to participate in State mediation programs; and reforms to require debt restructuring by the System.

Support for State mediation programs is an important component of this legislation. A growing number of States are using farmer-creditor mediation programs to bring farmers and lenders together to restructure debt and avoid foreclosures. This legislation will help

States adequately train and pay their mediators and to make those services more widely available.

And it will also require Farmers Home to participate in those programs. The current policy of nonparticipation doesn't make any sense to me, and it has hurt farmers, other lenders, and ultimately taxpayers. It is time for Federal agencies to start being part of the solution to the farm debt problem.

Explicit instructions requiring debt restructuring in certain cases for both FmHA and the Farm Credit System are important. I want to congratulate BYRON DORGAN, DAVE NAGLE, and all others for working so hard in this area. Congress has long expressed its support for least-cost debt restructuring; this language will ensure that we get it.

Of course, there are many other provisions to protect borrower rights that other Members added such as giving borrowers the right of first refusal to repurchase foreclosed properties when they are put up for sale, and improved review procedures of borrower appeals within Farmers Home.

Of course, this legislation is only part of the change that is needed in farm policy. We can enhance demand for farm products by opening foreign markets and discovering new uses. We should improve supply management in our farm programs. Better prices for farmers will reduce the need for subsidies and bailouts in the future and allow our farm communities to flourish.

Mr. LIGHTFOOT. Mr. Speaker, I am pleased that Congress has finally addressed the issue of how to restructure and shore up the ailing Farm Credit System [FCS]. While many of my colleagues and I had reservations about providing Federal funds to the System in view of the frustrations many of the System's borrowers have encountered during the past few years, I believe this legislation carries with it a firm package of borrowers' protections.

Clearly, a system which provides such a large percentage of farm loans nationwide is important to maintain, in one form or another. Rather than starting from scratch, it makes economic sense to build from the FCS existing structure. Linking borrowers' protections to taxpayer aid to the System was a crucial factor in my support for this package.

It is important, as well, that we do not allow Farm Credit System officials to become lax in their concern for their borrowers. The System cannot lose sight of the fact that it was created to serve its borrowers. Many of the borrowers' protection provisions in this legislation were similar to amendments I had advocated earlier.

In addition to providing protection for Farm Credit System borrowers, this legislation addresses the protection of Farmers Home Administration borrowers as well.

On a final point, I am pleased the conference committee accepted a key provision I secured in the House version of the bill to protect rural communities receiving Farmers Home Administration loans. I also was pleased the final agreement contained provisions creating a secondary market for farm mortgages, similar to legislation I introduced—H.R. 575—early in the year. The secondary market will provide a long-term, stable source of farm real estate loan funds.

This legislation has been several years in the making, but the details, I believe, have been carefully worked out. The measure will help build on the positive actions rural communities and individuals are taking in rural America to reinvigorate the economic climate.

I'd like to thank the members of the House Agriculture Committee for their diligence in completing this legislation before the close of the legislative session, and for their support for my borrowers' protection amendments.

Mr. LEHMAN of California. Mr. Speaker, as a member of the House Banking Committee and a conferee to H.R. 3030, the Agricultural Credit Act of 1987, I would like to indicate my support for the conference report.

As we all now know, in addition to providing borrowers' rights, restructuring the Farm Credit System, and making additional capital available to the system, H.R. 3030 would establish a new secondary market for agricultural real estate loans. Farmer Mac, would allow both the Farm Credit System and commercial lenders, such as banks and insurance companies, to package or pool their agricultural real estate loans for resale to the investment community.

Farmer Mac will ensure that adequate funds remain available to meet the long term needs of agriculture by providing greater access to the capital markets. It will help eliminate some of the regionalized problems currently facing agricultural lenders by allowing for diversification of lenders' loan portfolios and it will help stabilize both interest rates and land values.

While the secondary market which would be created for agricultural real estate loans is fundamentally sound, I have some reservations about the authority the bill grants to create a secondary market for residential mortgages in communities with less than 2,500 people. Existing secondary markets for residential mortgages such as Freddie Mac and Fannie Mae utilize very sound and prudent loan underwriting standards. In order for this new small community, residential mortgage secondary market to succeed with private investors, it, too, must adopt similar, safe and prudent loan underwriting standards. It is incumbent upon the Board of Directors of Farmer Mac and this body to ensure that comparable underwriting standards be implemented.

Finally, as one of those who first introduced Farmer Mac legislation in the previous 99th Congress, I would like to congratulate all of the participants who contributed to shaping this legislation. I would like to especially acknowledge the cooperation of the chairmen of the House Agriculture and House Banking Committees and their staffs for working so diligently during the past month to craft this compromise.

Mr. Speaker, as I have indicated on other occasions, Farmer Mac is not a bail out for bad farm debt. It is a means of providing stable and competitive interest rates for long term agricultural real estate investments. It is time to put aside the rhetoric about creating long range solutions for America's farmers and do something about it. Farmer Mac is such a solution. It has broad, bipartisan support and I urge my colleagues to support the conference report.

Mr. VENTO. Mr. Speaker, I rise in support of the Conference Committee report on H.R. 3030, the Agricultural Credit Act of 1987. Over the course of the last week or so, the conferees have worked to rapidly resolve the differences between the House and Senate bills. Thankfully, we have produced an acceptable bill to all parties that will provide the necessary assistance this year to the Farm Credit System.

As a conferee on the secondary market portion of this legislation, I would like to express my support for the work of the conference. Although the House Banking Committee members had some reservations about opening up Farmer Mac to rural housing loans and the weakening of some of the guidelines for underwriting standards, this legislation should set the foundation for a secure and sound secondary market for agricultural mortgages.

I am especially pleased that conferees approved of the deletion of the section of the Senate-passed bill that would allow the contractual preemption of States' borrowers' rights laws in order for a loan to be pooled in the secondary market. The lifting of that language, in combination with Banking Committee provision which mandates that the certified mortgage marketing facility may not refuse to purchase loans originating in States with borrowers' rights laws, will allow States to maintain the laws that they have seen fit to create.

Another matter of importance relates to the composition of the Board of Directors of Farmer Mac. It is important that in setting up the guidelines for the Board, that Congress indicate its intent to encourage the participation of smaller, regional financial entities. These regional firms have invaluable experience in rural America and will understand and respond to its unique needs.

I urge my colleagues to support the conference report and the work of the members from these several fine House and Senate committees. A favorable vote will help to alleviate the pressing needs of the Nation's agricultural communities.

Mr. ENGLISH. Mr. Speaker, as a conferee to H.R. 3030, the Agricultural Credit Act of 1987, I rise today in support of the conference report before the House. I hope my colleagues will move swiftly to accept the report, which will provide needed recapitalization to the Farm Credit System.

The spirit of the Christmas season has been alluded to in recent weeks as the Congress finalizes its legislative calendar in anticipation of adjournment for the holiday recess. H.R. 3030 is one such piece of legislation that will be received in the agricultural communities, not as a Christmas gift, but as an opportunity to deter a greater financial crisis in an already besieged economic sector—American agriculture and the financial institutions that serve the family farmer.

The pressures on the Farm Credit System are well known—declining land values, accelerated production costs and depressed food prices. These pressures against the family farm have caused more agriculture borrowers to be driven into bankruptcy and financial collapse. The demand on the farming community has placed a strain on the financial institutions

of the Farm Credit System to the point that insolvency threatens many districts. The conference report before us today will begin to return solvency to those districts.

The conference report on H.R. 3030 will shore up the banking networks that farmers depend on for their livelihood, with a minimum impact on the Federal budget deficit. Protection for borrowers rights will be assured under H.R. 3030 but not at the expense of sound business practices. And I was especially pleased that the conferees accepted my amendment to give local associations the opportunity to join other associations in the same geographical area. This provision will guarantee more flexibility at the local level by allowing producers to consolidate their common commodity interests.

Although I strongly support the conference report, I do so with certain reservations. I would have preferred the House-approved provision mandating organizational changes that would have reduced duplicative functions. I am also concerned about the establishment of the secondary market. Given the fragility of the Farm Credit System, I am not certain the secondary market will not destablize the network further.

But, in spite of these misgivings, I strongly encourage my colleagues to accept the conference report on the Agricultural Credit Act of 1987. This legislation is not a panacea and it does not contain all that I would have wanted. But, this conference report represents highly complex legislative efforts which were carefully scrutinized in conference. This final product is truly a bipartisan effort in the spirit of consensus.

The final approval of the Agricultural Credit Act of 1987 is essential to restoring confidence in the lending institutions that serve the farming community. To do nothing would send ripples throughout the commercial banking sector and the U.S. economy as a whole. This is not the message we wish to send, especially at a time when economic indicators suggest that our farmers are slowly recovering.

I urge my colleagues to approve quickly the conference report on H.R. 3030 and send it to the President for this signature before Christmas.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise today to support approval of the conference report on H.R. 3030, the Agricultural Credit Act of 1987, and to urge my colleagues to do the same.

Since early this year, the Agriculture Committees of both Houses have been debating and contemplating how to address the very serious problems in the agricultural credit sector. After countless days of hearings, markups that went into the wee hours of the morning, and a speedy but exhausting conference, we have emerged with what I must say is a very good bill.

Early this past spring, I asked some of my House colleagues to join me in drafting legislation to address problems with the Farmers Home Administration. In April, Congressmen TIM PENNY of Minnesota, RON MARLENEE of Montana, and TIM JOHNSON of South Dakota joined me in sponsoring H.R. 2340, the FmHA Amendments of 1987.

Our package of FmHA reforms has as its centerpiece the requirement that the Farmers Home Administration restructure delinquent loans, by writing off debt if necessary, when doing so is cheaper than foreclosing the loan and forcing the borrower off the land. We in Congress gave FmHA the authority to do this in the 1985 farm bill, and encouraged them to restructure loans to help farmers. But FmHA has steadfastly refused to use this authority, they have refused to do what other lenders are doing to try to cope with falling land values and a depressed rural economy.

The St. Paul district of the Farm Credit System has probably been the leader in restructuring delinquent loans, and has found that their restructuring program has improved their financial position by restoring many nonpaying loans to accrual status.

In August, the House Agriculture Committee adopted the major provisions of H.R. 2340 as title II of its farm credit package, H.R. 3030. I must say that I was gratified that the committee recognized the problems we had identified and adopted the solution that we recommended. The committee also approved provisions that will require FCS institutions to also restructure loans when doing so is cheaper than foreclosure.

The conference committee has now approved these reforms of the way FmHA and FCS handle distressed loans, and we have the bill before us here today.

Mr. Speaker, I am somewhat concerned about provisions in the bill which would force some mergers of FCS institutions and provide strong incentives for others. FCS borrowers in North Dakota will probably be faced with a vote on whether to merge the St. Paul district with the Omaha district.

If the St. Paul district votes not to merge, its borrowers would be required to fully repay any Federal assistance the district might receive. On the other hand, the entire system would help to repay Federal assistance to any district that merges with another. Since savings could be achieved by mergers, borrowers might be forced to choose between lower interest rates and local control.

While I appreciate that the conferees gave the FCS borrowers a choice, it's not really much of a choice if you're a borrower who needs lower interest rates to survive. I'm afraid that this legislation will take the Farm Credit System even further away from the cooperative principles upon which it was founded. But, given a choice between a Farm Credit System with little local control, and no Farm Credit System at all, I guess we'll take an FCS that will at least continue to provide credit to family farmers in America. But I must say I'm sorry to see the trends toward centralization and impersonalization continue.

I would also like to note the conferees retained two amendments I attached to the bill on the floor of the House. The first requires FCS to report annually on how it is using any savings from Federal assistance in order to reduce interest rates charged to borrowers or to enhance the financial stability of FCS institutions. This amendment will provide an important check on the system to make sure that the bailout really helps farmers, and doesn't just provide comfort to bondholders.

My second amendment, also adopted by the conferees, requires FmHA to report to Congress, before implementing regulations to use risk assessment ratios to screen borrowers, on the effect the regulations would have on current and potential borrowers.

In sum, Mr. Speaker, this bill provides important protections for both FmHA and FCS borrowers, and it guarantees the stock of farmer-borrowers of the FCS. All of us would like to change a word here or a paragraph there, but this is in total a good bill, and it deserves our support. We have a credit crisis out there in rural America, even if it hasn't made the front page of your newspaper lately, and this bill will provide some essential relief none too soon.

I urge my colleagues to adopt the conference report.

Mr. MARKEY. Mr. Speaker, I rise in support of the conference report on H.R. 3030 and ask unanimous consent to revise and extend my remarks.

The Agricultural Credit Act of 1987 has gone through an extraordinary journey to get to where it is today. I want to commend the Members and staff who have worked tirelessly on this legislation, in particular the chairman of the Energy and Commerce Committee, Mr. DINGELL, the chairman of the Banking Committee, Mr. ST GERMAIN, the chairman of the Agriculture Committee, Mr. DE LA GARZA, as well as the ranking minority members of the relevant committees. In addition, I want to commend the Members of the other body who helped fashion this bill. As the chairman of the Subcommittee on Telecommunications and Finance, my involvement has been focused on the securities law aspects in the secondary market provision, and that is where I wish to direct my remarks.

Mr. Speaker, Members have several reasons to be pleased with the bill's new secondary market for agricultural loans. We have addressed the concerns of many in the farming community by spreading the risk of long-term farm mortgages and increasing liquidity for commercial agricultural lenders.

While infusing the farm economy with needed long-term capital, we have also upheld our equally important mission of protecting the investors in these new securities. No action in the securities area takes place in a vacuum, and the startup of Farmer Mac occurs in the midst of the most heightened public focus on our securities markets in the last 50 years. In the last year, insider trading, market manipulation, municipal securities fraud, and a shocking stock market crash have filled the media and gravely threatened the integrity of and public confidence in our financial markets. We must take pains to help restore that integrity and confidence.

The new Farmer Mac securities will be issued subject to the full range of investor protections provided in the Securities Act of 1933 and the Securities Exchange Act of 1934. The registration requirements for securities and the disclosure, reporting and capital requirements for securities brokers and dealers are the pillars of Federal efforts to ensure an informed investing public. The availability of material information and vigilant enforcement by the SEC are critical to the continued participation of the public in our financial markets.

The secondary market proposal has gone through substantial changes since its initial adoption by the House Agriculture Committee in August. The original provision creating Farmer Mac was significantly deficient with respect to the soundness of the newly issued securities and protections for investors. These problems included sweeping exemptions from the Federal and State securities laws in the areas of registration, disclosure, and perhaps even fraud enforcement; a complete absence of lending and underwriting standards; a questionable Federal guarantee; and an explicit expansion of bank powers in contravention of the congressionally mandated moratorium on such expansion.

After the intervention of the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce, along with the cooperation of the administration, the secondary market proposal was strengthened substantially. The Banking and Agriculture Committees added underwriting guidelines for Farmer Mac, limits on the size of loans eligible for the securitized loan pools, firmer Federal credit support for the securities and other measures to bolster the structure of the secondary market. The securities law provisions were amended to bring the Farmer Mac securities within the registration and disclosure requirements of the Securities Act of 1933 and the broker and dealer regulatory provisions in the 1934 Securities Exchange Act.

Upon the completion of the amended secondary market proposal, the House passed H.R. 3030 on October 6, 1987. The Senate passed its version of the Agricultural Credit Act, with its own secondary market proposal, on December 4, 1987, and proceeded to conference with the House.

The House and Senate provisions on the secondary market proposal differed markedly, particularly in the treatment of Farmer Mac securities under Federal and State securities laws. I would like to outline these distinctions, and the reasons for the final conference substitute, a product that provides the strong investor protection provisions I have sought as chairman of the Telecommunitcations and Finance Subcommittee, along with Chairman DINGELL and other members of the Energy and Commerce Committee who served on the conference. All references below are to section 702 of H.R. 3030, which adds a new title VIII to the Farm Credit Act of 1971.

The single most significant difference in the securities area is that the Senate would have exempted Farmer Mac securities from the Federal securities laws to the same extent as currently exempted Government securities, while the House bill afforded full coverage under the securities laws. The conference substitute adopts the House provision.

The decision by conferees to adopt the House language on the Federal securities laws, including the language stating that no Farmer Mac security will be deemed a "Government security" for purposes of the Securities Exchange Act of 1934, or for purposes of the Investment Company Act of 1940, is important for several reasons. First, the issuers of these securities must now comply with the dictates of the 1933 Securities Act. These include the mandatory disclosure to the public of detailed information in registration statements and civil liability for misstatements or omissions in registration statements or for offers or sales of securities not registered properly under section 5 of that act.

The inclusion under the Federal securities laws also brings the brokers and dealers for Farmer Mac securities within the 1934 act regulations for brokers and dealers. These requirements include the net capital rules to assure the financial health for brokers and dealers, rules on the segregation of customers' funds and securities, and procedures for handling the claims of customers whose brokers become insolvent. These regulations of brokers and dealers in conventional securities go beyond those for Government brokers and dealers by imposing ongoing reporting requirements not required of Government dealers.

The conference substitute's acceptance of the House provision on Federal securities laws is a recognition of the differences between Farmer Mac securities and Government agency securities.

First, agricultural loans are inherently riskier than the residential mortgages which back the loan pools securitized through Ginnie Mae and other similar Government agencies. The borrowers of these agricultural loans all derive their income through the farm economy, unlike borrowers of conventional mortgages, whose income sources are from diverse sectors of the economy. Second, unlike Ginnie Mae, the loans in the Farmer Mac securitized loan pools are not themselves guaranteed and the securities are not backed by the full faith and credit of the United States. Furthermore, unlike Freddie Mac, the Farmer Mac loan pools will be pooled by private third parties, not by the agency itself. Under the Freddie Mac statute, the agency is permitted to authorize private third-party pooling, but such pooled securities are not exempt from securities registration requirements. Finally, the guarantee under Farmer Mac is a more limited one than for other Government securities. Farmer Mac is liable for 90 rather than 100 percent of the loan amount, while the investor must first look to a 10-percent loan reserve or retained subordinated interest by the third party. For all these reasons, Farmer Mac securities will not be designated "Government" securities and will require a more stringent level of SEC oversight.

There was a considerable discussion among conferees about the potential additional costs of Farmer Mac securities due to the enhanced regulatory powers given to the SEC under the House provision. However, conferees noted the letter of December 16, 1987, from Secretary of the Treasury James A. Baker III to conference member Senator LUGAR, which stated that in the Treasury Department's "seriously considered view . . . any resulting increased cost would be insubstantial and would certainly not jeopardize the overall viability of the secondary market." This letter was a persuasive factor for conferees, who chose to accept the House approach, while at the same time seek a future report from the Treasury on the price differential between Farmer Mac securities and Government agency securities.

At this point, I would like to include a copy of Secretary Baker's letter:

THE SECRETARY OF THE TREASURY,
Washington, DC, December 16, 1987.

Hon. RICHARD G. LUGAR,
U.S. Senate,
Washington, DC.

DEAR DICK: I understand that Chairman Dingell and the other Energy and Commerce conferees have issued or are about to issue a counteroffer to the "staff compromise" on those portions of the secondary market title of the farm credit legislation within the Energy and Commerce conferees' jurisdiction. I am writing to urge in strongest terms that you vote to accept the House conferees' offer.

Before discussing the reasons why the Department is so insistent in its support of the House offer, I want to point out and express my appreciation for how far both the Congress and the Administration have come in fashioning a workable secondary market for securitized farm mortgages. As you know, the Department opposes the creation of a federally subsidized secondary market for a variety of reasons; nonetheless, we pledged to you and others in Congress developing this legislation to work constructively to attain a viable provision. I am convinced not only that we in the Department have lived up to our pledge, but also that the resulting secondary market language is a vast improvement.

There remains, however, one very significant problem which arose in the "staff compromise" developed in the early hours of Tuesday, December 15: the designation of the securities as "government securities" for purposes of certain federal securities laws. This designation would be seriously detrimental not only to the interests of investor protection, but also to what I believe is our shared interest in minimizing federal budgetary exposure and liability. I have been informed that official of the SEC have begun to communicate their concerns on the issue of investor protection, and that an SEC representative will be present when the Conference resumes. For our part, Assistant Secretary Sethness will attend the Conference and be available to explain the Department's very grave concerns. We are well aware of the opposing arguments about reducing the cost of the securities and thereby ensuring a viable secondary market; let me respond simply by asserting that it is the Department's seriously considered view that any resulting increased cost would be insubstantial and would certainly not jeopardize the overall viability of the secondary market.

I will close by emphasizing that I understand very well that the essence of any House-Senate Conference, as well as of Congressional-Administration relations, is compromise. Our request here is very mindful of that essential characteristic; in fact, of the six points at issue within their jurisdiction, the House conferees' offer would recede outright to the Senate on two points, and would recede with amendment on two others.

Because we, but especially you, have come so close to attaining a positive and workable provision, and in that spirit of compromise, I urge you most strongly to vote to accept the House offer.

Sincerely,

JAMES A. BAKER III.

On another important issue, the conferees agreed to eliminate all language in the Senate amendment which would have either implicitly or explicitly expanded the powers of banks by permitting them to underwrite, purchase, and

sell these Farmer Mac securities. In March 1987, in the Competitive Equality Banking Act of 1987, Congress enacted a 1-year moratorium on any expansion of bank powers by Federal regulators. That moratorium expires on March 1, 1988. The conferees agreed that any change in the Glass-Steagall status quo regarding bank powers would be inconsistent with the moratorium. The most effective means of maintaining this status quo was to remain silent in the statutory language.

Another of the key issues in the House-Senate conference was the application of State securities laws to Farmer Mac issues. The House would have treated these securities as any other conventional securities, while the Senate would have preempted any State securities registration requirements unless States acted affirmatively within 3 years after the date of enactment of this act. The conferees agreed to permit the States to act affirmatively within an 8-year period. This conference substitute was enacted to give the States the additional time they need to evaluate these new Farmer Mac securities and make the informed decisions they need to with regard to their own regulatory treatment of these securities. As the conference report indicates, the purpose of this provision is "not to prevent the States from providing investor protections." Indeed, such investor protections would be expected and encouraged in light of the Federal regulatory treatment of these securities under this act.

The conferees reached agreement in several other areas, all of which are accurately reflected in the conference report: These include the provisions of Federal court jurisdiction and the dictate that State laws that limit the ability of the public to purchase or invest in Farmer Mac securities may not affect contractual commitments to purchase or invest in securities made prior to the date of enactment of this legislation.

In summary, Mr. Speaker, the conference substitute on the securities law elements of the secondary market, as well as the entire secondary market proposal itself, marked a solid accomplishment which benefits our farm economy while ensuring the maximum regulatory protection for the investing public. I urge my colleagues to adopt the conference report on H.R. 3030.

Mr. MADIGAN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I rise in support of the bill, and I would say to the House that I think the funding mechanism in this bill is much better than in the House-passed bill. The safeguards against throwing good money after bad are much better in this bill than in the House-passed bill. I think this is a good bill for the Farm Credit System and for the farmers of America.

Mr. Speaker, I urge all the Members to support the conference report.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to all those who have labored on this legislation, and I would hope that we will send a message to rural America and those who supply the food and fiber for all of us that we care. This is a modest step but nonetheless a very positive step that we take so that we may assist our farmers in their plight.

Mr. Speaker, with that I ask the Members to support the conference report.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 18, not voting 50, as follows:

[Roll No. 499]

YEAS—365

Akaka	Conte	Gejdenson
Alexander	Conyers	Gekas
Andrews	Cooper	Gibbons
Annunzio	Coughlin	Gilman
Anthony	Courter	Glickman
Applegate	Coyne	Gonzalez
Atkins	Craig	Goodling
AuCoin	Daniel	Gordon
Baker	Darden	Gradison
Ballenger	Daub	Grandy
Barnard	Davis (IL)	Grant
Bartlett	Davis (MI)	Gray (IL)
Barton	de la Garza	Gray (PA)
Bateman	DeFazio	Green
Bennett	Dellums	Guarini
Bentley	Derrick	Gunderson
Bereuter	DeWine	Hall (TX)
Berman	Dickinson	Hamilton
Bevill	Dicks	Hammerschmidt
Bilbray	Dingell	Hansen
Bilirakis	Dixon	Harris
Bliley	Donnelly	Hastert
Boggs	Dorgan (ND)	Hatcher
Boland	Dornan (CA)	Hayes (IL)
Bonior	Downey	Hayes (LA)
Bonker	Dreier	Hefley
Borski	Duncan	Hefner
Boucher	Durbin	Henry
Boulter	Dwyer	Herger
Boxer	Dymally	Hertel
Brennan	Dyson	Hiler
Brown (CA)	Eckart	Hochbrueckner
Brown (CO)	Edwards (CA)	Holloway
Bruce	Edwards (OK)	Hopkins
Bryant	Emerson	Horton
Buechner	English	Howard
Bunning	Erdreich	Hoyer
Burton	Espy	Hubbard
Bustamante	Evans	Hughes
Callahan	Fascell	Hunter
Campbell	Fazio	Hutto
Cardin	Feighan	Hyde
Carper	Fields	Inhofe
Carr	Fish	Ireland
Chandler	Flake	Jacobs
Chapman	Flippo	Jeffords
Cheney	Foglietta	Jenkins
Clarke	Foley	Johnson (CT)
Clinger	Ford (MI)	Johnson (SD)
Coats	Ford (TN)	Jones (NC)
Coble	Frenzel	Jones (TN)
Coelho	Frost	Jontz
Coleman (MO)	Gallegly	Kanjorski
Coleman (TX)	Gallo	Kaptur
Collins	Garcia	Kasich
Combest	Gaydos	Kastenmeier
Kennelly	Nagle	Skeen
Kildee	Natcher	Skelton
Kleczka	Neal	Slattery
Kolbe	Nelson	Slaughter (NY)
Konnyu	Nichols	Slaughter (VA)
Kostmayer	Nowak	Smith (FL)
Kyl	Oakar	Smith (IA)
Lagomarsino	Oberstar	Smith (NE)
Lancaster	Obey	Smith (NJ)
Lantos	Olin	Smith (TX)
Latta	Ortiz	Smith, Denny (OR)
Leach (IA)	Owens (NY)	Smith, Robert (OR)
Leath (TX)	Owens (UT)	Snowe
Lehman (CA)	Oxley	Solarz
Lehman (FL)	Packard	Solomon
Leland	Panetta	Spence
Levin (MI)	Parris	Spratt
Levine (CA)	Pashayan	St Germain
Lewis (CA)	Patterson	Staggers
Lewis (FL)	Pease	Stallings
Lewis (GA)	Pelosi	Stangeland
Lightfoot	Penny	Stark
Lipinski	Pepper	Stenholm
Livingston	Perkins	Stokes
Lott	Petri	Stratton
Lowery (CA)	Pickett	Studds
Lowry (WA)	Pickle	Stump
Lujan	Porter	Sundquist
Luken, Thomas	Price (IL)	Sweeney
Lukens, Donald	Price (NC)	Swift
Lungren	Pursell	Synar
Mack	Rahall	Tallon
Madigan	Ravenel	Tauke
Markey	Ray	Tauzin
Marlenee	Regula	Taylor
Martin (IL)	Rhodes	Thomas (CA)
Martin (NY)	Richardson	Thomas (GA)
Mavroules	Ridge	Torres
Mazzoli	Rinaldo	Towns
McCandless	Ritter	Traxler
McCloskey	Roberts	Udall
McCollum	Robinson	Upton
McCurdy	Rodino	Valentine
McDade	Roe	Visclosky
McEwen	Rogers	Volkmer
McGrath	Rose	Vucanovich
McHugh	Roukema	Walgren
McMillan (NC)	Rowland (CT)	Watkins
McMillen (MD)	Rowland (GA)	Waxman
Meyers	Roybal	Weber
Mfume	Sabo	Weldon
Michel	Saiki	Wheat
Miller (CA)	Savage	Whittaker
Miller (OH)	Saxton	Whitten
Miller (WA)	Scheuer	Williams
Mineta	Schneider	Wilson
Moakley	Schroeder	Wise
Molinari	Schuette	Wolf
Mollohan	Schulze	Wolpe
Montgomery	Sensenbrenner	Wyden
Moody	Sharp	Wylie
Moorhead	Shays	Yatron
Morella	Shumway	Young (AK)
Morrison (WA)	Shuster	
Mrazek	Sikorski	
Murphy	Sisisky	
Myers	Skaggs	

NAYS—18

Anderson	DeLay	Smith, Robert (NH)
Archer	DioGuardi	Swindall
Armey	Fawell	Walker
Bates	Frank	Yates
Beilenson	Kennedy	
Crane	Nielson	
Dannemeyer	Schumer	

NOT VOTING—50

Ackerman	Gregg	Quillen
Aspin	Hall (OH)	Rangel
Badham	Hawkins	Roemer
Biaggi	Houghton	Rostenkowski
Boehlert	Huckaby	Roth
Bosco	Kemp	Russo
Brooks	Kolter	Sawyer
Broomfield	LaFalce	Schaefer
Byron	Lent	Shaw
Chappell	Lloyd	Torricelli
Clay	MacKay	Traficant
Crockett	Manton	Vander Jagt
Dowdy	Martinez	Vento
Early	Matsui	Weiss
Florio	Mica	Wortley
Gephardt	Morrison (CT)	Young (FL)
Gingrich	Murtha	

□ 1830

Mr. SWINDALL changed his vote from "yea" to "nay."

Mr. CHENEY changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1845

DIRECTING THE FEDERAL ENERGY REGULATORY COMMISSION TO ISSUE AN ORDER WITH RESPECT TO DOCKET NO. EL-85-38-000

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 519) to direct the Federal Energy Regulatory Commission to issue an order with respect to Docket No. EL-85-38-000, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 6, line 16, after "law." insert: "Nothing contained in this Act requires the Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusions of the study required by this section.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, and I do not intend to object, I wish to give the gentleman from Indiana an opportunity to explain the Senate amendment.

Mr. SHARP. Mr. Speaker, this is a piece of legislation that has the unanimous concurrence of Members on both sides of the aisle. It derives from the skillful work of the gentleman from Idaho [Mr. STALLINGS] and the other gentleman from Idaho [Mr. CRAIG], Senator MCCLURE, and our committee.

Basically, this resolves a petition that has been pending for 3 years at FERC relative to a settlement agreement aimed at enhancing the resolution or adjudication of water rights in the Snake River in Idaho. In addition it calls for a broad fish and wildlife study of the issues involved.

The amendment adds a one sentence disclaimer to the House-passed bill that was agreed to through discussion with Senator MCCLURE and Congressman STALLINGS and Chairman DINGELL, and myself. The disclaimer which the Senate adopted is consistent with the House-passed bill. While it makes it clear that this bill does not require FERC action upon consideration of the results of the study, but, of course, it does not preclude FERC action under the Federal Power Act and other applicable law. This bill provides no new authority. I have no problem with the Senate addition and I urge its adoption.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I rise in support of H.R. 519 as amended by the Senate amendment. This bill was approved by unanimous voice vote of both the Subcommittee on Energy and Power and the full Committee on Energy and Commerce.

The purposes of the legislation are narrow and affect only certain hydroelectric facilities on the Snake River in Idaho. Under H.R. 519 the Federal Energy Regulatory Commission would be required to issue an order, pursuant to the Federal Power Act, providing that a water rights settlement entered into in 1984 by the State of Idaho and the Idaho Power Co. shall not be considered to be consistent with the terms and conditions of the licenses relating to the retention of project properties.

H.R. 519 would also direct the licensee and interested agencies to negotiate an agreement to protect fish and wildlife resources located in and around the Snake River. Of particular concern is maintaining adequate river flows for the Deer Flat National Wildlife Refuge.

I am not aware of any opposition to this bill, and I urge its speedy enactment by this House.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise today to voice my support for the amended version of H.R. 519, a bill known as the Swan Falls Water Rights Agreement. Enactment of this bill will resolve major issues concerning existing and future uses of resources on the Snake River. I would like to take this opportunity to thank the chairman of the Committee on Energy and Commerce, Mr. DINGELL, and Senator MCCLURE, on amending H.R. 519 to see that all parties concerned with this legislation are satisfied. Mr. Speaker, when this bill came to the floor under suspensions on November 9, I voiced my concern that there could exist interpretive differences between the bill and the House report, which had not had wide discussion and understanding at that time.

With the assistance or Mr. DINGELL and Senator MCCLURE, an amendment was added that clarified the intent of the bill; I quote:

Nothing contained in this act requires the Federal Energy Regulatory Commission to take any action pursuant to such consideration, or authorizes or grants the Commission any authority to take any action, based upon the findings, recommendations, results, or conclusion off the study required by this section.

Mr. Speaker, it was the understanding of all parties associated with the bill, the State of Idaho, private interests, environmental groups, and Federal agencies, that the bill would remain neutral regarding FERC's jurisdiction over water rights issues. The agreement was that no one was to obtain an advantage through this legislation regarding FERC jurisdiction. This amendment clarifies that intent. The adjudication of water in the Snake River must remain a right of the State of Idaho and not the Federal Government.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, I appreciate the gentleman from California [Mr. MOORHEAD] yielding to me at this time.

As the chief sponsor of this legislation, I agree completely with the amendment. I appreciate the work of the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce. He has been a great help to me in this legislation. I also appreciate the work of Senator MCCLURE in working up this amendment with me that seems to satisfy the various parties. This is an important piece of legislation for the State of Idaho and I appreciate the expedited effort that has been undertaken by Subcommittee Chairman SHARP and Congressman MOORHEAD.

Mr. Speaker, I include for the RECORD a letter dated December 18, 1987, addressed to Hon. JOHN D. DINGELL, from Senator MCCLURE and myself urging the amendment we are now adopting. The letter follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, December 18, 1987.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR JOHN: We appreciate your recent letter responding to several questions about H.R. 519 as it passed the House. The answers were very helpful in resolving Idaho's concerns.

We think the enclosed disclaimer is consistent with your responses. As you have indicated in discussions with us, no one can predict what will result from the study and thus you are not interested in making it binding on anyone. We agree. The enclosed provision, to be added by the Senate, helps to make that clear, while not limiting the study in any way.

We hope you will agree so we can gain enactment this year.

Sincerely,

JAMES A. MCCLURE,
Ranking Minority Member,
RICHARD H. STALLINGS,
Member of Congress,
House of Representatives.

Mr. STALLINGS. I urge adoption of the amendment and the bill.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SHARP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO LAY HOUSE RESOLUTION 336 ON THE TABLE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent to lay House Resolution 336 on the table.

The SPEAKER pro tempore (Mr GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AUTHORIZING THE SPEAKER TO EXTEND AND REVISE HIS REMARKS

Mr. PEASE. Mr. Speaker, I ask unanimous consent that the Speaker be permitted to extend his own remarks in the body of the RECORD immediately following the vote on the Journal today.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Ohio?

There was no objection.

FADA'S PERFORMANCE AT VERNON SAVINGS—A DISAPPOINTING AND EXPENSIVE NINE MONTHS

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, for the past 5 months the Banking, Finance and Urban Affairs Committee has been actively looking at the performance of the Federal Asset Disposition Association [FADA] and the $5.3 billion of assets under its control. Two criteria for grading FADA's overall performance seem clear—the cost and quality of FADA's asset management services.

We are becoming increasingly concerned that FADA is failing in its mission to recover the maximum from troubled and failed institutions. In fact evidence is mounting that FADA is wasting rather than saving resources for the Federal Savings and Loan Insurance Corporation [FSLIC].

The latest case history—a very big case history—involves Vernon Savings and Loan in Texas. Only one entity—FADA, itself—seems satisfied with FADA's performance. The list of those unhappy with the cost and performance of FADA's operations at Vernon includes:

Members of Vernon's Board of Directors under the Management Consignment Program [MCP].

FSLIC officials.

Federal Home Loan Bank of Dallas [Dallas Bank] officials.

Officers of Vernon and the San Antonio Savings Association which were responsible for the overall operation of Vernon in the MCP program.

Outside legal counsel and consultants.

From the evidence amassed by the committee's investigators, there is ample reason for the unhappiness. Among the complaints have been charges that, first, FADA was awarded an exclusive contract to manage Vernon's assets without proper consideration of the cost or quality of FADA's services, second, FADA's compensation was excessive, eventually reaching $5.3 million for asset management services alone, third, FADA was not timely in preparing for key decision points, fourth, FADA attempted to circumvent established reporting channels, and fifth, FADA refused to support Vernon litigation efforts.

Mr. Speaker, an internal memorandum from the Dallas Bank reflects the sentiments of the Vernon Board of Directors—a Board installed by the Dallas Bank and approved by the Federal Home Loan Bank Board [FHLBB]. I quote:

"Vernon management is not satisfied with FADA's performance to date and characterized management's frustrations in this regard as: Paranoia by FADA personnel, lack of accountability for costs, insufficient reporting, poor client relations, questionable quality and organizational dysfunction."

Several members of the Vernon Board talked with committee investigators, reiterating the sentiment expressed in the Dallas Bank's internal memo. They told the committee that firing FADA had been considered. One told the committee staff:

It is a real strange kind of a situation that we are working with, having an asset manager operating as a contractor for us even though we are unable to contract with FADA for services we want. In the private sector if the contractor doesn't perform we fire them, except in this situation we can't.

FADA'S SELECTION AS ASSET MANAGER FOR VERNON

On March 20, 1987, the Texas State Commissioner closed Vernon and the Bank Board placed Vernon in the MCP Program. Shortly before designating Vernon an MCP case, the Dallas bank and the Bank Board contacted San Antonio Savings Association on behalf of Vernon and eventually a contract was awarded to provide a management team to guide daily operations. At this time, the Bank Board and the Dallas Home Loan Bank also awarded FADA a contract to manage Vernon's assets.

It is important to note that neither the newly appointed Board of Directors of Vernon or Vernon's president and the chief operating officer had any input into the selection of FADA. Committee investigators were informed that the selection of FADA was made by the president of the Dallas Bank in conjunction with the chairman of the FHLLB. It is well known that FADA lobbied for a significant role in the MCP Program. Apparently, no other input was sought from the Dallas bank staff overseeing Vernon.

As a result, an exclusive contract to manage Vernon's $1.3 billion portfolio was awarded without any effort to solicit bids (or even consider bids) from other asset management entities. If other Government agencies are criticized for awarding contracts without going out to bid, why should the bank board go unquestioned? FADA has now been the primary asset manager for Vernon for over 9 months.

FADA'S CONTRACT WAS EXCESSIVE

As part of its broad inquiry into FADA's operations and performance, committee investigators made a limited review of FADA's activities under its contract with Vernon. The scope of the committee's inquiry included interviewing the key personnel involved from all sides of this contract. This included officials of the Dallas Bank; two members of Vernon's board of directors; several past and present officials of Vernon and San Antonio Savings Association, the association with overall responsibility for Vernon in the MCP Program.

Committee staff also interviewed the Deputy Commissioner of the Texas Savings and Loan Department, a member of FADA's Board of Directors, several FADA officials, and outside legal counsel and consultants.

One comment repeated time and time again to committee investigators was that FADA's compensation was excessive. Vernon Board members quickly cautioned that they were not

responsible for establishing the compensation scale, noting again that the contract with FADA was negotiated by the FHLBB without the input of the newly selected Vernon management team. Other interviewees advised committee staff to compare FADA's compensation with that of other asset management entities.

As of September 30, 1987, FADA had billed Vernon a total of $5.3 million for asset management services, and the current monthly billing was $1.3 million. Of this amount, over $1.5 million (over a half million monthly) was directly related to subcontractors, even though FADA maintains a staff of 88 employees at Vernon. These costs were passed on directly to Vernon under FADA's contract in addition to its standard cut of all assets managed.

Legal costs, under the direction of FADA added another $5.4 million to the loss that FSLIC will experience. In total, through September 30, 1987, FADA had directed billings to Vernon of over $10.7 million.

With the amount of money being spent at FADA's direction, one would expect that the quality of professional services being provided to Vernon were truly superb. Unfortunately, the evidence indicates this is not the case.

FADA'S PERFORMANCE AT VERNON

In summary, the officials we interviewed, other than FADA officials, were not satisfied with the services being performed by FADA. Vernon board members and officials were asked by committee investigators if they had ever considered firing FADA. Several of the interviewees confided in committee staff that firing FADA was considered, and that if a receivership action for Vernon was not in the works, removing FADA would have received far greater discussion.

FADA'S PERFORMANCE IN THE PREPARATION OF BUSINESS PLANS

As an asset management contractor for a large portfolio of nonperforming assets, one of FADA's primary responsibilities is to prepare timely preliminary and final business plans. The timely preparation of business plans is essential because these documents provide essential information on the assets' valuation and recommended strategies on the management, marketing and disposition of assets. According to a September 20, 1987 FADA report entitled "Significant Accomplishments at Vernon," FADA has submitted 15 asset business plans to Vernon for review. In contrast, the Vernon board of directors minutes dated September 24, 1987 revealed that "no final business plans have yet been delivered."

One Vernon board member interviewed by staff questioned if 15 asset business plans had actually been presented. But he said even if FADA had presented all 15 business plans, ultimately he was not satisfied and "would like to have recommendations faster than that." He was concerned enough to address the issue to FADA president Roslyn Payne as late as September 30, 1987. He told her to pick up the pace and provide the necessary data to the board on a timely basis.

He emphasized that given the severity of the situation at Vernon, the board needed information from FADA in order to make timely critical decisions on assets. However, according to a Dallas bank document "FADA asset managers indicated that they prefer to have more information available than may reasonably be necessary in order to assure that all the bases are covered and the risk of criticism and liability is lessened." This sounds like a Government bureaucrat speaking, not the private sector real estate experts [FADA] hired to replace them.

FADA's September 20 report on its accomplishments at Vernon also stated that they had "delivered all 672 preliminary business plans within 90 days." This statement is in direct conflict with a FADA official's statement at a Vernon board meeting on July 22, 1987, 122 days after the institution was closed. One of FADA's own portfolio managers stated that "FADA has delivered approximately one-third of the preliminary business plans to the association."

At the same time the portfolio manager also stated that "FADA would begin delivering asset business plans toward the end of 6 months." In fact it wasn't until August 27, 1987, 157 days after FADA's services were engaged that Vernon's board minutes reflect that "all preliminary business plans have been delivered by FADA." It should be noted that this timeframe does not include the 1½ months that FADA was involved in Vernon as asset advisor prior to Vernon's first closing.

COOPERATION AND COMMUNICATION BETWEEN FADA AND VERNON

Committee staff was consistently told that FADA was less than cooperative and communicated poorly, if at all, to Vernon management. In fact, one official said that FADA was even "* * * unable to communicate with itself." One board member made the following observation:

"Communication and cooperation could be improved. There has been some reluctance on FADA's part to cooperate, possibly stemming from FADA's desire to operate autonomously at Vernon."

Another example, resulting in great waste and inefficiency, was FADA's refusal to sign legal documents regarding the management of assets. Despite legal opinions provided by the Bank Board, FSLIC, and Dallas Bank, since May 1987, FADA has asserted that it does not have legal signature authority under their asset management contract.

Instead of cooperating in the best interests of Vernon and the FSLIC insurance fund, FADA resorted to gamesmanship. It proposed numerous amendments to its contract over 6 months to overcome the signature authority problem, but in each new draft attempted to win new authority and concessions for itself. The result was a costly standoff. As of October 29, 1987, 8 months into their engagement, FADA has still refused to cooperate with Vernon and its counsel in prosecuting or defending all litigation or threatened litigation regarding asset management. According to one Vernon board member, FADA has to "start participating now in litigation * * * FADA people are the only ones with detailed knowledge of what is going on. They have to sign depositions and make themselves available for testimony, but they refuse to do it."

THE BANK BOARD FACES A CRITICAL DECISION

Mr. Speaker, reviewing FADA's performance at Vernon is critical now in light of the bank board's long overdue action placing Vernon in a liquidating receivership on November 20, 1987. This action was necessary to reduce the huge operating losses being incurred—estimated at $15-$20 million per week—and to block the ever-increasing exposure to the FSLIC insurance fund. Vernon is the third largest institution to be placed in a liquidating receivership by FSLIC and the projected loss to FSLIC is the largest to date. Vernon's $1.3 billion in total assets is 25 percent of the assets under FADA's control.

A decision is pending at the bank board on whether FADA should remain as asset manager under contract with the Vernon receivership. It is essential that the guiding criteria for this decision be maximizing the recovery for FSLIC. If FADA is not the vehicle to carry out this assignment, it is incumbent on the Bank Board to so state. The public interest demands no less.

BECAUSE OF THEM, I AM FREE

(Mr. CARPER asked and was given permission to address the House for 1 minute.)

Mr. CARPER. Mr. Speaker, recently the noncommissioned officer leadership school at Tyndall Air Force Base graduated a young man from my State, the city of Wilmington in Delaware. That young man has won the Americanism Essay Award contest. His name is Sgt. Troy Watkins, who is associated with the 325th Transportation Squadron at Tyndall Air Force Base.

His essay is entitled "Because of Them, I am Free." I think in that essay he has articulated what it means to be a citizen in this country, and not only his own thoughts but the

thoughts of those who served there with him and thoughts I think that all of us would take to heart and share as well.

Mr. Speaker, I include for the RECORD a copy of the essay written by Sergeant Watkins entitled "Because of Them, I am Free."

BECAUSE OF THEM, I AM FREE

This is my country * * *
These words I state with pride.
It's a feeling of knowing God's blessings
are glowing in this land where freedom rides.
Its journey has been continuous,
throughout the test of time.
Its streaming light reserves the right,
for all to speak their mind.
Many have died to keep alive,
this freedom of our nation.
Their unselfish acts are documented facts,
of gallantry and dedication.
They've crossed the sea,
for you and me,
to prevent her deprivation.
I'd like to express,
to those who rest,
my respect and admiration.
My thoughts of them intensify,
each time our flag is praised;
because I know, I too may go to fight,
where "Old Glory" isn't raised.
These feelings I express right now,
are just too hard for some.
But as a man, I must understand,
many have died for freedom.
Through history, I've come to know them;
they all seem so very proud.
They believed in taking the lead,
although death was calling loud.
America is my homeland,
her ways instilled in me.
My feelings of sharing, and feelings of caring,
stem from her history.
She has my devotion,
for she has shown to me,
the meaning of love, the meaning of life * * *
and why she still stands free.

WHAT IS HAPPENING IN HAITI?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

Mr. OWENS of New York. Mr. Speaker, by the time the 2d session of this 100th Congress convenes in January, the fate of the Haitian people will have been decided. Events are moving rapidly in Haiti despite the fact that they are not now on our front pages. The four leading Haitian Presidential candidates, Sylvio Claude, Gerard Gourgue, Louise Dejoie, and Marc Bazin, on Wednesday issued a joint statement calling for the military junta to step down in favor of a civilian government that would steer the country to free elections. Our State Department has stated that they want to know what the Haitian people want to do. I think these leaders reflect 90 percent of the Haitian people who voted for the constitution and for a course which would lead them into free elections. In this statement which was read over Haiti's radio stations, the four candidates said "We no longer recognize the present governing national council as a moral and political authority capable of defending the country, organizing elections and guaranteeing security. We ask that it resign to permit the country to get back on the path to democracy and progress."

In an interview Wednesday with the Associated Press, Dejoie said the proposed civilian government would be assisted by a cabinet comprised of prominent Haitians nominated by the nine groups the constitution authorized to appoint the original electoral council.

This same electoral council was the one which the military government illegally dissolved on November 29.

Dejoie also calls for foreign nations to withdraw diplomatic recognition of the ruling military government. He told the Associated Press that it is up to foreign governments to decide not to recognize a regime which is not recognized by more than 8 percent of the Haitian people.

The military government continues along its way uninterrupted, of course.

The junta on Wednesday issued a decree saying that the government-appointed supreme court, not the provisional electoral council, will be the highest authority on election issues. General Namphy, the leader of the military government, also accused Haiti's Catholic Church, the same church which has encouraged broad participation in the election, of meddling. He accused them of meddling with politics. Namphy added that although he is a Catholic, "I no longer respect priests."

One can take that remark as a signal to a new terror campaign against the Catholic Church.

□ 1900

Mr. Speaker, I include this article which appeared in the New York Times which quotes Mr. Namphy, and also one from the Washington Times.

The articles referred to follow:

[From The New York Times, Dec. 16, 1987]

HAITIAN GENERAL LASHES OUT WIDELY

POLITICIANS, CHURCH AND U.S. AMONG LEADER'S TARGETS

(By Joseph B. Treaster)

PORT-AU-PRINCE, HAITI, December 15.—Lieut. Gen. Henri Namphy, the head of the provisional Government, has disavowed all responsibility for the massacre that disrupted Haiti's presidential elections two weeks ago and disparaged the Roman Catholic Church, Haitian political leaders and the civilians who organized the election.

In an interview published in a French newspaper today, General Namphy referred to the competing political forces in Haiti as a "basket of crabs" and charged that "foreign countries" had "financed the disorder here."

Except for a formal communiqué, the remarks in the left-of-center French daily Libération were the first by the 55-year-old general on the aborted election in which thugs in civilian clothes and soldiers attacked polling places and at least 34 people were killed.

In the interview, which was conducted last Friday at the general's walled home a few miles north of the capital, General Namphy seemed to confirm the widespread suspicion that regardless of who wins the second attempt at elections, which the general has scheduled for Jan. 17, the army will remain dominant.

NAMES HIMSELF COMMANDER

"The armed forces will guarantee in the future the setting up of the pedestal for democracy," General Namphy said. "That is why for three years we will assume the position of Commander in Chief of the armed forces as the Constitution provides."

General Namphy, who was already de facto commander of the armed forces, gave no explanation when he convened a ceremony last month to formally name himself Commander in Chief.

Many Haitians said they believed the intent of the Constitution was to give a newly elected civilian President the authority to choose his chief army officer and that by taking action as head of the provisional Government General Namphy was presenting an insuperable challenge to the next chief of state.

General Namphy charged the nine-member civilian council that organized the elections with responsibility for the violence that forced the halting of the elections, partly because, in keeping with the Constitution, the council had rejected the presidential candidacies of 12 former associates of the Duvalier dictators.

These candidates "reacted," he said, "and everyone pretends to be astonished and blames the army."

"It is too easy."

"FOREIGN COUNTRIES" ACCUSED

He said that "foreign countries financed and supported electoral tricks and schemes" by the council and that "foreign countries" had tried through the council "to designate the President of Haiti."

At one point he asked rhetorically, "What did Haiti do to the United States to deserve this?"

The United States took the lead, among several countries including Canada and France, in supporting the elections and provided more than $10 million in financial help.

A United States official denied General Namphy's charges, adding: "The disorder seems to have been caused by persons opposed to the electoral process. We supported the electoral process."

General Namphy accused the Catholic Church in Haiti, which had encouraged broad participation in the election, "of meddling with politics" and said that although "I am a Catholic, I no longer respect priests."

[From the Washington Times, Dec. 18, 1987]

HAITI'S TRY FOR DEMOCRACY GIVEN SLIM CHANCE BY U.S.

(By James M. Dorsey)

Presidential and legislative balloting set for next month by Haiti's military-dominated government will not constitute free and fair elections, according to administration officials.

The officials cautioned, however, that the State Department may refrain from exerting too much pressure on the head of Haiti's Council of National Government, Lt. Gen. Henri A. Namphy, in order to maintain relations with the military and any new president elected under military auspices.

Officials of the Agency for International Development told a Senate Foreign Relations subcommittee this week they believe the Reagan administration should not legitimize the Jan. 17 elections by sending observers.

AID provided much of the funds for the original Provisional Electoral Council's budget. The council—established under a constitution adopted by referendum in March—was disbanded last month hours after gunmen and soldiers suppressed Haiti's first democratic elections ended in an orgy of violence that left 34 persons dead.

Dwight A. Ink, AID's assistant administrator for Latin America and the Caribbean, said the United States would resume economic and military aid to Haiti only if free and credible elections are held. U.S. aid amounting to $59 million was suspended in the wake of the Nov. 29 violence.

Humanitarian aid through private and non-governmental organizations would continue, Mr. Ink said.

"Our actions in suspending assistance to the government of Haiti is a strong signal of the U.S. government's desire to pursue democratization in Haiti," Mr. Ink said. "We believe the question of whether aid to the government can be resumed in the future depends on whether Haiti proceeds with elections which are credible to the Haitian people."

Asked by Sen. Christopher Dodd, Democrat of Connecticut, if the newly scheduled elections could be free and fair, Marilyn Zak, deputy director of AID's Caribbean Bureau, said: "In my opinion, no."

Officials said the State Department was attempting to keep its options open in Haiti by "striking a balance between the government and the [original] electoral council."

They said the State Department was distributing the blame for last month's foiled election equally between the government and the electoral council and deliberately maintaining a low posture in monitoring preparations for next month's poll.

State Department officials declined to express an opinion on the constitutionality or legality of the new Haitian election plan. Whatever arrangements are made must be acceptable to the Haitian people, they said.

The officials said the administration is watching what the Haitian people say and do. No decision has been made on whether the United States will support or send observers to any new elections, they said.

The Haitian government appointed a new electoral council a week ago whose nine members include at least three government employees, a retired government worker, two teachers and two lawyers.

The four leading presidential candidates in last month's aborted election have demanded that the original council be reinstated or they will boycott next month's elections.

On Wednesday, the four again urged Haitians to boycott the polls, with one predicting the action would be 90 percent effective.

"The new electoral board, handpicked by the government, won't be fair. We won't vote. We'll have to think of some other way," declared candidate Louis Dejoie.

Richard Beeston contributed to this article, which is based in part on wire service reports.

Mr. Speaker, I represent the largest Haitian-American population in the United States and many Haitian-Americans in the 12th Congressional District felt the shock of the November 29 violence. Many still have relatives and friends on the Island. Several of my Haitian-American constituents informed my congressional district office of those people they knew of or heard about who were victims of that violence. Among the victims were: Arbain Bernard, a 60-year-old man who lived in St. Marc outside of Port-au-Prince. He and 14 other people were in a van, and were riding to their polling place when they were all shot to death.

We have heard quotes about 34 people being killed. There were 34 people killed at one polling place within the city. Here is another example of 14 people shot in a van on their way.

Another victim was a Ms. Fougere of Port-au-Prince. She and her fiance, Fritz Michel, were attacked with machetes and killed. Ms. Fougere was also shot twice. Another Haitian-American constituent, a Mrs. Charlotin, had a sister in Port-au-Prince whose arms were sliced off by her attackers. There was also a report of a 90-year-old Haitian woman, Tina Brierre, who was attacked and killed with machetes as she was praying at the altar of a Catholic Church called Sacred Heart. A political activist, Brierre had appeared on Haitian television prior to the attack. She left two sons who were also known as anti-Duvalierists activists. It is clear that this Port-au-Prince woman was targetted for assassination by the Duvalierist thugs.

And yet, despite the violence and intimidation of the Haitian people, an article in today's Washington Times reports that "the State Department," meaning our State Department, "may refrain from exerting too much pressure on the head of Haiti's Council of National Government, Lt. Gen. Henri A. Namphy, in order to maintain relations with the military and any new president elected under military auspices." The article further says the State Department "was distributing the blame for last month's foiled election equally between the Government and the electoral council.

Mr. Speaker, I think this is shameful behavior on the part of our State Department, and I hope all of us will pray over the holiday season that some new insight will come to our Government and our State Department, and that our Government will take a firmer stand on democracy in Haiti on the side of Haiti.

MIKHAIL GORBACHEV—A DIFFERENT TYPE OF COMMUNIST?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, there were some controversies over our great President and his beliefs about the current General Secretary, Mikhail Sergeyevich Gorbachev, and whether or not he was a different type of Communist, the first leader in 70 years to not say publicly, according to our President, that communism was no longer interested in world domination.

I do not think any American who is fair can really begin to comprehend the enormity of the workload on the President of the United States. What we in the news media often and in rhetorical flourishes refer to as the leader of the free world, which he truly is, can we ever begin to understand the enormity of his job or the tremendous responsibility he feels to the cause of world freedom? The President must rely on the scholarship provided to him by staff, and one of the greatest shortcomings that came about and came to pass because of the whole Iran-Contragate circus was that the President was not apprised after he had made this statement once that Gorbachev had never spoken publicly of communism seeking world domination, he was not apprised of Mr. Gorbachev's most important speech in this year of 1987, his third year of power as the General Secretary of the world's largest Communist Party.

On November 2, 1987, that is 35 days before Gorbachev came to the United States and arrived at Andrews Air Force Base on November 2, kicking off a 5-day celebration in the Soviet Union of the 70th anniversary of the success of world communism, General Secretary Gorbachev stood before a massive audience. In that audience was Daniel Ortega, the dictator of Nicaragua. There was Gus Hall, head of the Communist Party of the United States, that draws most of its funds through a Swiss bank account that is filled with Soviet rubles converted into dollars, as the Soviet Union supports most of the Communist Parties around the world. There also were all of the world Communist leaders from Angola, from Mozambique, from Cambodia, from Vietnam, North and conquered South, from all over the world and Mr. Gorbachev made a long speech. I would not be allowed to put it in the RECORD because of the expense. So I ask all of my colleagues to simply avail themselves of the privilege as a Congressman to call up FBFS, the Foreign Broadcast Information Service, and have them deliver to your office, as they did to mine today

within hours, the entire massive text of Gorbachev's speech before his Communist comrades from the world on November 2.

Here is how Mr. Gorbachev ended that speech, and it is a shame that this was not put before the eyes of Ronald Reagan, or Mrs. Reagan, or anybody in the White House. His excellent new National Security Adviser told me in his office in the White House yesterday that he was not necessarily aware of this speech.

Here is the way it closes:

Only a little over 13 (as heard) years remain before the beginning of the 21st century, and in 2017 our people and all progressive mankind will be ushering in the centerary of the great October revolution. What kind of world will it be when it steps over the 100 years' mark of our revolution? What kind of socialism—the Communist word for communism—will it be, and what degree of maturity will have been achieved by the world community of states and peoples? Let us not speculate, but we should remember that it is at the present time that the foundations of the future are being laid.

As an aside, as they are trying to lay them in Nicaragua right now.

It is our duty to preserve our unrepeatable civilization and life itself on Earth, to achieve the triumph of reason over nuclear madness, and to create every condition for the free and all-round development of man and mankind. [Applause.]

Those are beautiful words, that last sentence, that every decent man and woman of conscience would ascribe to.

Here is his closing:

We see the possibility for endless progress. We realize that it is not easy to achieve it, but this does not intimidate us. On the contrary, it inspires us, since it fills life with a lofty humane purpose and profound meaning.

In October 1917 we departed the Old World and irreversibly rejected it. We are traveling to a new world, the world of communism. We shall never deviate from this faith. [Prolonged and stormy applause.]

Mr. Speaker, I close by saying that the President, until this morning, did not know of those words where Gorbachev calls for a world of communism. He did it also at the 27th Congress, and he will do it again.

I hope that the President in his radio address informs the world that he was mistaken, it was not his fault, and that Mr. Gorbachev, like all of the leaders before him, Lenin through Stalin, through Khrushchev, through Andropov, Chernenko, Brezhnev before him right down to now has never deviated from the Communist plan for world domination, because the truth is they cannot exist side by side with us. We can with them, but the comparison is so odious, unless they have universal control of every government of the world, they will always have to build Berlin walls and shoot people, which they have suspended temporarily in East Germany. They shoot people who try to escape toward freedom as they do in Afghanistan, Nicaragua, Angola, East Germany, Hungary, Poland, and every country that suffers under communism in this generation.

AMALGAMATED BANK: SUCCESS IN SPITE OF GOOD SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, the fees charged by many banks for simple checking privileges defy responsibility and fairness. Why must the little guy fund the banking services used by corporations and the very wealthy? All to often, banks cater to those with large sums of money, neglecting those of more moderate means who also require banking services.

I would like to call to the attention of my colleagues an institution which is working for and with middle-class consumers to ensure that their banking needs are met in an equitable and efficient manner. Amalgamated Bank of New York is dedicated to serving middle-class customers and the labor community. With the sound backing of the Amalgamated Clothing and Textile Workers, Amalgamated Bank has provided reliable and cost-efficient banking services for almost 65 years.

In spite of its emphasis on consumer needs, Amalgamated bank has managed to make a profit for 44 consecutive years. While foregoing some more common banking services such as issuing credit cards, Amalgamated Bank has met the peculiar needs of its customers in innovative ways. This is a shining example of the kind of performance that all banking institutions should strive to achieve.

With this statement, I am inserting into the CONGRESSIONAL RECORD an article from the Wall Street Journal of December 14, 1987, which aptly describes the success of this bank. I encourage my colleagues to read this article and to keep in mind the services provided by Amalgamated Bank of New York when considering legislation affecting banking customers.

[From the Wall Street Journal, Dec. 14, 1987]

HOW A UNION SURVIVES IN BANKING BY PUSHING SERVICES OVER PROFITS

(By Robert L. Rose)

NEW YORK.—When Amalgamated Bank of New York introduced a free checking account last fall, it wasn't content to quietly inform its customers. The bank bought an ad opposite the editorial page in the New York Times and asked: "Why is free checking only for those who can afford to pay for it?"

The bank's inclination to tweak its big corporate rivals isn't surprising. Amalgamated is a union bank, founded in 1923 by the Amalgamated Clothing Workers and still owned by the 284,000 members of its successor, the Amalgamated Clothing and Textile Workers.

Heralded as the wave of the future by labor leaders earlier in the century, labor banking was a flop. Out of some 38 labor banks founded in the 1920s, only Amalgamated in New York and Brotherhood Bank & Trust in Kansas City, Kan., survived as labor-owned institutions.

Now, with some labor experts predicting a comeback in union membership and influence, Amalgamated provides one of the oldest examples of a kind of labor-owned business that may multiply. In the past several years, about half a dozen new labor banks have opened, and more are on the way. Like the clothing workers who started Amalgamated, other unions see a chance to own a bank friendly to their members' needs and find new investment outlets for their growing assets.

A ROGUE BANK

Amalgamated survived largely because its union owner insisted on conservative banking and professional management. In contrast, the Brotherhood of Locomotive Engineers set up banks across the country during the 1920s and quickly branched into securities and even Florida land development. Losses piled up, and the union eventually charged four of its officers with mishandling funds. By 1931, the engineers were out of the banking business.

Amalgamated has also benefited from being something of a rogue bank, loudly touting a consumer ethic and often de-emphasizing profits in favor of services. Its free checking account is only the latest evidence: Amalgamated claims to have pioneered the unsecured installment loan in the 1920s, lending money to borrowers with no collateral but a steady job. Three times a survey has named it the top bank for consumers in New York City. "They give me the best treatment," says Mike Garcia, an officer of the Leather Goods, Plastic and Novelty Workers' Union, who says he banks at Amalgamated because of its labor roots.

OVERLAPPING CONSTITUENCIES

Amalgamated has reported 44 consecutive years of profit and has grown to $1.47 billion in assets by serving two overlapping constituencies: middle-class consumers and organized labor. Now, the union-owned bank is exploring other ways to use its labor ties and financial muscle to expand in new areas.

Earlier this year, Amalgamated teamed up with Metropolitan Life Insurance Co. in a proposal to offer a comprehensive money-management program for the AFL-CIO's 14.5 million members. On a smaller but no less innovative scale, Amalgamated is helping three New York locals of the Bridge, Structural and Ornamental Iron Workers union use some of their pension money to finance below-market, no-points home mortgages for their members. The bank is considering expanding the service to other unions, many of which have retirement trust funds under Amalgamated's care.

The recent mini-resurgence of labor banking is led by unions in the construction trades. Massachusetts members of the carpenters' union opened a Boston bank in September, and California carpenters plan to open a separate institution next year. Two-year-old Union Savings Bank in Albuquerque, N.M., another construction-trades bank, uses its $10 million in assets for loans to small businesses and other customers.

"I think there's been a realization that we should be generating jobs with our own money wherever possible," says Anthony Ramos, the retired former leader of the California State Council of Carpenters.

Amalgamated's loud voice on consumer issues is partly a marketing ploy to set itself apart from the pack. As other banks cater to big depositors and raise fees for small accounts, Amalgamated promotes treats for

the little guy, such as its free checking and low-interest personal loans.

Highly conscious of its labor roots, Amalgamated also likes to take shots at the establishment banks. In one of its radio commercials, a stuffy banker tells a customer he needs a password to sit down. "The name of any Ivy League school will do," says the banker. "P.S. 188?" asks the customer, naming the public school he attended. In other ads, comedians Jerry Stiller and Anne Meara imitate rank-and-filers with names like Rocco and Blanche, and pitch "America's Labor Bank."

"If we give [the industry] an uncomfortable feeling for a couple of hours, it will be worth it," concludes Edward M. Katz, Amalgamated's president and chief executive.

The bank's five-story brick headquarters, which it shares with its union owner, overlooks New York's Union Square, the site of labor and political rallies earlier in the century. Back in the old days, Amalgamated's services even included a travel agency and foreign-exchange desk for the immigrant population that dominated the clothing workers' union. Today, customers in open shirts and work boots outnumber those in business suits. Proclaims a plaque on the lobby wall: "New York's First Labor Bank, dedicated to the service and advancement of the labor movement."

Mr. Katz, too, is quick to prove his allegiance. After ushering a visitor into his office, he flips open his suit jacket and proudly shows the union label. A soft-spoken man of 66 who started as a part-timer at the bank in 1946, Mr. Katz raises his voice when he talks about how small depositors have fared under banking deregulation. Not too well, he believes. "When you have a special industry using Uncle Sam as an umbrella in times of difficulty, don't you owe something to the public?" he asks. "What would be so wrong with having an account on which you don't make money?"

Amalgamated, though, is bucking a strong trend. A national survey conducted by the Consumer Federation of America and others found that fees for routine banking services are rising sharply for most depositors.

In some ways, Amalgamated has a lot less to offer those customers than its competitors. Small by big-bank standards, it doesn't generally offer credit cards or home mortgages. With only three branches and two newly opened automated teller machines, it lacks what many consumers want most: convenience. And in the ranks of big-league banks, Amalgamated is an also-ran, shunning such trends as interstate expansion and the hot competition for corporate loans.

"I'm not conscious of their presence" as a competitor, says Richard Ravitch, the chairman and chief executive of Bowery Savings Bank, which has about four times the assets and eight times the branches of Amalgamated. Contends another New York banking official: "If they were the best, they'd be bigger."

But what Amalgamated does have, it pushes hard, especially its reputation as a low-cost consumer bank. Last year, when an annual survey by New York State Sen. Franz S. Leichter dropped Amalgamated to No. 11 from No. 1 as the least expensive bank for New York City consumers, Amalgamated officials phoned the legislator and angrily complained. (The bank is back up to No. 2 this year.) In 1985, the Better Business Bureau of Metropolitan New York challenged Amalgamated's boast of having the lowest auto-loan rates of any bank in the city. But the bank quickly backed up the claim, the bureau says.

Amalgamated says its current 9.2% interest rate on new auto loans is still the best in the city. According to the Bank Rate Monitor, seven of the largest bank and thrift institutions in the New York City area charge an average of nearly 12.5%. On the deposit side, the bank's 6.25% annual yield on money-market accounts is a third of a point higher than the average paid by 10 big institutions tracked by the monitor.

Amalgamated also pays interest and charges no fees on savings accounts with a $5 minimum. And it is not unusual for the bank to get thank-you notes from longtime customers surprised to find the bank honored their checks—and charged no penalty—on their overdrawn accounts.

Customers' main complaint centers on what bank employees call "the conga line" that often slowly snakes its way to 23 tellers in the lobby of the main office. Still, other factors outweigh the long waits, depositors say. Edward Soorko, for example, says he moved his account to Amalgamated after Citibank bounced a check for his son's tuition—even though he covered the check with a deposit the same day.

Charles Nabelle, a dapper 82-year-old customer in a white hat and sports coat, walks 13 blocks to get to Amalgamated's Union Square office. There are plenty of closer banks, but he says he chose Amalgamated because he likes the personal attention he gets there. After cashing a $40 check, Mr. Nabelle offers a short lecture on the importance of shopping for bank services. "A poor sucker will go for Chase Manhattan as opposed to Amalgamated because Chase or Citibank is an *important* bank," he says. "That is unfortunate."

And perhaps costly. Sen. Leichter's latest survey found that a typical bank customer with $600 in checking and $1,000 in savings would earn $105 in a year at Amalgamated and lose $100 at Manufacturers Hanover Trust Co. Amalgamated, says Glenn von Nostitz, the legislative aide who oversees the survey, shows "you can give people a break and still make money."

Not surprisingly, Amalgamated has kept a close relationship with organized labor. Unions account for up to two-thirds of its $1.1 billion in deposits, and its trust department holds an additional $3.2 billion in pension and health-and-welfare funds. Amalgamated manages $1.6 billion of the trust funds, shunning stocks and corporate bonds in favor of safer government securities.

In 1973, Amalgamated officials worked over a weekend to fill out hundreds of bail checks to keep striking Philadelphia teachers out of jail. Nine years later, when the National Football League Players Association ran out of money during its strike, it turned to Amalgamated for a $200,000 loan. The players' union didn't have an account with the bank at the time, but "we did after that," says Ed Garvey.

Although neither the Amalgamated Clothing and Textile Workers union nor the bank likes to admit it, the goal of giving consumers and unions a break often conflicts with the goal of making money. But Mr. Katz has the luxury of working for owners who aren't constantly pressing for higher profits. "You make a little less," concedes Jack Sheinkman, the President of the union and chairman of the bank. "Despite that, we've done very well in terms of our return on equity and on capital," which exceed the average for banks Amalgamated's size.

That attitude makes it easier for the bankers to concentrate on another priority of the union—financial safety. The bank has few corporate customers and, as a matter of policy, turns down offers to participate with other banks in corporate lending. "I don't want to rely on my big brothers" to determine if a loan is safe, says Mr. Katz. Nor does he like to gamble on investments. Mr. Katz prefers buying U.S. government securities, and the shorter the maturity the better. "All the money's tied up in cash," jokes Howard Lee, the executive vice president and cashier.

The result is steady, if not spectacular, profits. Last year, Amalgamated earned $12.2 million, sending $7 million of that in dividends to its union owners. Government bank examiners often do double takes when they pore over Amalgamated's books. Bad loans charged off in 1986: $195,000 out of $313.5 million, far below the average for banks its size. Auto loans delinquent 30 days or more at the end of November: 11 out of 13,044.

Says William A. Goldberg, who runs the bank's personal-loan department: "We're here for the average guy—so long as we are reasonably assured he'll pay us back."

A TRIBUTE TO SHIRLEY NOVOTNY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. OBERSTAR] is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, I rise today to pay tribute to a long-time employee of this body and of the Committee on Public Works and Transportation, Mrs. Shirley Novotny. For 26 years she has been an extraordinary professional staff member of the Committee on Public Works and Transportation, and for most of those years a very dear personal friend of mine, both in my earlier capacity as a member of the staff and in my current capacity during the earlier years that I have served as a Member of this body.

Shirley retires at the end of this year and carries with her in that retirement the undying gratitude of the members of the Committee on Public Works and Transportation, and particularly members of the Subcommittee on Investigations and Oversight, and as well carries with her the everlasting friendship and respect of her staff colleagues on the full committee and on the subcommittee.

Shirley was born and raised in Mount Morris, MI, population 3,500. She was recruited by the FBI after graduation from high school to work in Washington, DC, where she served from October 1944 until 1946, at which time she married and took leave from work to raise a family: five children, three boys, two girls, followed by five grandchildren, again three boys and two girls.

She resumed her professional career in October 1961 when she came to work for the Subcommittee on Investigations and Oversight under the leadership of my predecessor, a former

boss, a Member of this body, John Blatnik, and continued in the service of that subcommittee for all of the years since then.

The first hearing of the subcommittee that Shirley participated in, performing staff and clerical work in preparing for the very complicated series of hearings that the subcommittee was engaged in heavily in those early years was a hearing on right-of-way acquisition practices in Massachusetts. Since that time, her professionalism has grown and deepened and her service has become more dedicated. She is one of those unsung heroes of this body and of the committee whose work does not get great publicity, does not get great attention on a day-to-day basis, as Members do and as committees and subcommittees do, but without whose work the job of this body and of its committees cannot be effectively accomplished.

Shirley Novotny is one of the most thoroughly professional staff members I have known in my nearly 25 years' service in Washington, DC, and in this Congress. The last hearing which she staffed was just barely 10 days ago, at which time I interrupted the subcommittee hearing at the very outset to pay tribute to her.

She carries with her into retirement an enormous storehouse of knowledge about this body, about the work of the full committee, but especially the Subcommittee on Investigations and Oversight. She has been an integral part of the progress we have made in professionalizing the Federal Highway Program and taking graft and greed and corruption out of highway and bridge construction practices and right-of-way acquisition practices throughout the years that the subcommittee focused specifically on the Federal Highway Program. She has done yeoman service day in and day out on the myriad of details that are necessary to make a hearing successful and to keep a committee professional and above reproach.

Shirley's career has been distinguished by a unique quality of dedication and commitment to service, never a murmur, never a complaint about long hours, about detailed work, about extraordinary deadlines that had to be met, that perhaps now in retrospect we could ask: "Was it really important?" It was important then and she did the work because it was necessary to be done.

□ 1915

Her work has always been of the highest quality, unquestioned and deeply appreciated by all the members of the committee and especially by her coworkers on the staff. Shirley and her family will relocate to Las Vegas, NV, where certainly I know my colleagues on the committee and her colleagues on the staff wish her all the very best of everything good, bountiful, and enjoyable in the well-deserved retirement years ahead.

THE 1985 FARM BILL IS WORKING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 30 minutes.

Mr. DE LA GARZA. Mr. Speaker, I rise today to tell you and the Nation that, in spite of difficulties and setbacks, the American farmer is still the most productive farmer in the world, and that the farm bill which this body fashioned in 1985 has proven to be a good one that has worked to the benefit of the farmers and the consumers of this Nation.

Recently we had a visit from several Soviet Union officials from their agriculture sector. If you ever had any doubt about the abundance produced by the American farmer, you only had to watch these Soviet agricultural officials as they viewed the amazing breadth of choices available in any American grocery store.

Just as these Soviet officials were amazed, I believe every American consumer should be amazed that such quality and variety is available at such reasonable prices. Certainly, food prices have gone up, but as a percentage of take-home income, food prices have been by far the most stable portion of the American family's budget. The next time someone complains to you about high food prices, remind them that even if American food prices were doubled, Americans would still spend a smaller percentage of take-home pay on food than the average resident of most nations of the world.

While I wanted to remind our consumers of just how lucky we all are, I rise today principally to provide you with a report on the status of American agriculture.

Five recent trends favorable to American farmers demonstrate that the 1985 farm bill is having a positive effect on U.S. agriculture:

First. The farm financial crisis is abating.

Second. Producer income has increased.

Third. U.S. grain surpluses are moderating.

Fourth. Demand—both domestic and foreign—is responding favorably.

Fifth. The farm bill is affecting global production and trading trends.

In addition, the legislation may be having other beneficial side effects.

Recent data show that the farm financial crisis that attracted national media attention in 1984 and 1985 is beginning to ease. Overall farm debt has fallen from a high of $190 billion in 1982 to about $141 billion in 1987, a decline of about 26 percent. The fact that farmers are paying off their loans may also be seen in declining debt-to-asset ratios. According to USDA, that number now stands at 19 to 21 percent. That is still too high, but it is down 3 percentage points since 1985.

Improving farm income is another sign of the favorable impact of the farm bill. Net cash income in 1987 is forecast to reach a recordbreaking range of $53 to $57 billions of dollars. Because of lower commodity prices, farm receipts are expected to drop $12 billion below their 1985 level. However, the effect of that decline will be more than compensated by lower production expenses and modest assistance from the Government.

One of the most important goals of the 1985 farm bill was to bring down the huge commodity surpluses which have overhung the international markets. Through very few people believed us at the time the bill was passed, the bill is working and commodity surpluses are coming down to more manageable levels. This can be seen in production trends and in carryover stocks. Participation in farm programs under the 1985 farm bill has been quite high—from 69 percent in 1985 to 84 percent in 1987. The acreage reduction program and conservation reserve programs have resulted this year in approximately 70 million acres being taken out of production. Because farmers tend to idle their least productive acres and can increase their yields on remaining acres, this does not translate directly—percent for percent—into cuts in actual output. Still, the most recent USDA estimates show that corn production is down 19 percent and wheat production is down 13 percent from their 1985 levels. In addition, ending stocks have fallen in virtually all of the major traded commodities. This represents a very considerable and very favorable change from only a year-and-a-half ago, when grain bins were bulging and corn was being dumped beside filled elevators. These reductions should continue to translate into higher marketplace prices for farmers and in lower Government storage costs.

A third key measure of success of the 1985 farm bill is demand. Again, the farm bill seems to be hitting the mark. Both domestic consumption and export sales have risen in response to provisions of the omnibus legislation. U.S. grain use has gone up as livestock producers take advantage of rock-bottom prices. Domestic corn utilization is predicted to rise by nearly 15 percent over its 1985 level.

It is distressing to us all that virtually every month brings a new record-level trade deficit. We all recognize this as a national problem which requires the attention of both the Congress and the administration. Yet, when those disturbing trade deficit

figures come out, no one remembers to point out that, without the contribution of increased agricultural exports, the figures would be much worse.

It may require a few more years for the United States to reach the record high of 1981, in which we exported some $43.8 billion in farm commodities, but now, after a 6-year slump, real progress is being made as a result of the 1985 farm bill. Our 1986 farm commodity exports were about $26.3 billion and USDA estimates that figure will reach $28 billion in 1987. The export recovery is also evident in volume increases: Exports should be approximately 129 million metric tons in 1987, relieving a steady downward trend. USDA forecasts that both the volume and value of farm exports will rise further in the current fiscal year.

These encouraging export numbers have also helped the agricultural trade balance. Net exports are expected to reach nearly $8 billion in 1987. That is still a far cry from the $26.6 billion farm trade surplus we enjoyed in 1981, but it is a definite improvement over 1986, when a strong dollar was pushing our farm trade surplus toward the vanishing point.

Although some of the improved export performance may be attributed to an overall increase in world trade, the United States is making progress in recapturing some of the market share lost in the 1980's. In 1981, the United States sold 48 percent of all grain traded internationally. U.S. grain sales plummeted to 31 percent of the world market in 1985, but have now rebounded to an extimated 48 percent in 1987, a remarkable recovery by any standard.

A closer look at agricultural exports show progress being made on all major commodities, not just grains. Wheat exports will rise about 450 million bushels for fiscal year 1987-88, and corn exports will increase about 200 million bushels over last fiscal year. But also cotton exports are expected to take a marked upswing, with about 500,000 more bales than last fiscal year.

Also, one of our traditionally most controversial programs, the dairy price support program, appears to have been stabilized. The changes mandated by the 1985 farm bill have helped lower dairy program outlays from more than $2.53 billion in 1983 to $1.24 billion this year.

We have made immense progress in dealing with one of the most troubling problems in our dairy program, that of excessively large stocks and the costs of maintaining those stocks. In the last year, butter inventories have dropped by 58 percent, cheese inventories have dropped by 82 percent and nonfat dry milk inventories have dropped by 91 percent. In fact, Mr. Speaker, USDA has informed the committee that, at current rates of usage, we may find ourselves short of dairy product for feeding programs by next March.

Another point in favor of the farm bill is that global agricultural trends are beginning to respond to program changes. In 1987, world grain production decreased and consumption increased; for the first time in this decade, world consumption of all grains and cotton should exceed production. U.S. farm programs are a major contributing factor here; the price-moderating influence of the farm bill has helped to put a brake on runaway world grain production, and has made food more affordable for millions of people.

The five trends discussed above can be seen simply by examining raw data. However, the farm bill is likely to have other effects on both the domestic and international agricultural scenes. Such effects cannot always be measured by numbers, but may nonetheless have far-reaching implications for American farmers.

Many observers have noted that the gradual lowering of price and income supports mandated by the 1985 farm bill will eventually provide greater market orientation to American agriculture. That movement was strengthened by the introduction of the generic PIK certificate program. Under this program, farmers receive a portion of their direct income support payments in the form of certificates that entitle them to take possession of USDA-held commodities. However, these commodities may also be used—and have in fact been widely used—by farmers to redeem price support loans at more favorable rates (a strategy commonly known as "PIK and roll"); they may be sold or they may be turned in for cash. The latter two represent the simplest two options for the farmer; the PIK-and-roll technique, however, requires the farmer to pay closer attention to the market in order to maximize his profits. Through the creation of this program, the farm bill will improve the marketing skills of thousands of American farmers.

In the area of farm trade, we in the Congress in the 1985 farm bill provided the administration with the necessary tools to respond to unfair trading practices of competing grain producers—especially the European Community [EC]. The EC's common agricultural policy supports farmers mainly through providing high internal prices to farmers and using export subsidies to dispose of surplus production. In so doing, the EC has lured away traditional U.S. grain customers. To respond to this practice, the Congress has mandated both lower price supports and the Export Enhancement Program [EEP], aimed specifically at recapturing former export markets. Both of these policy tools, along with the cheaper dollar, have made it much more expensive for the EC to dump its surplus grain on world markets. Eurocrats are now reportedly examining a number of proposed measures aimed at bringing down the high cost of the common agricultural policy. Such options include reducing price supports, implementing a supply management program, and even destroying surplus stocks. The farm bill thus shows the U.S. determination to fight back against unfair trading practices, and should strengthen the American position at the bargaining table during the current round of negotiations on the General Agreement on Tariffs and Trade [GATT].

Mr. Speaker, I will be the first to admit that the 1985 farm bill has had some disappointing features. The most obvious one is on the Government cost side. From a $3 billion annual average cost in the 1970's, Federal outlays on farm programs soared to nearly $26 billion last year. However, there should be some consolation in the fact that even that trend has turned around. The most recent estimates by both the Office of Management and Budget and the Congressional Budget Office show farm program expenditures to be dropping more swiftly than anticipated earlier this year. Even with the higher expenditures this year, all of the money spent on agricultural programs amounts to only about 3 percent of our total national budget of over $1 trillion. Mr. Speaker, 3 percent of our national budget seems like an extremely small price to pay to keep America the best fed nation in the world and for our farmers to at least remain solvent.

And we must also admit, Mr. Speaker, that not all of the favorable movements mentioned may be attributed solely to programs of the 1985 farm bill. Traditional factors such as GNP growth, interest rates, inflation, and exchange rates play a decisive role in the international trade climate, and are all far beyond the control of those of us in this body. The 1985 farm bill provided a framework for the long-range recovery of American farmers and, with a bit of luck and a lot of hard work, we will continue to make progress on the overall agricultural economy.

INTELLIGENCE OVERSIGHT ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 60 minutes.

Mr. STOKES. Mr. Speaker, today, joined by Mr. MCHUGH, chairman of the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, and Mr. BOLAND, a former chairman of the committee, I am introducing the Intelligence Oversight

Act of 1987. This legislation is the culmination of an effort, begun in February of this year, to clarify and revise the important provisions of the National Security Act dealing with congressional oversight of intelligence activities in general and covert actions in particular. At that time, I, the gentleman from Massachusetts [Mr. BOLAND], the gentleman from New York [Mr. MCHUGH], and others, introduced H.R. 1013. The central feature of that bill was a provision explicitly requiring prior notice to the Intelligence Committee of all covert actions, except in extraordinary circumstances where time was of the essence. In such cases notice could be delayed for no more than 48 hours.

This past spring, the Subcommittee on Legislation held 3 days of hearings on H.R. 1013. The subcommittee heard from 12 witnesses, including the Speaker and the minority leader, and received statements or letters from several constitutional scholars and former intelligence officials.

On December 11, Mr. MCHUGH and I appeared before the Senate Select Committee on Intelligence to testify on H.R. 1013 and on oversight provisions proposed by Senators BOREN and COHEN and other members of the Senate Intelligence Committee in Senate bill S. 1721. Both sets of hearings, much discussion at both the member and staff level, and the recommendations of the Iran-Contra Committee have caused Mr. BOLAND, Mr. MCHUGH and I to revise and expand H.R. 1013. These revisions are contained in the bill we introduce today, which, we hope, can be sent to the floor very early next year.

The intelligence oversight legislation we propose today retains the most important element of H.R. 1013—the provision dealing with prior notice of covert action. Recent events demonstrate beyond doubt that existing law in this area will not serve this body well when confronted by an administration willing to evade congressional oversight. Recent events also quite clearly demonstrate that covert actions carried out without prior notice to the Congress and without the advice of the Congress can have devastating results for the Nation and particularly for intrabranch comity.

The history of covert actions is mixed. Many question their utility or wisdom, especially when para-military activities are involved, or when major foreign policy changes are effected. Congress, through its surrogates, the Intelligence committees, must be fully advised of covert action, and it must be advised sufficiently prior to the planned advent of a covert action to permit full consultation. The simple reason for this is that consultation per force replaces the normal public and congressional debate on foreign policy issues. Therefore, the proposed legislation requires prior notice of covert actions in all cases, except in rare instances where the President determines that the press of fast-moving and important events requires immediate action. In such cases, notice to the committee is required no later than 48 hours after the approval of the covert action finding.

My reading of the legislative history of the 1980 Intelligence Oversight Act indicates that when Congress wrote its timely notice provision in section 501(b), in effect recognizing that prior notice may not be provided in all cases, it was thinking only of situations where time would be of the essence and the press of events would not permit the President to notify the intelligence committees of a covert action which he felt it imperative to launch immediately. The Department of Justice, on the other hand, has read that legislative history to mean that the President may withhold notice of covert actions or other intelligence in his discretion for as long as he feels appropriate.

I believe the Iran/Contra Committees rightly judged that these assertions would play havoc with congressional oversight.

When time is of the essence and the President must act, he should act, but 48 hours is certainly a reasonable time within which to subsequently notify Congress in the rare cases where prior action, rather than prior notice, is necessary. This approach, in my view, pays all due deference to the President's constitutional prerogatives by recognizing his duty to respond swiftly in times of crisis. That is why the 48-hour rule was proposed.

As we all know, much of the impetus for this bill comes from the Iran/Contra affair. During the joint committees' investigations, a number of disturbing events were exposed. The most egregious event involved the 10-month delay in notifying Congress of the January 17, 1986 finding on Iran. What the President did in this case was interpret the timely notification language of section 501(b) of the National Security Act to mean that he could delay indefinitely any notice to the Congress of a significant intelligence activity. Subsequent statements by the Department of Justice make clear that, in the view of the President's lawyers, the President was wholly within his rights under the constitution as well as under the oversight statute to act as he did. To let such a view stand uncontradicted, in my view, would mark the beginning of the end of effective congressional oversight of intelligence activities.

Recent events also have re-emphasized the vital importance of the covert action approval process within the executive branch. Therefore, the legislation sets out exactly what must be contained in a covert action finding, requires the finding to be in writing, and prohibits retroactive findings.

Finally, the proposed legislation restructures the general intelligence oversight requirements now contained in the National Security Act and in the Foreign Assistance Act of 1961. What is required and expected of the executive branch and the Congress will be clearly set out in one piece of legislation, and it is made clear that findings are required for all special activities conducted by any element of the U.S. Government or at the request of the U.S. Government and that such findings must be reported to Congress.

Mr. Speaker, I note that very similar legislation is being fashioned this week by a bipartisan majority of the Intelligence Committee of the other body. I hope that the House Intelligence Committee can proceed in the same manner. In the final analysis, the intelligence committees can serve the people and the Congress will only if they are provided the tools with which to conduct effective oversight. The tools are contained in the legislation we propose today. I trust that Members will understand that the ability of the intelligence committees to conduct meaningful oversight may well hinge on the enactment of this bill.

Mr. MCHUGH. Mr. Speaker, I am pleased to join today with Mr. STOKES and Mr. BOLAND in introducing the Intelligence Oversight Act of 1987. This legislation is a crucial step in restoring the bond of comity and confidence between the Congress and the executive branch concerning intelligence matters, and in ensuring that this Nation's vital intelligence activities are conducted wisely, efficiently, and legally—and are supported by the American people.

The comity and confidence to which I refer—and which the drafters of the 1980 Oversight Act knew would be so important in implementing the provisions of that statute—have been largely dissipated by actions of the current administration. Many of these actions were related to the Iran-Contra affair, but others preceded it and it has been clear to the intelligence committees for several years that the administration did not wish, as the law requires, to keep the intelligence committees "fully and currently informed" of intelligence activities.

The legislation which I cosponsor today will make it clear that there is no legal underpinning for such a position. It will rebut a tortured and facile interpretation of existing statutory and constitutional law recently promulgated by the Department of Justice. It makes clear:

That Presidential findings, which in almost all cases must be in writing, must precede any covert action;

That such findings apply to all covert actions, whether conducted by the CIA or any other U.S. Government entity;

That such findings cannot retroactively ratify previously conducted covert actions;

That requests to other governments or third parties to engage in covert activities on behalf of the United States are to be treated as if the United States was directly involved; and

That the Intelligence Committees, or the "gang of eight" leadership group in rare cases, must be given prior notice of all covert actions—with an exception of not more than 48 hours after a finding is approved in rare circumstances when the President determines the national security requires that he take action before the committees or "gang of eight" can be notified.

Unfortunately, the administration opposes the prior notice provision. In hearings conducted by my Subcommittee on Legislation, the State Department, the CIA, and some former intelligence officials prophesized disaster if the Intelligence Committees had to be given prior notice of covert actions. Yet, that enactment of the Oversight Act of 1980, prior notice has been afforded of all covert actions, except for the one that did result in disaster, the arms sales to Iran.

The administration also claims that the prior notice provision is unconstitutional. In my opinion, the administration is wrong. The Congress, through its powers of the purse, can condition its appropriations in any manner it sees fit—unless such a condition directly interferes with the exercise of a power textually committed solely to the President by the Constitution. This bill contains no such interference, and, by permitting up to a 48-hour delay in notice to Congress when time is of the essence, it insures that the President can sufficiently exercise his constitutional duty to defend the Nation. I would note that others who study these matters more often than I also believe this legislation to be clearly constitutional. In its deliberation on this bill's predecessor, H.R. 1013, the Intelligence Subcommittee heard from Prof. Lawrence Tribe of Harvard Law School, Prof. Louis Henken of Columbia Law School, and Prof. William Van Allstyne of Duke Law School. Each of these constitutional scholars saw no constitutional problem with the prior notice provision.

The proposed legislation permits the President, in "extraordinary circumstances affecting vital interests of the United States," to give the required prior notice to the limited "gang of eight" leadership group rather than to the two intelligence committees. Yet, Mr. Speaker, this is not enough for the administration. It contends that some activities of the U.S. Government are too sensitive to report even to the leaders of the two parties in the House and Senate. If the Congress is to play its legitimate constitutional role in the areas of intelligence oversight and foreign policy formulation, it cannot accept this argument. The Congress does have a need to know—a need demonstratively more crucial than that possessed by the dozens of foreign officials, arms dealers, and NSC staffers who were privy to the Iran-Contra covert action.

Congress needs to know about covert action for oversight purposes, and it needs to know prior to their initiation for consultation purposes, especially in cases such as the Iran covert action where significant foreign policy issues are involved and where consultation with the intelligence committees takes the place of public and congressional debate. Clark Clifford noted this week in testifying on similar legislation before the Intelligence Committee of the other body:

One of the principal shortcomings of the Iran-Contra affair was the failure of the President to notify the intelligence committees of the Government's activities. The oversight process could have served a significant, salutary purpose: giving the President the benefit of the wisdom of those who are not beholden to him, but beholden like him directly to the people, and prepared to speak frankly to him based on their wide, varied experience. Had the President taken advantage of notifying Congress, he and the country may well have avoided tremendous embarrassment and loss of credibility.

Mr. Speaker, I fully agree with Mr. Clifford. This legislation is needed to insure a healthy oversight process and to insure that this Nation's intelligence activities promote rather than hinder the Nation's foreign policy objectives. I urge my colleagues to support it and trust that it can be enacted early in the next session.

□ 1925

GENERAL LEAVE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. PENNY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE PROPOSED UNITED STATES-CANADA FREE TRADE PACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. PEASE] is recognized for 60 minutes.

GENERAL LEAVE

Mr. PEASE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. PEASE. Mr. Speaker, let me say to my colleagues that I will take only a couple of minutes. I would like to discuss in these few days as we wind up our session for the year an issue that will be very high on our agenda next year, and that is the proposed United States-Canada Free Trade Pact which has been negotiated and which is due to be submitted by the administration to the Congress on January 1.

It seems to me that some miscalculations have been made and are in the process of being made regarding congressional approval of this United States-Canada Free Trade Pact. Most of us adhere and support free trade as a general principle. Canada has long been one of the great allies of the United States, certainly a great friend of the United States. We share the world's longest unguarded border. Canada also has been a major trading partner of the United States, and we have had a long and mutually advantageous trading relationship with Canada.

Thus it made sense a couple of years ago when Mr. Mulroney, the Prime Minister of Canada, made the suggestion that we ought to try to negotiate the removal of all barriers to trade or at least almost all barriers to trade between the United States and Canada. That provision has been worked out. As I say, the administration is due to submit it to Congress in just a few weeks.

Mr. Speaker, my concern is that the agreement which has been negotiated between the United States and Canada does not adequately address American concerns about one of the key elements, indeed the largest element of trade between the United States and Canada, and I refer to the automobile trade. We have had an auto pact with Canada for a number of years which treats automobiles as items that can go back and forth across the border, along with parts, without being subject to tariffs.

Many people in the United States feel that the original pact negotiated with Canada regarding automobiles was unduly favorable to the Canadians. That must be also the opinion of Canadians because during the negotiations last year the Canadians were adamant about not wanting to revise or revisit that Canadian-United States-North American Auto Pact. That is all well and good. I think that was a mistake. We should really have negotiated it. But certainly considering the fact that we are going to establish free trade on a broad range of products with Canada, we ought to revisit one particular issue, and that is the standard of preference, if you will, the North American content requirement of automobiles that gain free access to the U.S. market. Currently that standard is 50 percent. U.S. negotiators attempted to make that 60 percent so that automobiles ostensibly assembled in Canada and coming to the United States would have at least half of their content coming from North America rather than from the Far East.

There is great concern, let me say, among those of us who have large concentrations of automobile workers and auto factories with the possibility that this new United States-Canada Free Trade Pact will result in automobile products coming into the United States which essentially are used by the Far Eastern nations, Japan, Korea, Taiwan, Singapore, Hong Kong, and other countries, to get into our market. The Canadians dug in their heels.

I must say that U.S. negotiators made, I think, a genuine effort not only over the months leading up to

September 30, the first deadline, but in the months since to try to change the opinion of the Canadians about this preference provision. The Canadians dug in their heels and would not consider a change. That is very puzzling, considering that about everybody involved in the American automobile industry is in favor of it and indeed many elements in Canada relating to the auto industry are in favor of it also. As I understand it, the UAW affiliates in Canada are in favor of it, auto parts manufacturers in Canada are in favor of it, and yet the Canadian Government has essentially refused to negotiate or compromise on this point and has raised to a very high level their demands for offsetting provisions if they were to consider this change. That must reflect on the part of the Canadians an assumption that Congress will approve this United States-Canadia Free Trade Pact without that change.

I would like to alert our Canadian friends that this may be a major miscalculation on their part. The automobile industry is the single largest manufacturing industry in the United States. There are automobile plants, major automobile company facilities, spread around the United States, and there are automobile parts factories and parts plants in dozens of cities and tens of thousands of small plants around the United States, stretching into many, many of our congressional districts.

I for one live in Ohio, a very important state in the auto industry. Generally I support trade with Canada. Generally I support the freer trade. I believe that freer trade is a good idea, but I want to say that I do not represent at all that I will be able to vote to approve that United States-Canada Free Trade Pact if the Canadian Government maintains its present position on the preference provision. And I know a number of other Members particularly the gentleman from Michigan [Mr. LEVIN], who has worked hard on this issue over the last couple of months, and the gentlewoman from Ohio [Ms. KAPTUR], who has also worked not only with the Canadians but with our trading partners around the world on the issue of auto parts entry from foreign countries into the United States, may not be able to vote their approval. It may just well be that those of us who have large concentrations of automobile facilities in our districts will find it impossible to vote for the United States-Canada Free Trade Pact, notwithstanding the general advantages which it might offer to our two countries.

I want to issue that as a warning which I hope will be taken soberly and seriously by our Canadian friends. My belief, as I mentioned before, is that our own Trade Representative has made an effort to get the Canadians to come around to a reasonable position on this point. But it may well be that our own Trade Representative is also miscalculating to a degree the intensity of opposition which may well develop in the House of Representatives if this issue is not resolved.

We have about 2 weeks before January 1, when the administration is supposed to formulate and present this United States-Canada Free Trade Pact to the Congress. My understanding is that one more last effort will be made during these next 10 days or 2 weeks to get an accommodation from the Canadians on this point. I hope that that will be successful. I hope that our Canadian friends will not make a miscalculation and will not take for granted approval by the House of Representatives and the Senate of the Free Trade Pact which means so much to them. I hope our Canadian friends will listen not only to us in the United States but also to their own auto workers and to their own parts manufacturers and will find that they can compromise with us and reach an understanding which guarantees that the North American auto pact really will reserve the primary benefits of automobile trade between the United States and Canada to North Americans and not to those from other nations.

□ 1940

With that, Mr. Speaker, I say I look forward to the new session and consideration of this United States-Canada Free Trade Pact. I hope very much that when we do take it up we will find that our administration and the Canadians have reached that agreement which will be more satisfactory than the current one is to Members like myself and many dozens of others who represent districts where automobile manufacturing and automobile parts manufacturing is important.

Mrs. BENTLEY, for 60 minutes, on December 20 and 21.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. OBERSTAR, for 5 minutes, today.
Mr. PEASE, for 60 minutes, today.
Mr. LEVIN of Michigan, for 60 minutes, today.
Ms. KAPTUR, for 60 minutes, today.
Mr. GONZALEZ, for 60 minutes, on December 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HAMMERSCHMIDT, to revise and extend his remarks on House Joint Resolution 376 immediately after Mr. FASCELL in the House today.

(The following Members (at the request of Mr. SLAUGHTER of Virginia) and to include extraneous matter:)

Mr. SOLOMON.
Mr. GREEN.
Mr. SCHUETTE.
Mr. LOWERY of California.
Mr. GEKAS.
Mr. PORTER
Mr. VANDER JAGT.
Mr. DANNEMEYER.
Mr. DREIER of California.
Mr. BEREUTER.
Mr. LEACH of Iowa.
Mr. DORNAN of California in two instances.
Mr. FISH.
Mr. ARCHER in two instances.
Mr. BROOMFIELD.
Mr. YOUNG of Alaska.
Mr. BATEMAN.
Mr. LIGHTFOOT in two instances.
Mr. GILMAN.
Mr. PACKARD in two instances.
Mr. KYL.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter:)

Mr. CLARKE.
Mr. KOLTER.
Mr. PICKETT.
Mr. VENTO.
Mr. GUARINI.
Mr. DELLUMS.
Mr. GARCIA.
Mr. MATSUI.
Mr. WOLPE.
Mr. TALLON.
Mr. HAWKINS in two instances.
Mr. BONKER in two instances.
Mr. WILLIAMS.
Mr. DWYER of New Jersey.
Mr. MINETA.
Mr. RANGEL.
Mr. MARKEY in two instances.
Mr. MURTHA in two instances.
Mr. LIPINSKI.
Mr. TOWNS.
Mr. EDWARDS of California.
Mr. DOWDY of Mississippi.
Mr. HAMILTON.
Mr. HERTEL in two instances.
Mr. TORRES.
Mr. FLIPPO.
Mr. OBERSTAR.
Mr. COLEMAN of Texas.
Mr. YATRON.
Mr. SLATTERY.
Mr. SAWYER.
Mr. JONES of North Carolina.
Mr. DYMALLY.
Mr. MILLER of California.
Mr. DORGAN of North Dakota.
Mr. DERRICK.
Mr. CHAPPELL.
Mr. NELSON of Florida in two instances.
Ms. KAPTUR.
Mr. SHARP.
Mr. FAZIO.
Mr. MAZZOLI.
Mrs. KENNELLY.
Mr. FEIGHAN in two instances.
Mr. LEHMAN of California.

Mr. ORTIZ.
Mr. WYDEN.
Mr. WATKINS.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1519. An act to authorize the President of the United States to award a congressional gold medal to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of that medal; to the Committee on Banking, Finance and Urban Affairs.

S. Con. Res. 93. Concurrent resolution to express the sense of the Congress that Dr. Frank G. Burke is recognized for his faithful service to the National Archives of the United States of America; to the Committee on Post Office and Civil Service.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2310. An act to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes;

H.R. 3427. An act to allow the obsolete submarine U.S.S. *Blenny* to be transferred to the State of Maryland before the expiration of the otherwise applicable 60-day congressional review period;

H.R. 3734. An act to recognize the significance of the administration of the Federal-aid highway system and to express appreciation to Ray A. Barnhart for his dedicated efforts in improving the Federal-aid highway system; and

H.J. Res. 426. Joint resolution authorizing the hand enrollment of the budget reconciliation bill and of the full year continuing for fiscal year 1988.

ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.), the House adjourned until Saturday, December 19, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2586. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1988 for the Department of Defense-Military and the Veterans Administration, pursuant to 31 U.S.C. 1107 (H. Doc. No. 100-150); to the Committee on Appropriations and ordered to be pri nted.

2587. A letter from the Comptroller General of the United States, transmitting a review of the President's second special impoundment message for fiscal year 1988, pursuant to 2 U.S.C. 685 (H. Doc. No. 100-149); to the Committee on Appropriations and ordered to be printed.

2588. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Israel for defense articles and services estimated to cost $62 million (Transmittal No. 88-08), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreigj Affairs.

2589. A letter from the Secretary of Education, transmitting a report concerning the surplus Federal real property disposed of to educational institutions in fiscal year 1987, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

2590. A letter from the Associate Director for Management, United States Information Agency, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

2591. A letter from the Secretary of the Interior and Secretary of Commerce, transmitting the sixth report on activities of the Department of Interior and the Department of Commerce with respect to the emergency striped bass research study, pursuant to 16 U.S.C. 757g(b); to the Committee on Merchant Marine and Fisheries.

2592. A letter from the Acting Assistant Secretary (Civil Works), Department of the Army, transmitting a report from the Chief of Engineers, Department of the Army, on Sheyenne River, ND, together with other pertinent reports, pursuant to Public Law 91-611, sections 216, 217, (84 Stat. 1830); to the Committee on Public Works and Transportation.

2593. A letter from the Program Manager, Office of Technology Assessment, transmitting a corrected copy of OTA's "Third Report on the Prospective Payment Assessment Commission (ProPac)", pursuant to 42 U.S.C. 1395ww(d)(4)(D); to the Committee on Ways and Means.

2594. A letter from the Program Manager, Office of Technology Assessment, transmitting a corrected copy of OTA's "First Report on the Physician Payment Review Commission (PPRC)", pursuant to 42 U.S.C. 1395w-1(c)(1)(D) (100 Stat. 192); to the Committee on Ways and Means.

2595. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's report on abnormal occurrences at licensed nuclear facilities for the second calendar quarter of 1987, pursuant to 42 U.S.C. 5848; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

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. DE LA GARZA: Committee of conference. Conference report on H.R. 3030 (Rept. 100-490). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER:

H.R. 3794. A bill to amend title II of the Social Security Act to phase out the retirement earnings test at ages above retirement age, to increase accordingly the delayed retirement credit rate, to exclude accordingly certain earnings in postretirement years from benefit computations, to prohibit retroactive entitlement to reduced benefits before retirement age and to authorize for 5 years appropriations of resulting revenue increases to the Federal Old-Age and survivors Insurance Trust Fund; to the Committee on Ways and Means.

By Mr. ARCHER (for himself and Mr. JENKINS):

H.R. 3795. A bill to extend until October 1, 1989 the International Coffee Agreement Act of 1980; to the Committee on Ways and Means.

By Mr. BONKER:

H.R. 3796. A bill establishing certain requirements for the transportation of plutonium by air pursuant to the agreements for nuclear cooperation between the United States and Japan; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. BONKER (for himself and Mr. ROTH) (both by request):

H.R. 3797. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Affairs.

By Mrs. BYRON:

H.R. 3798. A bill to direct the Secretary of Defense to conduct a 2-year test program under which female members of the Army, Navy, Marine Corps, and Air Force are assigned to combat support units, vessels, and aircraft; to the Committee on Armed Services.

By Mr. BARNARD.

H.R. 3799. A bill to enhance competition in the financial services sector, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and the Judiciary.

By Mr. NEAL (for himself, Mr. BARNARD, Mr. FRANK, Mr. HILER, Mr. HUBBARD, Mrs. PATTERSON, Mr. PRICE of North Carolina, and Mr. WORTLEY):

H.R. 3800. A bill to modernize and reform the regulation of financial services, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. CARPER:

H.R. 3801. A bill to provide that political candidates meet certain requirements in advertising; to the Committee on Energy and Commerce.

By Mr. DORGAN of North Dakota:

H.R. 3802. A bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to extended care services and home health services after hospitalization; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma (for himself, Mr. INHOFE, Mr. ENGLISH, Mr. MCCURDY, Mr. SYNAR, and Mr. WATKINS):

H.R. 3803. A bill to provide for the establishment of the Tallgrass Prairie National Preserve in the State of Oklahoma, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EVANS (for himself, Mr. ANNUNZIO, Mr. BRUCE, Mrs. COLLINS, Mr. DAVIS of Illinois, Mr. DURBIN, Mr. FAWELL, Mr. GRAY of Illinois, Mr. HAYES of Illinois, Mr. LIPINSKI, Mrs. MARTIN of Illinois, Mr. MADIGAN, Mr. PORTER, Mr. PRICE of Illinois, Mr. ROSTENKOWSKI, Mr. RUSSO, Mr. SAVAGE, and Mr. YATES):

H.R. 3804. A bill to establish the Hennepin Canal National Heritage Corridor in the State of Illinois, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FEIGHAN (for himself and Mr. SAWYER):

H.R. 3805. A bill to require the consent of Congress for the United States to terminate, withdraw from, or suspend the operation of a treaty; to the Committee on Foreign Affairs.

By Mr. GUARINI (for himself, Mr. FUSTER, Mr. GIBBONS, Mr. FRENZEL, Mr. GILMAN, Mr. SCHULZE, Mr. CROCKETT, and Mr. SCHEUER):

H.R. 3806. A bill to establish a scholarship program to strengthen and develop the work forces of the countries of the Caribbean Basin, to establish the Caribbean Basin Scholarship Fund, and for other purposes; to the Committee on Education and Labor.

By Mr. HOWARD (for himself, Mr. HAMMERSCHMIDT, Mr. OBERSTAR, Mr. CLINGER, Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. NOWAK, Mr. RAHALL, Mr. DE LUGO, Mr. SAVAGE, Mr. SUNIA, Mr. VALENTINE, Mr. TOWNS, Mr. LIPINSKI, Mr. ROWLAND of Georgia, Mr. GRAY of Illinois, Mr. VISCLOSKY, Mr. LANCASTER, Ms. SLAUGHTER of New York, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. PERKINS, Mr. SHUSTER, Mr. STANGELAND, Mr. MOLINARI, Mr. SHAW, Mr. MCEWEN, Mr. SUNDQUIST, Mr. PACKARD, Mr. GALLO, Mrs. BENTLEY, Mr. LIGHTFOOT, Mr. INHOFE, and Mr. UPTON):

H.R. 3807. A bill to require the Secretary of Commerce to study local financing practices for public work projects, and to provide more lenient treatment for small issuers of tax-exempt bonds with respect to the arbitrage rebate rules and the private activity bond rules; jointly, to the Committees on Public Works and Transportation and Ways and Means.

By Mr. JONES of North Carolina (for himself) (by request), Mr. BIAGGI, Mr. ANDERSON, Mr. DAVIS of Michigan, and Mr. LENT):

H.R. 3808. A bill to amend the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. KENNEDY:

H.R. 3809. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; jointly, to the Committee on Energy and Commerce and Science, Space and Technology.

By Mrs. KENNELLY:

H.R. 3810. A bill to provide financial assistance to projects which provide maternal and infant health care services to high-risk populations in order to reduce infant mortality; to the Committee on Energy and Commerce.

By Mr. LEWIS of Georgia (for himself, Mr. , GRAY of Pennsylvania, Mr. OWENS of New York, Mr. ESPY, Mr. MFUME, Mr. TOWNS, Mr. CROCKETT, Mr. CONYERS, Mr. DIXON, Mr. HAWKINS, Mr. STOKES, Mr. FORD of Tennessee, Mr. DELLUMS, Mr. RANGEL, Mr. CLAY, Mr. SAVAGE, Mr. HAYES of Illinois, Mr. WHEAT, Mrs. COLLINS, Mr. FLAKE, Mr. DYMALLY, Mr. LELAND, Mr. FAUNTROY, and Mr. SUNIA):

H.R. 3811. A bill to designate the Federal building located at 50 Spring Street, Southwest, Atlanta, GA, as the "Martin Luther King, Jr. Federal Building"; to the Committee on Public Works and Transportation.

By Mr. OBERSTAR:

H.R. 3812. A bill to amend the Federal Aviation Act of 1958 to protect employees and promote aircraft safety; to the Committee on Public Works and Transportation.

By Mr. OWENS of Utah (for himself, Mr. KOLTER, Mr. LIPINSKI, Mr. SKEEN, Mr. LEWIS of Georgia, Mr. BILIRAKIS, Mr. WEISS and Mr. LANCASTER):

H.R. 3813. A bill to provide that former Presidents shall be nonvoting members-at-large of the House of Representatives; to the Committee on the Judiciary.

By Mr. RIDGE (for himself, Mrs. KENNELLY, Mr. GOODLING, Mr. MURTHA, Mr. PETRI, Mr. CLAY, Mr. GEJDENSON, Mr. MONTGOMERY, Mr. HOWARD, Mr. ROWLAND of Connecticut, Mr. WALKER, Mr. KANJORSKI, Mr. YATRON, Mr. SCHULZE, Mr. CLINGER, Mr. CALLAHAN, Mr. APPLEGATE, Mr. EMERSON, Mr. MURPHY, Mr. DENNY SMITH, Mr. DAVIS of Michigan, Mr. SLATTERY, Mr. GUNDERSON, Mr. ERDREICH, Mr. MCDADE, Mr. TAUKE, Mr. HEFNER, Mr. ROBERTS, Mr. BALLENGER, Mr. NEAL, Mr. VALENTINE, Mr. SHUSTER, Mr. SHAYS, Mr. COYNE, Mr. BLILEY, Mr. FAWELL, Mr. SHARP, Mr. GEKAS, and Mr. BILIRAKIS):

H.R. 3814. A bill relating to decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. RIDGE (for himself, Mr. COYNE, Mr. LIGHTFOOT, Mr. WATKINS, Mr. DORNAN of California, Mr. FRANK, Mr. WORTLEY, Mr. BEREUTER, Mr. WHITTAKER, Mr. GOODLING, Mr. BOEHLERT, Mr. MCDADE, Mr. SCHULZE, Mr. LEWIS of Georgia, Mr. CHAPMAN, Mr. UPTON, Mr. OXLEY, Mr. DEWINE, Mr. BUSTAMANTE, Mr. DELAY, Mr. LANCASTER, Mr. DIOGUARDI, Mr. KOLTER, Mrs. COLLINS, Mrs. MEYERS of Kansas, and Mr. MADIGAN):

H.R. 3815. A bill relating to decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. SCHUMER (for himself, Mr. FISH, Mr. BERMAN, Mr. FRANK, Mr. MORRISON of Connecticut, Mr. GARCIA, Mr. BROWN of California, Mr. BUSTAMANTE, Mr. DE LUGO, Mr. FAUNTROY, Mr. FUSTER, Mr. KENNEDY, Mr. KONNYU, Mr. LELAND, Mr. MOAKLEY, Mr. TORRES, and Mr. WEISS):

H.R. 3816. A bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. HOWARD, Mr. HAMMERSCHMIDT, Mr. ANDERSON, Mr. APPLEGATE, Mr. BALLENGER, Mrs. BENTLEY, Mr. BOEHLERT, Mr. BORSKI, Mr. BOSCO, Mr. BUECHNER, Mr. CARDIN, Mr. CHAPMAN, Mr. CLINGER, Mr. DEFAZIO, Mr. DE LUGO, Mr. EMERSON, Mr. GALLO, Mr. GEPHARDT, Mr. GINGRICH, Mr. GRANT, Mr. GRAY of Illinois, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. INHOFE, Mrs. JOHNSON of Connecticut, Mr. KOLTER, Mr. LANCASTER, Mr. LEWIS of Georgia, Mr. LIGHTFOOT, Mr. LIPINSKI, Mr. MCEWEN, Mr. MINETA, Mr. MOLINARI, Mr. NOWAK, Mr. OBERSTAR, Mr. PACKARD, Mr. PERKINS, Mr. PETRI, Mr. RAHALL, Mr. ROE, Mr. ROWLAND of Connecticut, Mr. ROWLAND of Georgia, Mr. SAVAGE, Mr. SHUSTER, Mr. SKAGGS, Mr. SKELTON, Ms. SLAUGHTER of New York, Mr. STANGELAND, Mr. SUNDQUIST, Mr. SUNIA, Mr. TAYLOR, Mr. TOWNS, Mr. UPTON, Mr. VALENTINE, Mr. VISCLOSKY, Mr. VOLKMER, Mr. WHEAT, and Mr. WISE):

H.R. 3817. A bill to designate the Federal building located at 405 South Tucker Boulevard, St. Louis, MO, as the "Robert A. Young Federal Building"; to the Committee on Public Works and Transportation.

By Mr. SLATTERY:

H.R. 3818. A bill to amend the Higher Education Act of 1965 to permit certain additional depository institutions to serve as eligible lenders under the Guaranteed Student Loan Program; to the Committee on Education and Labor.

By Mr. SWEENEY:

H.R. 3819. A bill to prohibit additional appropriations for the analysis and study for the Shaws Bend site of the Colorado Coastal Plains project; to the Committee on Interior and Insular Affairs.

H.R. 3820.

By Mr. WYDEN (for himself, Miss SCHNEIDER, Mr. GLICKMAN, and Mr. LUJAN): A bill to amend and enhance existing renewable energy programs and Federal trade and export promotion programs in order to promote the United States renewable energy industry, improve the trade balance of the United States, and maintain the competitive and technical leadership of the United States in renewable energy development and trade; jointly, to the Committees on Ways and Means, Foreign Affairs, Banking, Finance and Urban Affairs, Small Business, and Energy Commerce.

H.R. 3821.

By Mr. YOUNG of Alaska: A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 3822.

By Mr. STOKES (for himself, Mr. BOLAND, and Mr. MCHUGH): A bill to strengthen the system of congressional oversight of the intelligence activities of the United States; to the Committee on the Permanent Select Committee on Intelligence and Foreign Affairs.

H.J. Res. 430.

By Mr. FASCELL: Joint resolution calling upon the Soviet Union to immediately grant permission to emigrate to all those who wish to join spouses or finances in the United States; considered and passed.

By Mr. BAKER:

H. Con. Res. 232. Concurrent resolution expressing the sense of the Congress that Project Impact of the combined accident reduction effort should receive the support of every State in the Nation and should be recognized as a model project for education of the Nation's youth; to the Committee on Education and Labor.

By Mr. DANNEMEYER:

H. Con. Res. 233. Concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Martha Raye; to the Committee on Post Office and Civil Service.

By Mr. APPLEGATE:

H. Res. 338. Resolution expressing the sense of the House of Representatives that the inmates involved in the uprisings at the U.S. Penitentiary in Atlanta, GA, and the Federal Detention Center in Oakdale, LA, should pay for or repair the property damage done during the uprisings; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:

H. Res. 339. Resolution requesting the President to furnish a certain document to the House of Representatives; to the Committee on the Permanent Select Committee on Intelligence.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. SLAUGHTER of Virginia (by request) introduced a bill (H.R. 3823) for the relief of Willard Wright; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 43: Mr. SLAUGHTER of Virginia.

H.R. 169: Mr. DE LUGO.

H.R. 303: Mr. HALL of Texas, Mr. HOWARD, Mr. LOWERY of California, Mr. PURSELL, Mr. GILMAN, Mr. DELLUMS, Mr. RIDGE, Mr. HANSEN, and Mrs. BOXER.

H.R. 306: Mr. HERGER.

H.R. 592: Mr. MCCOLLUM.

H.R. 925: Mr. BRENNAN, Mr. DURBIN, Mr. WALGREN, and Mr. FEIGHAN.

H.R. 1005: Mr. GILMAN, Mr. HOCHBRUECKNER, and Mr. LOWRY of Washington.

H.R. 1064: Mr. MARTINEZ, Mr. LOTT, Mr. CLINGER, and Mr. DOWDY of Mississippi.

H.R. 1437: Mr. STUMP.

H.R. 1531: Mr. DOWNEY of New York, and Mr. AKAKA.

H.R. 1580: Mr. FAZIO, Mr. FEIGHAN, Ms. OAKAR, and Mr. WAXMAN.

H.R. 1638: Mr. TRAFICANT, Mr. GONZALEZ, and Mr. BUSTAMANTE.

H.R. 1786: Mr. GALLEGLY.

H.R. 1810: Mr. MANTON.

H.R. 1842: Mr. MARKEY and Mr. LEWIS of Georgia.

H.R. 1902: Mr. FOGLIETTA.

H.R. 1932: Mr. MAVROULES.

H.R. 1986: Mr. NELSON of Florida.

H.R. 2039: Mr. LAGOMARSINO and Mr. ROTH.

H.R. 2134: Mr. JONES of North Carolina, Mr. TALLON, and Mr. GEKAS.

H.R. 2260: Mr. YATRON, Mr. RICHARDSON, and Mr. PACKARD.

H.R. 2537: Mr. FLAKE.

H.R. 2570: Mr. MINETA.

H.R. 2621: Mr. ANDERSON, Mr. DELLUMS, Mr. DURBIN, Mr. BEILENSON, Mr. HAWKINS, and Mr. BONIOR of Michigan.

H.R. 2624: Mr. HERGER.

H.R. 2911: Mr. DE LUGO.

H.R. 2926: Mr. EDWARDS of Oklahoma.

H.R. 2943: Mr. DOWNEY of New York, Mr. BERMAN, Mr. ST GERMAIN, Mr. WILSON, Mr. DERRICK, Mr. MINETA, Ms. PELOSI, Mr. TRAFICANT, Mr. WEISS, Mr. TORRES, Mr. HAWKINS, Mr. DEFAZIO, Mrs. BYRON, Mr. BOSCO, Mr. MCGRATH, Mr. MOAKLEY, Mr. DELLUMS, Mr. SLAUGHTER of Virginia, Mr. CONYERS, Mr. JONES of North Carolina, Mr. WISE, and Mr. LEWIS of Georgia.

H.R. 2944: Mr. DOWNEY of New York, Mr. BERMAN, Mr. ST GERMAIN, Mr. WILSON, Mr. DERRICK, Mr. MINETA, Ms. PELOSI, Mr. UDALL, Mr. MARLENEE, Mr. TRAFICANT, Mr. WEISS, Mr. TORRES, Mr. HAWKINS, Mr. DEFAZIO, Mrs. BYRON, Mr. BOSCO, Mr. MCGRATH, Mr. MOAKLEY, Mr. DELLUMS, Mr. SLAUGHTER of Virginia, Mr. SOLOMON, Mr. CONYERS, Mr. JONES of North Carolina, Mr. WISE, Mr. LEWIS of Georgia, and Mr. SCHUMER.

H.R. 2955: Mr. FAZIO, Mr. KOLBE, Mrs. COLLINS, and Mr. DE LUGO.

H.R. 3009: Mr. SOLARZ.

H.R. 3019: Mr. VENTO and Mr. DE LUGO.

H.R. 3065: Mr. SUNDQUIST, Mr. CARR, Mrs. SAIKI, Mr. OWENS of New York, Mr. LIGHTFOOT, Mr. MARTINEZ, Mr. BRYANT, and Mr. MCCLOSKEY.

H.R. 3075: Mr. DENNY SMITH.

H.R. 3144: Mr. BROOKS.

H.R. 3174: Mr. SHAYS.

H.R. 3233: Mr. FRANK and Mr. TORRES.

H.R. 3286: Mr. VENTO, Mr. WAXMAN, Mr. KONNYU, Mr. CONTE, Mr. HOCHBRUECKNER, Mrs. MARTIN of Illinois, Mr. FLORIO, Mr. KENNEDY, Mr. TOWNS, Mr. SWIFT, and Mr. LANTOS.

H.R. 3314: Mr. DOWDY of Mississippi and Mr. COURTER.

H.R. 3321: Mr. LELAND.

H.R. 3332: Mr. SKELTON and Mr. TORRES.

H.R. 3335: Mr. MANTON, Mr. HUBBARD, Mr. JONES of North Carolina, Mr. BENNETT, Mr. HUGHES, Mr. FOGLIETTA, Mr. BATEMAN, and Mr. DIOGUARDI.

H.R. 3359: Mr. RANGEL and Mr. SOLARZ.

H.R. 3454: Mr. BRYANT, Mr. DYSON, Mr. GUNDERSON, Mr. LANTOS, Mr. LELAND, Mr. PACKARD, and Mrs. ROUKEMA.

H.R. 3485: Mr. MILLER of Washington.

H.R. 3517: Mr. DANIEL, Mr. CHAPMAN, Mr. GONZALEZ, Mr. MCCLOSKEY, Mr. LAFALCE, and Mr. DIOGUARDI.

H.R. 3543: Mr. LIPINSKI, Mr. EVANS, Mr. MFUME, Mr. OWENS of New York, and Ms. KAPTUR.

H.R. 3580: Mr. VENTO and Mr. DE LUGO.

H.R. 3581: Mr. KENNEDY and Mr. TOWNS.

H.R. 3582: Mr. KENNEDY, Mr. TOWNS, AND Mr. ACKERMAN.

H.R. 3585: Mr. HOYER, Mr. PASHAYAN, and Mr. WATKINS.

H.R. 3593: Mr. RAHALL, Mr. MILLER of California, Mr. MURPHY, Mr. MORRISON of Connecticut, Mr. FAZIO, Mr. LOWRY of Washington, Mr. DURBIN, Mr. DELLUMS, Mr. DIXON, Ms. KAPTUR, and Mr. EVANS.

H.R. 3602: Mr. MAVROULES, Mr. AKAKA, Mr. TRAFICANT, Ms. PELOSI, Mr. FUSTER, Mr. PERKINS, Mr. WHEAT, Mr. SAVAGE, Mr. FAUNTROY, and Mr. DE LUGO.

H.R. 3619: Mr. HYDE, Mr. LEVIN of Michigan, and Mr. WILSON.

H.R. 3663: Mr. DE LUGO, Mr. GRAY of Illinois, Mr. HOWARD, Mr. GARCIA, Mr. SCHUMER, Mr. CLAY, and Mr. NEAL.

H.R. 3675: Mr. FLAKE.

H.R. 3690: Mr. KOLBE.

H.R. 3692: Mr. MCCURDY, Mr. HENRY, Mr. SHAYS, Mr. HYDE, Mr. GRANDY, Mr. BALLENGER, and Mr. BEREUTER.

H.R. 3699: Mr. FAUNTROY.

H.R. 3710: Mr. COLEMAN of Missouri.

H.R. 3725: Mr. UPTON.

H.J. Res. 50: Mr. PICKLE, Mr. COLEMAN of Texas, Mr. EVANS, Mr. DE LUGO, and Mr. CONTE.

H.J. Res. 139: Mr. MARTINEZ and Mr. NIELSON of Utah.

H.J. Res. 148: Ms. PELOSI.

H.J. Res. 232: Mr. TAUZIN.

H.J. Res. 349: Mr. DIXON and Ms. OAKAR.

H.J. Res. 371: Mr. CONTE, Mr. SPENCE, and Mr. VENTO.

H.J. Res. 382: Mr. FLORIO, Mr. HOYER, Mr. COYNE, Mr. GEJDENSON, Mr. ROE, Mr. MORRISON of Connecticut, Mr. TORRES, Mr. BIAGGI, Mr. PEPPER, Mr. SCHUMER, Mr. CARPER, Ms. KAPTUR, Mr. GARCIA, Mr. AKAKA, Mr. BOSCO, and Mr. DONNELLY.

H.J. Res. 383: Mr. MILLER of California, Mr. OLIN, Mr. DOWDY of Mississippi, Mr. PURSELL, Mr. OBERSTAR, Mr. MONTGOMERY, Mr. GREGG, and Mr. ROYBAL.

H.J. Res. 386: Mr. AKAKA, Mr. DERRICK, Mr. GRAY of Pennsylvania, Mr. HAYES of Louisiana, Mrs. JOHNSON of Connecticut, Mr. LAGOMARSINO, Mr. LOWRY of Washington, Mr. MAZZOLI, Mr. SHUMWAY.

H.J. Res. 396: Mr. DE LUGO.

H.J. Res. 399: Ms. SLAUGHTER of New York, Mr. OWENS of Utah, Mr. AUCOIN, Mr. DOWDY of Mississippi, Mr. CAMPBELL, Mr. ROSE, Mr. BENNETT, Mr. HENRY, Mr. SCHAEFER, Mr. VENTO, Mr. VOLKMER, Mr. BUNNING, Mr. BOSCO, Mr. BERMAN, Mr. ESPY, and Mr. GEPHARDT.

H.J. Res. 403: Mr. ACKERMAN, Mr. BADHAM, Mr. BOUCHER, Mr. BUSTAMANTE, Mr. CLARKE, Mr. DAUB, Mr. DEFAZIO, Mr. FAWELL, Mr. FIELDS, Mr. HAYES of Illinois, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. HUNTER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LIPINSKI, Mr. MACKAY, Mr. MCDADE, Mr. MFUME, Mr. NELSON of Florida, Mr. RANGEL, Mr. SAXTON, Mr. SKAGGS, Ms. SLAUGHTER of New York, Mr. STOKES, and Mr. YATRON.

H.J. Res. 405: Mr. JONTZ, Mr. YOUNG of Florida, Mr. THOMAS A. LUKEN, Mr. ROBINSON, and Mr. DE LUGO.

H. Con. Res. 30: Mr. SMITH of New Jersey.

H. Con. Res. 84: Mr. LOWRY of Washington.

H. Con. Res. 126: Mr. BATES, Mr. DAUB, Mr. LIPINSKI, Mr. ANNUNZIO, Mrs. PATTERSON, Mr. FRENZEL, Mrs. BENTLEY, Mr. BROWN of Colorado, Mr. MCDADE, Mr. HAYES of Illinois, Mr. BEVILL, Mr. TALLON, Mr. SUNIA, Mr. LANTOS, and Mr. PORTER.

H. Con. Res. 216: Mr. LAGOMARSINO, Mr. HUGHES, Mr. FAUNTROY, Mr. DENNY SMITH, Mrs. BOXER, Mr. CARPER, and Mr. BONIOR of Michigan.

H. Con. Res. 227: Mr. TALLON, Mr. DAVIS of Michigan, Mr. ACKERMAN, Mr. SLATTERY, Mr. RAHALL, Mr. KANJORSKI, Mr. LIPINSKI, Mr. MADIGAN, Mr. OXLEY, Mr. RINALDO, Mr. SAXTON, Mr. BOEHLERT, Mr. TRAFICANT, Mr. FAZIO, Mr. MOLLOHAN, Mr. WYDEN, Mr. BLILEY, Mr. TOWNS, Mr. BORSKI, Mr. GRAY of Illinois, Mr. STAGGERS, Mr. APPLEGATE, Mr. MORRISON of Washington, Mr. BEVILL, Mr. MORRISON of Connecticut, Mr. COLEMAN

of Texas, Mrs. BENTLEY, Mr. CHAPPELL, Mr. WOLPE, Mr. DOWDY of Mississippi, Mr. DAUB, Ms. KAPTUR, Mr. WALGREN, Mr. COATS, and Mrs. VUCANOVICH.

H. Con. Res. 229: Mr. BADHAM, Mr. REGULA, Mrs. BYRON, Mr. BUSTAMANTE, Mr. SKELTON, Mr. KONNYU, and Mr. HENRY.

H. Con. Res. 230: Mr. SKAGGS, Mr. WOLPE, and Mr. MILLER of Washington.

H. Res. 188: Mr. GORDON.

H. Res. 246: Mr. EVANS, Mr. ACKERMAN, Mr. DELLUMS, Mr. BERMAN, Mr. MCHUGH, Mr. SCHUMER, Mr. FRANK, Mr. HAWKINS, Mr. FORD of Tennessee, Mr. TOWNS, Mr. GARCIA, Mr. DE LUGO, Mr. CLAY, Mr. BIAGGI, Mr. HOWARD, and Mr. WEISS.

H. Res. 271: Mr. MICHEL, Mr. HANSEN, Mr. PASHAYAN, and Mr. DAUB.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1259: Mr. MOAKLEY and Mr. DONNELLY.

H.R. 2859: Mr. NIELSON of Utah.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. SLAUGHTER of New York) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, today.

91-059 O-89-47 (Pt. 25)