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Senate

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

The PRESIDENT pro tempore. Today's prayer will be offered by our guest chaplain, the Reverend Charles Hart, of Salem, OR.

We are pleased to have you with us.

PRAYER

The guest chaplain, the Reverend Charles F. Hart, of the Associated Churches of God in Oregon and Southwest Washington, offered the following prayer:

Eternal God, our Maker, our God most holy, Your unconditional love surrounds us, and everywhere we look, we see the beauty of Your creative power. We join our hearts with the psalmist who prayed, ''O Lord, our Lord, how majestic is thy name in all the Earth.'' You are a God of refuge and strength and a very present help in times of important decisions that the men and women of the U.S. Senate will face from day to day.

Our prayer this day, O sovereign Lord, is for Your limitless, fathomless, most holy wisdom and love to permeate these great leaders of our great Nation as they lead the United States of America into the 21st century. May our Nation always be known as peacemakers and peacekeepers.

May the grace and the glory of our Lord Jesus Christ be with you always. Amen.

The PRESIDENT pro tempore. The able Senator from Oregon is recognized.

THE REVEREND CHARLES F. HART

Mr. HATFIELD. Mr. President, it is a pleasure today to introduce to my colleagues the Reverend Charles Hart. Reverend Hart understood Christ's words when he told his disciples, ''Where your treasure is, there your heart will be also.'' Charles Hart's treasure has been in his service to God by acting on his faith with the skills that he has been given and blessed with.

Reverend Hart earned his undergraduate degree at Arlington College in Long Beach, CA. While Reverend Hart's first love was baseball, finance and his faith won out in his life. He began his career with Security Pacific Bank while at the same time serving as the associate pastor of South Bay Church of God in Torrance, CA.

Reverend Hart's skill in finance led to a successful career in the secular world of banking. While this type of success can bring satisfaction, it did not bring to him the deepest satisfaction that comes from serving God full time. At that point, Reverend Hart decided to use his skills as a development officer for a small Christian liberal arts college in California. Reverend Hart has continued in his capacity by lending financial expertise to Christian institutions throughout this career.

From Azusa Pacific University, he went on to Warner Pacific College in Portland where he still serves as a member of the board of trustees. He has also assisted Wycliffe Bible Translators in raising funds to translate God's word to all nationalities and is currently working with the Associated Churches of God in Oregon and Southwest Washington in securing expansion funds. Reverend Hart has also worked to share the treasure of his faith with others in the business community through his 25-year involvement with the Christian Businessmen's Committee.

God provides us all with special skills, and Reverend Hart is a prime example that we can use those skills to better ourselves and the world in which we live.

Again, on behalf of my Senate colleagues, we are privileged that Reverend Hart is willing to fulfill the duties of Senate Chaplain today, and I would like to officially welcome him to this Chamber. Also accompanying him today is his wife, Sally, and his son, Ken Hart, who is my press secretary, and Ken's wife, Sheila.

SCHEDULE

Mr. HATFIELD. Mr. President, on behalf of the majority leader, this morning the Senate will immediately resume consideration of the energy and water appropriations bill. Under the agreement reached last night, there will be 30 minutes of debate prior to a series of rollcall votes which will begin at 10 a.m. this morning. Senators should be aware that the first vote in the sequence will be the normal 15 minutes in length with the remaining votes limited to 10 minutes each.

Once again, the majority leader asks for the cooperation of all Members in allowing us to proceed to these votes in an orderly and timely fashion.

Senators should be prepared to remain in or around the Chamber during these stacked votes. During this voting sequence, the Senate will also be voting on amendments and completing action on the legislative appropriations bill. The Senate may remain in session late this evening to consider other available appropriations bills and conference reports that are available. Therefore, additional votes may occur.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER (Mr. BROWN). Under the previous order, the Senate will now resume consideration of S. 1959, which the clerk will report.

The assistant legislative clerk read as follows.

A bill (S. 1959) making appropriations for energy and water development for the fiscal

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

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year ending September 30, 1997, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McCain amendment No. 5094, to clarify that report language does not have the force of law.

McCain amendment No. 5095, to prohibit the use of funds to carry out the advanced light water reactor program.

Bumpers amendment No. 5096, to reduce funding for the weapons activities account to the level requested by the Administration.

Johnston (for Wellstone) amendment No. 5097, to ensure adequate funding for the biomass power for rural development program.

Grams amendment No. 5100, to limit funding for the Appalachian Regional Commission and require the Commission to be phased out in 5 years.

Domenici (for McCain) amendment No. 5105, to strike section 503 of the bill.

Feingold amendment No. 5106, to eliminate funding for the Animas-LaPlata participating project.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, parliamentary inquiry. What is the business before the Senate?

The PRESIDING OFFICER. Currently, there is 20 minutes equally divided between the Senator from New Mexico and the Senator from Louisiana. At 9:50 a.m., we will recognize Senator MCCAIN for remarks concerning his amendment.

Mr. DOMENICI. Let me just state for Senator JOHNSTON's benefit, we have, as he probably knows, reached an agreement with Senator MCCAIN on his report language. I think he will find that satisfactory.

So, when Senator MCCAIN arrives, when his time has expired, we will do this second-degree amendment, and then we will vote, if he desires a rollcall vote; if not, we will adopt the amendment.

What would be the next order of business after that amendment is disposed of?

The PRESIDING OFFICER. The unanimous-consent order from last night talks about a 10 a.m. vote, with 2 minutes allotted to each side and a vote on the McCain amendment.

Mr. DOMENICI. What is the next amendment after that, Mr. President?

The PRESIDING OFFICER. Following that, amendment No. 5095, which is another McCain amendment.

Mr. DOMENICI. On advanced light water reactor?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. And there are 2 minutes on each side on that?

The PRESIDING OFFICER. Again, 2 minutes on that, and then we will move to a Bumpers amendment No. 5096.

Mr. DOMENICI. I am going to yield now—we only have about 6 minutes—if the Senator from Louisiana would like to speak to the light water reactor amendment or whatever he would like to speak to.

AMENDMENT NO. 5095

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague from New Mexico. There is a McCain amendment on cutting the funds, $22 million for the light water reactor. This is the fifth year of a 5-year program.

There are many reasons to be against the McCain amendment, but the clearest, most indelible, most compelling reason is that to cut these funds now would subject the U.S. Government to greater penalties for termination costs than it would be to finish it.

Moreover, the U.S. Government would lose, according to Terry Lash, who is the Director of the Department of Energy office in charge of this, the U.S. Government would lose up to $125 million to which they would otherwise be entitled. The reason for that is, the AP–600, which is the reactor, which is 90 percent complete would be completed by this last year. When the first of those is sold, the Federal Government is entitled to a $25 million recoupment, plus $4 million for every reactor sold after that, plus the United States Government is entitled right now to $3 million from GE for reactors already sold under this program to Taiwan and others in the pipeline.

For the United States to, in effect, break their contract and terminate, subjects the Government not only to a greater amount in loss but the loss of future revenues as well.

Mr. President, the AP–600, which is the Westinghouse reactor, which would be finished under this program, is exactly what all of us in the Congress have been saying all this time that we ought to be doing; that is, it is a passively safe reactor, it is one generically designed and is, I believe, going to be a very hot item, particularly in Asia. The Chinese have already obligated themselves to 6,000 megawatts of nuclear power between now and the year 2000 using Russian technology, Canadian technology, and French technology, because we do not permit our nuclear technology to go to China after Tiananmen Square. We expect that that negotiation will take place in the not too far distant future to allow American nuclear technologies to get in on that huge market.

In the first decade after the year 2000, the Chinese expect to do another 11,000 megawatts, many, many billions of dollars, and they have a longstanding relationship with Westinghouse, they like the AP–600, and we ought to have it finished.

So, Mr. President, you can finish it for less money than to terminate it, and then you lose all the additional funds you would get.

So, Mr. President, I hope we will not be so foolish as in a fit of antinuclear pique to go out and accept one of these bumper-sticker-type arguments that this is corporate welfare. The fact of the matter is that the corporations involved here, relying upon the Government, have put up almost $500 million to get this program finished, and now it takes another $22 million to finish the program and the Congress is saying, ''Let's not do it.'' If this argument was to have been made and this decision was to have been made, it should have been made back in 1992 when the Energy Policy Act was up, when the issue was debated and when the Congress decided to go ahead with the program.

To stop it at the 11th hour at greater cost than to complete it is nothing short of madness, which is not to say that the Congress has not done that kind of thing before. We have done some exceedingly foolish things in this Senate before, as my colleagues all know. But at least we should not go into this one, which not only would be exceedingly foolish but exceedingly simple and exceedingly easy to understand. It ought to be easy for anyone to understand that you should not terminate a program that costs more money to terminate than to continue.

Moreover, there would be a huge amount of potential profits to be lost and a very, very useful technology.

One final note, Mr. President. I note that the United States is now getting serious about global warming, and in the New York Times of July 17, 1996, there is an article entitled ''In a Shift, the U.S. Will Seek a Binding Agreement by Nations To Combat Global Warming.''

Mr. President, if we are, in fact, serious about global warming—and I will submit that to the conscience and intelligence and state of knowledge of each Senator as to whether you are or not serious about global warming—I can tell you that there is one solution that stands out above all the rest, and that is nuclear energy, if you really are serious about global warming, because how else are you going to generate large amounts of power?

We have a huge amount of money in this bill for renewables. We have increased it. You know, I am for it. But, Mr. President, if you think you are going to solve global warming by something short of major powerplants at a time when there is huge growth in the world, industrial growth, I believe, Mr. President, you would be mistaken.

All over the Pacific rim where there are these enormous rates of growth, unparalleled in the history of the world for a region of such huge populations to be growing at such leaps and bounds, there is also an air pollution problem of unprecedented severity. That is why the Chinese and the Indonesians and the Japanese are very serious about a big nuclear program. All of those nations are. And American technology should be able to compete. This technology, which is almost complete,

about 90 percent complete, would be America's best way to get into that global competition.

So, Mr. President, I hope my colleagues will vote against the McCain amendment when it is brought up, the McCain amendment with respect to the advanced light water program.

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

Under the previous order, the Senator from Arizona has the time from 9:50 to 10 a.m. The Senator from Arizona is recognized.

AMENDMENT NO. 5094

Mr. MCCAIN. Mr. President, I want to thank the Senator from New Mexico for his agreement on our changes to his amendment. I appreciate that very much. I do want to make it clear, though, that we are talking about a very important issue here; that is, the differentiation between report language and bill language. The report language is sometimes ignored. I understand that many of our Members are very frustrated from time to time when report language is ignored.

The administration does sometimes ignore report language at its own peril. We know that if the administration acts in direct contradiction to report language that Members will come up with numerous ways to force the administration to do their bidding.

The effective language contained in this bill—before the amendment—I believe was dangerous for two reasons. First, by giving report language the force of law, we essentially passed statutory language that has not been agreed to by both Houses and signed into law. This is, on its face, unconstitutional.

Mr. President, let me just quote from Justice Scalia where he said:

> As anyone familiar with modern-day drafting of congressional committee reports is well aware, the references to the cases were inserted, at best by a committee staff member on his or her own initiative, and at worst by a committee staff member at the suggestion of a lawyer-lobbyist; and the purpose of those references was not primarily to inform the Members of Congress what the bill meant. . .

Mr. President, as I have been around here about 10 years, I agree with Justice Scalia. I have seen it time after time. Mr. President, the D.C. Circuit Court, in International Brotherhood of Electrical Workers, Local Union No. 474 versus NLRB noted:

> . . . [w]hile a committee report may ordinarily be used to interpret unclear language contained in a statute, a committee report cannot serve as an independent statutory source having force of law.

And in Rubin versus U.S., the eighth circuit court stated:

> A conference report, moreover, is just that—a report, not a legislative act requiring the votes of the requisite number of legislators.

Second, by codifying report language, which is written by the staffs of the 13 full committee chairmen, you have essentially disenfranchised every other Senator of his or her right to amend legislation. Report language cannot be amended. I cannot stand on the floor of the Senate and try to amend and change report language. The minority party cannot change report language. No one but that chairman that writes it can dictate what is in report language.

Mr. President, codifying report language is creative budget chicanery and an affront to this institution and the Constitution, and it should not be done. If a Member of Congress wants to force the administration to take a certain specific action, whether to spend money on a project or do something else, then that Senator has the right to offer an amendment.

We all know the rules here. An amendment can be debated, further amended, filibustered, or tabled. But report language cannot be touched. Therefore, it should not be codified into law.

Mr. President, the Office of Management and Budget specifically mentioned its opposition to this language in the statement of administration policy. OMB is correct in that this provision should be struck from the bill.

I recognize that report language has been codified in the past. It was wrong then, and it is wrong now. We should not do this ever, in my view.

Mr. President, I appreciate the concern of the Senator from New Mexico concerning the lack of cooperation on the part of the administration to carry out the will of Congress and the will especially expressed in legislation that he has so much expertise and knowledge of, and I respect all that.

I appreciate the fact that Senator DOMENICI has modified his amendment. I also understand why he would want a report on how the Department is spending those appropriated funds. I would point out in passing, although I certainly agree with the amendment, that one of my goals has been to reduce the number of reports that flow over to the Congress and are demanded by the Congress of the executive branch.

But, in this case, I understand the urgency that the Senator from New Mexico feels is associated with this language and with the efforts that he has made on behalf of the people of this country and, in the form of his chairmanship, this very proper appropriations subcommittee.

Mr. President, I yield the floor.

Mr. DOMENICI. The leader has asked that I make the following unanimous-consent request. Mr. President, I ask unanimous consent that the vote schedule at 10 a.m. be postponed until 10:15—that is because of an emergency that our leader recognizes—with the time before that being equally divided, if we want to use the time. We can yield it to other Senators.

I say to Senator MCCAIN, let me thank you for your efforts with reference to the report language that essentially was put in this bill at my request. I do understand that language that I have in the bill that says:

> Notwithstanding [other provisions of the law,] funds made available by this Act . . . shall be available only for the purposes for which they have been made available by this Act and only in accordance with the recommendations contained in this report.

We are going to strike that with your amendment, and we are going to offer a second-degree amendment that requires regular reports to this subcommittee on how it has complied with this bill.

I am going to cite only four or five examples of what I consider egregious departures from the intent of the bill. I will give you one. We worked very hard on technology transfer, and we got that to a dollar number of $150 million. It had been higher. The administration wanted less. We worked it out. We debated it. The Secretary decided to use only $50 million of it, and to put $100 million somewhere else at her choosing.

That is nice. It is just that, for many of us who worked hard on these issues, it is sort of insulting to go through all this work and have it happen. We accepted, after debate, an amendment by Senator KERREY with reference to a certain math and science initiative which the Department was requested and in report language required to do it. It was a half million dollars. Totally ignored. The money went somewhere else.

The McCain amendment would strike ''and only in accordance with the recommendations contained in this report.''

Why is the language necessary?

The act provides funds in very large chunks. For example, the act provides $2.749 billion for energy supply, research, and development.

Only the report indicates that $247 million should go to solar and renewably energy programs—that is not in the act.

Only the report indicates that $389 million is for biological and environmental research which funds the Human Genome Program—that is not in the act.

Without the proposed language, the DOE does not have to follow the Senate's guidance.

Last year, I worked hard to provide $150 million for technology transfer—but it was only in the report and so DOE provided only $50 million.

Last year, Senator KERREY of Nebraska included report language that $500,000 should go to the Nebraska math and science initiative—DOE did not provide the money—they did not have to, it was just report language.

Last year, Congress eliminated funding for in-house energy management—private sector companies now offer the service for free. But, Congress only eliminated the program in report language so DOE provide $4 million for the program—after Congress thought we had eliminated it.

Financial irregularities abound at the DOE:

Funds have been reprogrammed from their original purpose to purposes specifically denied by the Congress last year;

The Department created a furlough relief fund to augment appropriations specifically reduced by Congress;

A recent draft inspector general report noted that the Department deliberately ignored a statutory funding limitation on the use of representational expenses and spent more than appropriated for receptions.

The language is necessary for two reasons:

First, it is the only way funding for programs of interest to Members can be assured, and;

Second, without it, the Department can ignore congressional intent.

Frankly, the Secretary and her administrative assistants understand the concern we have about departures from what is the clear intent. I will just ask those who are for renewable energy, if they know that we just put a very large sum of money in, and in report language we recommend the renewables that you just alluded to, I say to Senator JOHNSTON.

Obviously, if the Secretary wants to, the way they act on other things, they could decide to cut that in half and spend the money elsewhere. Now, we go through a lot of effort on those kinds of issues. Frankly, I believe we must do something.

So you are right. My language went too far. I think language that comes after it saying we want you to report to us, we will set the right tone.

AMENDMENT NO. 5121 TO AMENDMENT NO. 5094

(Purpose: Second degree amendment to the McCain first degree amendment regarding report language)

Mr. DOMENICI. Mr. President, I send a second-degree amendment to the desk, to the McCain amendment.

The PRESIDING OFFICER. Is there objection to consider the second-degree amendment? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 5121 to amendment No. 5094.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

On line 3 of amendment number 5094, strike ''Act'' and insert in lieu thereof the following: ''Act. The Department of Energy shall report monthly to the Committees on Appropriations of the House and Senate on the Department of Energy's adherence to the recommendations included in the accompanying report.''

Mr. DOMENICI. Now, Mr. President, if Senator MCCAIN is willing, we will adopt the second-degree amendment by voice vote.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. I compliment the Senator from Arizona on this amendment. It is the first time that I have been aware of language that, in effect, incorporates the committee report language as a part of the bill. The committee report language cannot be amended, and if we are going to start down this road, we are going to rue the day we began on this journey.

I hope we will not have a voice vote in this. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered on the underlying amendment.

Mr. BYRD. I think we ought to have a vote and let that record be there for all to see in the future.

Let me ask a question without losing my right to the floor, Mr. President. Does the distinguished Senator from Arizona know of any other bill, appropriations bill, in the recent past or ever in the past, that has utilized this approach of incorporating amendment language as a part of the bill?

I have been unaware of it if this has been done before.

Mr. MCCAIN. Answering a question like that to the distinguished Senator from West Virginia is like asking a minor league baseball player to pitch the World Series.

The Senator from West Virginia is all corporate knowledge on these issues, and I bow to his knowledge. He has been intimately involved in this process for so long. I believe I am correct in responding when I say I know of no other case, except one case that took place sometime in the mid-1980's when this particular instance happened, but I have not heard of it before.

I ask in return, does the Senator from West Virginia know of any place where this happened?

Mr. BYRD. Mr. President, I do not know, but that is not to say that it has not been done. It may have escaped my attention, but whether or not it has been done heretofore, I think we ought to put a stop to it if it has been done. I think it ought to be stopped now.

I congratulate the Senator on his amendment. I shall object to vitiating the yeas and nays on this amendment if the request is made.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment to the McCain amendment.

The amendment (No. 5121) was agreed to.

AMENDMENT NO. 5095

Mr. MCCAIN. Mr. President, I want to discuss very briefly the other amendment that I have pending. I, of course respect the views of the Senator from Louisiana. Let me state at the beginning I am a supporter of nuclear energy and I believe at some point in our history we may turn back to that as a source of power for our energy needs.

Continuing the advanced light-water reactor program is a mistake. I point out that this program has already received more than $230 million over the past 5 years. This amendment does not create any termination costs of the program. The contract between Westinghouse and the Department of Energy specifically provides reimbursement for costs incurred as a result of termination, ''shall be subject to the availability of appropriated funds.''

General Electric recently announced it is canceling its simplified boiling water reactor after receiving $50 million from the Department of Energy under the program because ''extensive evaluations of the market competitiveness of the 600-megawatt-size advanced light-water reactor have not established the commercial viability of these designs.'' The Westinghouse AP–600 is a similarly designed reactor that is scheduled to receive advanced light-water reactor support and is of a similar size and design and is facing similar market forces that led General Electric to cancel that program.

These facts are significant because the Government cannot recoup its costs for reactors not sold. The Westinghouse reactor is like the canceled reactor and will likely never be sold, and no costs can be recouped.

Last year, there was opposition to end funding for the advanced light-water reactor program by arguing that this year, fiscal year 1996, would be the fifth year of the 5-year program. Now, a year later, the same argument is being made.

The way to end this taxpayer subsidy is by the will of the Congress exercised here today. Mr. President, I hope my colleagues will support the amendment. I yield the floor.

AMENDMENT NO. 5094, AS AMENDED

Mr. DOMENICI. Mr. President, on the first amendment by Senator MCCAIN, as amended by the second-degree amendment, we are working to try to get that adopted.

Senator BYRD, let me suggest we are ready to acknowledge openly that the amendment went too far. The intention, I still feel very comfortable with, because I believe the Department truly in egregious ways violates the intent and spirit by moving money around, but I think Senator BYRD has made the case, and Senator MCCAIN has made the case. Clearly it is not going to happen.

I think the Senate knows that we are not going to be doing this, but I would like to make sure that what comes out of the Senate is kind of balanced, that the Department does not get the idea that they have all the latitude in the world and will never be called to task. I think this would better be served, overall, if we just proceed to adopt the amendment by voice vote.

Mr. BYRD. Mr. President, if the distinguished Senator will yield.

Mr. DOMENICI. I am happy to yield to the Senator.

Mr. BYRD. I think the two managers have made a very salient point. I have discussed this matter with them privately and the majority manager has stated the case well. I am willing to yield to their request that we vitiate the yeas and nays but I hope the distinguished Senator from Arizona will continue his superb surveillance of bill

language in the future so that we will be aware of any future attempt to incorporate, in essence, incorporate committee report language into the bill as a law.

I thank the distinguished Senator for yielding.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the yeas and nays be vitiated, and we proceed to the McCain amendment, as amended.

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

The amendment before the Senate is amendment 5094, as amended with the Domenici amendment. The question is on agreeing to the amendment.

The amendment (No. 5094), as amended, was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. DOMENICI. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5095

The PRESIDING OFFICER. The amendment under consideration now is amendment numbered 5095.

The Chair reminds Senators that by unanimous consent rollcall votes will commence at 10:15. Sponsors of the amendment and their opponents have 2 minutes each with which to comment on the amendment.

Mr. DOMENICI. Mr. President, it is the understanding of Senator MCCAIN from Arizona and the manager of the bill that Senator MCCAIN has an additional 10 minutes reserved on the light water reactor amendment. He has indicated to me he would like to vitiate that.

Mr. MCCAIN. That was before final passage that I ask to vitiate that.

Mr. DOMENICI. Yes, 10 minutes before final passage. He asks that that be vitiated at this point. On his behalf, I ask unanimous consent that it be vitiated.

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

Mr. DOMENICI. Now, Mr. President, parliamentary inquiry. Has all the time provided been used on the second McCain amendment on the light water reactor?

The PRESIDING OFFICER. Each proponent and opponent are reserved 2 minutes each for debate. By previous agreement, votes will not commence until 10:15.

Mr. DOMENICI. Senator MCCAIN does not desire any further time at this point, and Senator JOHNSTON needs no more time. I ask unanimous consent that the 2 minutes each be vitiated.

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

Mr. DOMENICI. Mr. President, I move to table the second McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 5095.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Rhode Island [Mr. PELL] is absent because of a funeral.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote ''no.''

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—53

Abraham	Exon	Mack
Bennett	Faircloth	McConnell
Bingaman	Ford	Moseley-Braun
Bond	Gorton	Murkowski
Breaux	Grams	Nickles
Brown	Hatch	Nunn
Burns	Heflin	Pressler
Byrd	Helms	Santorum
Campbell	Hollings	Shelby
Cochran	Inhofe	Simon
Conrad	Inouye	Simpson
Coverdell	Johnston	Smith
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
Daschle	Kyl	Thomas
DeWine	Lieberman	Thurmond
Dodd	Lott	Warner
Domenici	Lugar	

NAYS—45

Akaka	Glenn	Levin
Ashcroft	Graham	McCain
Baucus	Gramm	Mikulski
Biden	Grassley	Moynihan
Boxer	Gregg	Murray
Bradley	Harkin	Pryor
Bryan	Hatfield	Reid
Bumpers	Hutchison	Robb
Chafee	Jeffords	Rockefeller
Coats	Kennedy	Roth
Cohen	Kerrey	Sarbanes
Dorgan	Kerry	Snowe
Feingold	Kohl	Thompson
Feinstein	Lautenberg	Wellstone
Frist	Leahy	Wyden

NOT VOTING—2

Frahm	Pell

The motion to lay on the table the amendment (No. 5095) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5096

The PRESIDING OFFICER. According to the previous agreement, there are now 2 minutes equally divided on the motion to table the Bumpers amendment No. 5096. The Senate is reminded that the rollcall vote on the motion to table the Bumpers amendment will be reduced to 10 minutes.

The Senate will be in order. Members who wish to converse, please retire to the cloakrooms.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. This amendment deals with an account in this bill called weapons activities. This account has $516 million more than it had last year, which is a 14-percent increase—14 percent. Incidentally, it is $300 million above the House, $269 million more than the President requested. My amendment simply takes them down to a 7-percent increase.

It is the account where you deal with testing. And we have had a testing moratorium for 3 years. Under the START Treaty we are going to go from 24,000 weapons and 25 types to 3,500 and 7 types. We are increasing the budget to do all of that by 14 percent. If they cannot get by with a 7-percent increase, they ought to be abandoned.

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

Mr. BUMPERS. Mr. President, has a motion been made to table my amendment?

Mr. DOMENICI. The motion has been.

Mr. BUMPERS. Have the yeas and nays been ordered?

Mr. DOMENICI. The yeas and nays have been ordered.

Mr. President, the United States is committed now to a new stockpile stewardship program because we no longer will do underground testing. This amendment will take $269 million out of the stockpile stewardship, which means the building of the scientific capacity to make sure our nuclear weapons are adequate and trustworthy, a whole new effort on the part of the Department of Energy's DOD activities.

Stockpile management is part of that. The maintenance of backup facilities to this stockpile stewardship are in States like Texas, Missouri, and INEL in Idaho, and also there is program direction for that entire new program.

Frankly, in essence, we get the same increase in defense spending that the other parts of defense get. I think if we want a robust nuclear deterrent that is trustworthy and safe, and do not want to build any new ones, we better not take any risks with this part of the defense budget. And that is why I move to table. I believe we are right in our assessments. We want to leave that money in.

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

Under the previous order, the question now occurs on agreeing to the motion to lay on the table the amendment No. 5096 offered by the Senator from Arkansas, [Mr. BUMPERS]. The yeas and nays have been ordered. Those wishing to table the Bumpers amendment will vote yea. Those opposing the tabling of the Bumpers amendment will vote nay. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Rhode Island [Mr. PELL] is absent because of a funeral.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote ''nay.''

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—61

Abraham	Gorton	McConnell
Ashcroft	Gramm	Murkowski
Bennett	Grams	Nickles
Bingaman	Grassley	Nunn
Bond	Gregg	Pressler
Breaux	Hatch	Reid
Bryan	Heflin	Robb
Burns	Helms	Roth
Campbell	Hollings	Santorum
Chafee	Hutchison	Shelby
Coats	Inhofe	Simpson
Cochran	Inouye	Smith
Cohen	Jeffords	Snowe
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Feinstein	Mack	
Frist	McCain	

NAYS—37

Akaka	Feingold	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Brown	Hatfield	Pryor
Bumpers	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Exon	Levin	

NOT VOTING—2

Frahm	Pell

The motion to lay on the table the amendment (No. 5096) was agreed to.

AMENDMENT NO. 5106

The PRESIDING OFFICER. The pending amendment is the Feingold amendment number 5106.

The Senator from Colorado is guaranteed 10 minutes under the previous agreement.

Mr. DOMENICI. Mr. President, the Senator from Colorado has been patiently waiting and attending our sessions. He is not on the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I ask to move now to the Feingold amendment.

The PRESIDING OFFICER. The pending question is the Feingold amendment.

Who seeks recognition?

Mr. DOMENICI. Mr. President, this matter is of great importance to the Senator from Colorado.

Mr. CAMPBELL. Thank you, Mr. President, and I thank my friend from New Mexico.

Mr. President, it is said that the great Chief Ten Bears in his later life after being deprived of his freedom by Government troops, was asked if the U.S. Government had made his people any promises. His answer was this: ''They made us many promises, more than I can remember. And they broke all but one: they promised to take our land and they took it.''

Mr. President, no matter how you sugarcoat this bitter pill—you can coat it in economic terms, you can coat it in environmental terms, you can coat it in endangered species terms but under all the sugarcoating, the bitter pill of another broken promise remains.

I was not here when the Animas La Plata was authorized in 1968. Few of my colleagues were, but I knew Wayne Aspinall, the congressman of Western Colorado who had such great vision to include it in the original authorization, with both the Central Arizona Project and the Central Utah Project—of the three, only the Animas La Plata languishes. Wayne Aspinall was a man of great vision who helped the desert bloom where only parched land had been.

Unlike the Senator from Wisconsin, I was here in 1988 when, after careful negotiations between the two Colorado Indian tribes, the States of Colorado and New Mexico, and nine separate Government agencies, we reached an agreement to share the scarce water in the San Juan Basin between Indians and their non-Indian neighbors. The tribes agreed to drop their lawsuit against the Federal Government, which they would have surely won since they have such ironclad priority rights in water matters, in return for a cash settlement and an agreement by this Government to proceed with a water storage project for both Indian and non-Indians to share. Two public votes were taken of all the people affected, and both the repayment contract for the water users and the compromise itself were overwhelmingly accepted by the people of southwest Colorado and northern New Mexico.

Still, as in matters such as this, there will always be voices of opposition, some saying we went too far and others saying we did not go far enough. We in this body have all experienced that reaction. However, since the 1988 agreement and subsequent law that I authored which implemented the agreement, those voices of opposition have made up in shrillness what they lack in reason and fairness. Yet, even above the Sierra Club's carping, virtually every elected official from the local level to the President of the United States supports this project. In fact, President Clinton had $10 million designated in his budget for this project. President Bush supported it, as did President Reagan before him. All of the Colorado delegation, save one person, support the project and voted for the necessary appropriations on the House side. The lone Member who opposed it neither lives in Colorado nor cares about abiding by this agreement, even though she voted for it in 1988. Our Governor supports it, our attorney general supports it, and all of Colorado's major newspapers support it.

I ask those who want to strip the appropriation for this project just how is the State of Colorado going to be repaid under the Feingold amendment, if it prevails, for the $30 million we have spent of taxpayers' money as our part of the agreement? Who is going to repay the almost $60 million of taxpayers' money that the Federal Government has paid both of the tribes to drop the original lawsuit? Who will pay the hundreds of Indian and non-Indian ranchers who risk losing their water rights should the tribes go back to court, win the lawsuit, and claim their rightfully owned water, thereby drying up what some say is as much as one-fourth of all non-Indian irrigated farmland in the valley? Who pays for litigation when the Department of the Interior is put in the position where the Bureau of Indian Affairs has to defend the Indian tribes against its fellow agency, the Bureau of Reclamation, for nonperformance? The answer is that the taxpayer pays untold litigation fees on both sides.

While many colleagues bring charts and graphs to the floor of the Senate to emphasize a point—there seems to be a common belief in this body that if you have a graph or chart, or it is written somehow, that it automatically becomes true—I bring two objects of great reverence to traditional Indian people. These objects are from a culture that did not need protection from one another by a written contract. They represent a culture that believed your word was your bond, in which honor was held in highest esteem. They represent a culture which never broke a treaty with the U.S. Government. Traditional Indian people committed nothing to written contract and yet believed that great nations, like great men, must honor their agreements. Yet, from the time the first Indian affixed his fingerprint to the first document with the U.S. Government, which he could not read and little understood, he has learned the hard way that all too often this Government does not keep its word.

This is a pipe, Mr. President. In traditional Indian beliefs, before any words of import were spoken, a pipe like this was smoked. The traditional belief is that the smoke would take your words to the Creator. One does not lie or break his word to the Creator.

This is a fan, a wing from Wanbli, the eagle who was designated by the Creator as the keeper of the Earth to oversee his children and to see that they did the right thing. I submit that the actions of this body, which begins its deliberations each day with prayer, could learn at least as much from the objects as they can from all the paper documents to which this Government subscribes. Why be a party to a legal document if we are going to break it?

Just last week, this body reaffirmed its commitment to North Vietnam, of all places, to the tune of $1.5 million in order to teach them the American system of law. Shall we also teach them

that under our system of law it is perfectly acceptable to deceive people, to enter into agreements and to unilaterally break our word? How can we teach the Vietnamese a code of conduct based on legal agreements if we do not practice that code ourselves? Perhaps we should tell them that these principles of law do not apply to American Indians. They apply to everyone else, but not to American Indians. It is easy to break our word to American Indians—we have done it lots of times.

In fact, Mr. President, from 1492 at Columbus' landing until the 1900's when the new century began, according to the National Congress of American Indians, 473 treaties were signed. Of those, 371 were ratified by this body, the U.S. Senate. Some, as you know, were written virtually at gunpoint and others through clever maneuvering on the part of Government negotiators. Yet, as the American Indian lost more and more, as they lost their land, as they lost their water, as they lost their families and, finally, their freedom, they never broke a single treaty with the U.S. Government. How many has the Government broken with the Indians? I defy anybody in this Chamber to give me that number. I had to look it up myself. Mr. President, they broke every single one. They broke every one with the American Indian.

I note with interest, Mr. President, there are a number of Indian people sitting in the gallery today as silent witnesses to our deliberations. I have to say that I salute them for their patience. I ask my colleagues to look into their hearts before voting on this amendment. Do not just compare statistics and charts and graphs and notes. Ask yourself, do you want to add one more broken promise to this infamous total of broken promises? Do you want to make this vote No. 474 in broken promises? America is better than this, Mr. President. The American people are better than this. Let us keep our promise. Let us do the right thing and table this amendment.

Mr. President, at this time, I ask unanimous consent to have printed in the RECORD a number of letters of support for this project. They include a letter from the City of Durango; a letter from the attorney general of the State of Colorado; a letter from the Native American Rights Fund; a letter from the Colorado House of Representatives; a letter from the Colorado General Assembly; and a Denver Post article dated July 28, 1996.

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

CITY OF DURANGO,
Durango, CO, July 10, 1996.

HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES: The City Council of the City of Durango, Colorado, urges your support of ongoing funding for the Animas-La Plata Project.

The public water supply needs of this community have been put on hold for over a decade in anticipation that Congressional commitments associated with the project would be honored and funding would be authorized in a timely fashion.

The Animas-La Plata Project remains as the most economical and efficient means of addressing the future water supply needs of this region. Failure by Congress to provide additional funding for the project at this time may bring about its demise, thereby thrusting the responsibility of developing future water resource needs back into the shoulders of the local governments and Indian Tribes in this region, thus eliminating the economies of scale inherent in the federal project.

Accordingly, we ask your positive support in providing continued funding of the Animas-La Plata Project.

Sincerely,

LEE R. GODDARD,
Mayor.

STATE OF COLORADO,
DEPARTMENT OF LAW,
Denver, CO, July 5, 1996.

Hon. DICK ZIMMER
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ZIMMER: I am writing to you to urge your continued support of the Animas-La Plata Project. We must not simply walk away from the solemn commitments made to the Southern Ute and Ute Mountain Ute Tribes in the Colorado Ute Indian Water Rights Final Settlement Agreement and the Colorado Ute Indian Water Rights Settlement Act of 1988. The Animas-La Plata Project should go forward because it settles long-standing Tribal water claims.

It is important to remember the reasons this project is necessary. In 1976 the United States, on behalf of the Southern Ute and Ute Mountain Ute Indian Tribes filed an application in Colorado water court for adjudication of their reserved water rights on numerous tributaries covering virtually all of southwestern Colorado. If these rights were confirmed, numerous vested water rights would become junior to the Tribes' water rights. Cities, industry, farmers, ranchers and numerous other water users feared that the Tribes could take water from existing uses and could frustrate future non-tribal development.

The underlying agreement took years to negotiate and was based on commitments and compromises made by all parties, Native Americans and non-native Americans alike. A look at the general purposes set out in the settlement agreement confirms the very importance of us meeting our obligations. That agreement finally determined all rights and claims of the Tribes for water, settled existing disputes and removed causes of future controversy among the Tribes, State of Colorado, the U.S. concerning the rights to beneficially use water in southwestern Colorado. It secured for the Tribes an opportunity to generate revenue from the use of reserved water rights obtained under the agreement.

Pursuant to the terms of the agreement, if parts of the Animas-La Plata project are not completed by the year 2000, the Tribes have the option to go back to water court and pursue their original claims in the Animas and La Plata river systems. The result could be costly litigation between the U.S., State, and individual water right holders throughout the region. Further uncertainty regarding the practical use and value of many water rights would exist.

Congress has recognized its contractual and moral obligations to the parties of the settlement agreement by continuing to fund the project. Congress further recognized the project's importance by requiring the Bureau of Reclamation to construct the project without further delay in legislation passed last year.

Critics have stated that the settlement agreement can no longer be met. That, I believe, is a surprise to many of those parties to the agreement. To completely scrap the project by no longer funding it will wreak havoc on economies and water administration in the State of Colorado. The Tribes would most likely be forced to reopen their claims in a long and costly court battle. Certainty, with respect to these reserved rights could not be expected for many more years, perhaps decades.

Both the Southern Ute and Ute Mountain Ute Tribes strongly support building Animas-La Plata to implement the Settlement Agreement. In fact, the Tribes have filed a civil action against the Environmental Protection Agency in the U.S. District Court in Denver to compel EPA to fulfill its contractual and statutory duties to the Tribes and refrain from obstructing construction of the project.

The economic viability of the project has been criticized. However, as the Bureau points out in its report, the analysis does not take into account the tangible and intangible benefits of resolving the Tribes' reserved rights claims without lengthy, costly litigation that would pit Indian and non-Indian neighbors against each other.

The project will comply, as required by law, with the Endangered Species Act and all other applicable environmental statutes. The environmental effects of Animas-La Plata are carefully considered and addressed in the April 1996 Final Supplement to the Final Environmental Statement (FSFES). Extensive mitigation measures are proposed for the project.

Some project critics have urged that further studies be done on the Project. Further studies would do nothing more than delay the project beyond the settlement agreement deadline and further escalate costs. Alternatives were considered in the 1980 environmental impact statement, they were considered again during negotiation of the Settlement Agreement, and the Bureau took a fresh and extremely thorough look at them in the FSFES, which took over four years to complete.

The Settlement Agreement requires that Animas-La Plata be built without further delay. The State of Colorado has already spent over $11,000,000 to implement the Settlement Agreement, with an additional $48,000,000 set aside in escrow. The United States should likewise honor its commitment to the Tribes and the settlement. I strongly urge you to oppose any attempt to delete appropriations for the Animas-La Plata Project from the 1997 Energy and Water Development Appropriations Bill.

Sincerely,

GALE A. NORTON,
Attorney General.

NATIVE AMERICAN RIGHTS FUND,
Boulder, CO, July 2, 1996.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The Native American Rights Fund opposes any effort to delete funding for the Animas-La Plata Project which would affect the implementation of the 1988 Colorado Ute Indian Water Rights Settlement Act.

During the House consideration of the FY 1997 Energy and Water Appropriations bill, it is anticipated that Congressmen Petri and Defazio will offer an amendment to delete any funding the bill contains for this project and settlement.

The Ute Tribes and their non-Indian neighbors negotiated in good faith, rather than pursuing long, costly and divisive litigation. Their goal was to share invaluable water resources and provide the Tribes with water

promised them more than a century ago. Since the settlement became law in 1988, the Tribes and project sponsors have fully cooperated with federal agencies and complied with environmental law.

It is now time for the federal government to live up to its moral and legal obligation to the Tribes. Denying funding and forcing negotiation of a new deal is an extreme step which breaches the United States' trust responsibility.

Please vote against any amendment which would cut off funding for the Animas-La Plata Project and the Colorado Ute Tribes' Settlement.

Sincerely,

JOHN E. ECHOHAWK,
Executive Director.

STATE OF COLORADO,
HOUSE OF REPRESENTATIVES
Denver, CO, July 1, 1996.

Hon. NEIL ABERCROMBIE,
U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVE ABERCROMBIE, When the House considers the FY 97 Energy and Water Appropriations bill, it is my understanding that Congressmen Petri and DeFazio may offer an amendment to delete any funding for the Animas La Plata Project and therefore the related Indian water rights settlement between the Ute Tribes and the State of Colorado.

I, along with Sen. Ben Alexander (R–Montrose), represent the project area, the Tribes and the non-Indian parties to the settlement. We strongly encourage you not to pull the rug out from under this negotiated agreement by withdrawing funds to implement it.

My constituents have negotiated in good faith, and avoided costly litigation which in the end would not provide real water to the Tribes and divide cultures which have worked well together. When the parties signed the settlement agreement, they took the federal government at its word. All other parties have lived up to their end of the bargain, including the State of Colorado which has a $60 million commitment to this project and settlement.

It is time for the United States Government to keep its word and begin construction on at least those project features defined in last year's appropriations bill, which told the Secretary of the Interior to construct ''without delay.''

I respectfully request that you vote against any amendment which would cut off funding for the Animas-La Plata Project and the Colorado Ute Indian Water Rights Settlement.

Sincerely,

JIM DYER,
State Representative.

GENERAL ASSEMBLY;
STATE OF COLORADO
Denver, CO, July 1, 1996.

Hon. DICK ZIMMER,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE ZIMMER, when the House considers the FY '97 Energy and Water Appropriations bill, it is my understanding that Congressmen Petri and DeFazio may offer an amendment to delete any funding for the Animas-La Plata Project and therefore the related Indian water rights settlement between the Ute Tribes and the State of Colorado.

I, along with Rep. Jim Dyer (D-Durango), represent the project area, the Tribes and the non-Indian parties to the settlement. We strongly encourage you not to pull the rug out from under this negotiated agreement by withdrawing funds to implement it.

My constituents have negotiated is good faith, and avoided costly litigation which in the end would not provide real water to the Tribes and divide cultures which have worked well together. When the parties signed the settlement agreement, they took the federal government at its word. All other parties have lived up to their end of the bargain, including the State of Colorado which has a $60 million commitment to this project and settlement.

It is time for the United States Government to keep its word and begin construction on at least those project features defined in last year's appropriations bill, which told the Secretary of the Interior to construct ''without delay.''

I respectfully request that you vote against any amendment which would cut off funding for the Animas-La Plata Project and the Colorado Ute Indian Water Rights Settlement.

Sincerely,

BEN ALEXANDER,
State Senator.

[From the Denver Post, July 28, 1996]

SENATE SHOULD RESTORE A–LP

Environmental groups won a round against Western and Native American interests last week when the U.S. House of Representatives voted 221–200 to delete $10 million in funding for the Animas-La Plata water project in Southwestern Colorado. But prospects are good that the Senate will keep the project alive.

The thinly populated Rocky Mountain states have little clout in the House, where environmental groups waged a concerted assault on the water project. As Colorado Rep. Scott McInnis whose 3rd District would host the project, notes, it's easy for a member of Congress from the East or South to please environmentalists by voting against a water project in Colorado. But the Senate—where the sparsely settled Rocky Mountain states have the same two senators as larger states do—is a much more favorable battleground for the West. And in Ben Nighthorse Campbell, the only Native American now serving in Congress, the project has a powerful champion.

''Look for Ben Campbell to come out swinging,'' a project supporter told a Post editor Thursday, the day after the House vote. We didn't have to look for long—Campbell called minutes later to reaffirm his support for the project.

''The Senate Appropriations Committee has already appropriated $9.5 million for Animas-La Plata,'' Campbell said. ''I think it will stay in on the floor and stay in the bill later after we go to conference with the House.

''A lot of those House members who voted against Animas-La Plata weren't here in 1988 when the Indian Settlement Act passed and the project was authorized,'' Campbell said. ''There have been 270 treaties between the U.S. government and the Indians and they have all been broken, without exception. I would hope this is not another broken promise.''

We share Campbell's hopes, for selfish as well as moral, reasons. As part of the 1988 settlement, the Southern Ute and Ute Mountain Ute tribes agreed to abide by the ''law of the river,'' a complex set of regulations that includes the Colorado River Compact. But if Congress repudiates its own pledge to convert the abstract Indian water rights into ''wet water'' the tribes can actually use to preserve their lifestyle, the Utes can return to court. In the process, they could rip huge holes in the fabric of state water law and of the Colorado River Compact itself.

That is decidedly not what the Utes want. What they want is what they deserve—their water. We trust the Senate will recognize that the Animas-La Plata project is the only practical way to meet a long-standing obligation to a people who have been cheated far too many times.

Mr. CAMPBELL. Mr. President, an amendment to strike funding for the Animas-LaPlata project is an attempt to further delay a project that was first authorized by Congress in 1968 and is the cornerstone to fulfilling the provisions of the Colorado Ute Indian Water Rights Settlement Act, enacted and signed into law by President Bush in 1988.

It seems to be that assumption of many people that ''a feasibility of the project study'' has not been completed, or that ''feasible alternatives that may be available to fulfill the water rights of the Ute tribes'', have not been explored. Frankly, Mr. President, the Senator from Wisconsin is mistaken.

In an effort to further clarify the record, I would like to share with my colleagues a brief chronology of events that show that all possible alternatives have been explored, debated, and even voted on in various public referendums.

In 1968: Congress authorized the Colorado River Basin Project Act.

Congress appropriated funds for advance studies.

In 1974–1977: the Southwestern Water Conservation District and the Bureau of Reclamation sponsored a thorough process of public involvement that compared four major alternatives and dozens of sub-alternatives for each of the four major plans. In total, approximately 100 alternatives were considered.

In 1979: The Definite Plan Report, detailing the new configuration of Ridges Basin and Southern Ute Reservoirs is completed.

Endangered Species Act, nonjeopardy opinion on Animas-La Plata project is issued by the Fish and Wildlife Service.

In 1980: The final environmental statement is completed.

In 1986: The Department of the Interior accepts cost-sharing arrangement that calls for State and local entities to provide 38 percent of the upfront funding.

Enactment of the Colorado Ute Indian Water Rights Settlement Act.

In 1987 and in 1990, voters in La Plata County, CO, and in San Juan County, NM, overwhelmingly endorsed BOR's construction of the ALP project.

October 6, 1991: Ground breaking ceremony is held in Durango.

In 1992, the San Juan River Recovery Implementation Program was executed with the dual goals of the recovery of the endangered fish in the San Juan River and allowing water development to go forward.

And as recently as the last 2 months, again the city of Durango, in a vote of confidence for the project, approved a resolution in support of the ALP project.

Since 1992, the project has been mired down in litigation by project opponents involving a laundry list of environmental related issues.

The fact is that the Ute Indian Tribes own the water rights to the Animas La Plata system by virtue of various treaties with the U.S. Government. These treaty rights have been upheld by the Supreme Court of the United States when disputes have arisen in other States.

The tribes and the water districts chose negotiation over litigation. Rather than engage in expensive and divisive legal battles, the tribes and the citizens of Colorado and New Mexico chose to pursue a negotiated settlement. The Ute Tribes agreed to share their water with all people. The people came together in partnership and cooperation with the Federal Government to reach a mutually beneficial solution: the construction of the Animas La Plata project. Their settlement agreement was executed on December 10, 1986. The Settlement Act was ratified by Congress and signed into law on November 3, 1988.

The Settlement Act also approved a cost-sharing agreement. The water districts and the States of Colorado and New Mexico have put their money where their mouth is—and have already lived up to the terms of these agreements. Consider that:

First, the State of Colorado has committed $30 million to the settlement of the tribes' water rights claims, has expended $6 million to construct a domestic pipeline from the Cortez municipal water treatment plant to the Ute Mountain Ute Indian Reservation at Towaoc, and has contributed $5 million to the tribal development funds;

Second, the U.S. Congress has appropriated and turned over to the Ute mountain Ute and Southern Ute Indian Tribes $49.5 million as part of their tribal development funds, and

Third, water user organizations have signed repayment contracts with Reclamation.

The construction of the ALP project is the only missing piece to the successful implementation of the settlement agreement and the Settlement Act. It is time that the U.S. Government kept its' commitment to the people.

Historically, this country has chosen to ignore its obligations to our Indian people. Members of the Ute Tribes had been living in a state of poverty that can only be described as obscene. Their only source of drinking water was from ditches dug in the ground. I find it most distressing that the same groups and special interests who are now scrambling to block this project also, in other contexts, hold themselves out as the only real defenders of minority rights in this country.

This project would provide adequate water reserves to not only the Ute Nation, but to people in southwestern Colorado, northern New Mexico, and other downstream users who rely on this water system for a variety of crucial needs which range from endangered species protection to safe drinking water in towns and cities—perhaps even filling swimming pools for some of our critics.

The Southern Ute Indians and the Ute Mountain Ute Indian Tribes have rejected any buy out proposals. They simply want decent and reliable water supplies—using their own water—for their people. In exchange, all the people of the area will benefit. The Sierra Club, National Wildlife, and other opponents are apparently willing to spend even more hundreds of millions of tax dollars to buy off the Indians than it would cost to complete the project.

Mr. President, on March 1, of last year Secretary Babbitt testified before the House Appropriations Subcommittee on Energy and Water Development, that the Department of Interior has devoted the resources of his agency to carrying out the will of Congress on the ALP project, and will continue to do so.

He further stated that ''the Benefit/Cost issue has already been settled and decided by the Congress.'' And further that ''it is no longer on the table as far as his [Secretary Babbitt's] experience over 30 years across the West. And that is not an issue that any court is going to take up.

And more recently, the Director of the Colorado Department of Natural Resources earlier this year testified before the House Energy and Water Subcommittee in support of the Animas-LaPlata project.

In conclusion, I would like to include for the record several items that includes a letter from a Mr. Harrick Roth, chairman of the Colorado Forum, that appeared in the Denver Post.

He writes:

> There are no secrets about ALP. There are 25 years of documents produced by the Bureau of Reclamation, the U.S. Fish and Wildlife Service, the Colorado River Salinity Control Project, the EPA, the New Mexico Interstate River Commission, the Colorado Water Conservation Board and the Colorado Water and Power authority—just to name a few.

On the question of meeting the needs of the native Americans, he writes:

> To the Editor: You have done it yet again. Treat Indians as our wards, you say. Give them ''taxpayer'' welfare benefits. Your ''howevers'' continue as you argue that it will be cheaper for taxpayers to take any alternative course. Since paleface Americans, like yourselves and myself, have made it historical practice to break treaties with Native American nations and relegate tribes to ''reservations'' of limited geography, your editorial prescribes ''continue the course!!''.

Just yesterday, July 28, yet another article appeared in the Denver Post in support of the ALP project.

Mr. President, the bottom line is, there has been exhaustive efforts to accommodate all parties from an environmental perspective and an economic perspective. The completion of this project will summarily fulfill the obligations of the Federal Government to the Ute Indian Tribes. For these reasons would ask my colleagues to oppose this amendment that seeks to strike funding for the Animas-LaPlata project.

Mr. President, is the time appropriate now to move to table the Feingold amendment?

The PRESIDING OFFICER. The time is appropriate.

Mr. CAMPBELL. I, therefore, move to table the Feingold amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The motion before the body is the motion to table the Feingold amendment No. 5106. The yeas and nays have been ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that there be 2 minutes equally divided.

The PRESIDING OFFICER. Without objection, there will be 2 minutes equally divided between the Senators.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Senator from New Mexico. I recognize there are strong feelings on this project and deep divisions in the region. I say to the junior Senator from Colorado, we must honor our commitment to this tribe. The question is how to honor the commitment.

This project was first authorized in 1968. As I understand it, it had little or nothing to do at that time with the issue of water for the native American tribe. Three decades later, it has not been built. Realistically, my colleagues, it will never be built. It is not economically or fiscally feasible that we keep spending money on it. There are legitimate Indian needs that should be addressed and have to be addressed. Remember, only one-third of the water concerned here will go to native American tribes; two-thirds goes to others. Yet, there are substantial questions, in the end, under this project, that the tribes in consideration here will be able to obtain the water.

This project is dead. Let us return to the drawing board and scale this down so it can meet our commitment without wasting substantial taxpayer dollars.

I urge the members to support the amendment and oppose the motion to table.

I want to make a few remarks to clarify several points in the committee report dealing with the Animas-La Plata water project. The committee report contains a discussion of the status of efforts by the Bureau of Reclamation to comply with numerous laws applicable to the project. It is my understanding that the committee report simply sets forth the views of the committee and is not intended to waive any provision of law or to declare that the Bureau's efforts at compliance are sufficient to satisfy any law.

I want to make it clear, for the record, that the committee report cannot have the effect of circumventing

the jurisdiction or procedures of any administrative agency with respect to the Animas-La Plata project.

It is important to make this clear because the project has been and is at present the subject of litigation concerning compliance with various environmental and reclamation laws. The committee report cannot have the effect of making any factual findings which would usurp the jurisdiction of the courts or the relevant administrative agencies with respect to whether the Animas-La Plata project is in compliance with applicable environmental, financial, and reclamation laws.

I expect that the Congress will be revisiting the future of this project, regardless of the outcome this year, and it is important in the meantime that there be no misunderstanding as to the applicability of existing laws which constrain further development.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise to compliment the distinguished junior Senator from Colorado. I believe that was as elegant a speech as we have ever heard. It did not take him very long, but he made the point.

Actually, the United States of America has committed to two Indian tribes for which this project would proceed. I believe he stated it right. People with different ideas and different justifications enter this case, but I believe that the project has been proven technically sound. It has continued to receive the full support of those who will put it together and finalize it.

I think the Senator has put the final touches on it with his argument that we ought to live up to our commitments to the Indian people.

I might suggest, although all the water does not go to the Indian people, that there are non-Indian people who have been relying on this water and waiting for it, also. They should not be ignored just because some people want to now change midstream.

I hope we support the motion to table and move on to take this to conference with the House.

I yield the floor.

Mr. CRAIG. Mr. President, I rise in strong opposition to the amendment by the Senator from Wisconsin. Despite its superficial appeal, the effects of his amendment would be devastating not only to the Ute Tribes in Colorado, but also for every other tribe and State who are attempting to resolve disputes over water rights through negotiated settlement rather than endless litigation.

The Senator from Wisconsin pretends that his amendment will save money—he is wrong. Indian litigation is the closest this country has come to the situation Dickens described in Bleak House. There are law firms that probably can no longer even remember who the partner was who first brought the litigation, but generations have profited—generations of lawyers both within and without the Government.

The Colorado Ute Settlement Act was a remarkable accomplishment, and it has served as a model for other settlements in Utah and Arizona. It would be unconscionable to overturn that settlement, especially for the specious arguments put forward by the opponents.

Mr. President, even Secretary Babbitt has grudgingly endorsed completion of the Animas-La Plata project because of the importance of fulfilling the Federal obligations under the negotiated settlement. Remember, this is Secretary Babbitt—the Secretary who wants to take down a really big Federal dam, the Secretary who has waged an incessant war against farmers, ranchers, miners, and those who work the land to produce the food, fiber, and material to support this Nation. This is the Secretary who repeatedly has decried what he views as an individualistic concept of private property and who has attacked State jurisdiction over water resources. This is the Secretary who would have used the Reclamation Reform Act as a lever for Federal regulation of farm operations and proposed Federal definitions of what constituted beneficial use to override State water law in his proposed lower Colorado regulations. Even this Secretary, no friend to any farmer, Indian or non-Indian, has supported funding the Animas-LaPlata project.

Mr. President, the funding in this appropriation measure is not some incidental addition from the Congress. This administration requested $10 million for the Animas-LaPlata project for work on the Ridges Basin Dam and Reservoir, and for preconstruction activities, cultural resource mitigation, environmental compliance, and endangered species studies. I hesitate to mention that the Fish and Wildlife Service is proximately responsible for the situation on the San Juan, and at least in this Senator's view, should bear all the costs associated with species recovery and mitigation. This administration—the same one that opposed $5 million to provide potable water to the rural residents at Fort Peck—this administration supports funding this project. That is how important having the Federal Government fulfill its obligations under the Colorado Ute Settlement Act is.

Mr. President, I oppose the amendment by the Senator from Wisconsin and urge my colleagues to support the action taken by the Appropriations Committee.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Colorado to lay on the table the amendment of the Senator from Wisconsin. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

Mr. FORD. I announce that the Senator from Rhode Island [Mr. PELL] is necessarily absent.

I also announce that the Senator from Rhode Island [Mr. PELL] is absent because of a funeral.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote ''nay.''

The result was announced—yeas 65, nays 33, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—65

Abraham	Faircloth	Lott
Akaka	Feinstein	Mack
Ashcroft	Frist	McCain
Baucus	Gorton	McConnell
Bennett	Graham	Mikulski
Bingaman	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Pressler
Brown	Gregg	Pryor
Bryan	Hatch	Reid
Burns	Hatfield	Shelby
Campbell	Heflin	Simon
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Conrad	Inhofe	Specter
Coverdell	Inouye	Stevens
Craig	Jeffords	Thomas
D'Amato	Johnston	Thompson
Daschle	Kassebaum	Thurmond
DeWine	Kempthorne	Warner
Domenici	Kennedy	Wellstone
Dorgan	Kyl	

NAYS—33

Biden	Glenn	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Hollings	Murray
Bumpers	Kerrey	Nunn
Byrd	Kerry	Robb
Chafee	Kohl	Rockefeller
Cohen	Lautenberg	Roth
Dodd	Leahy	Santorum
Exon	Levin	Sarbanes
Feingold	Lieberman	Snowe
Ford	Lugar	Wyden

NOT VOTING—2

Frahm	Pell

The motion to lay on the table the amendment (No. 5106) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I think the next amendment is the Grams amendment with reference to ARC.

AMENDMENT NO. 5105

The PRESIDING OFFICER. The Chair's record shows the next amendment in order is McCain amendment No. 5105. Does the Senator from New Mexico request the Grams amendment be taken up next?

Mr. DOMENICI. I believe it is appropriate to withdraw that amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The amendment (No. 5105) was withdrawn.

AMENDMENT NO. 5100

The PRESIDING OFFICER. The question is on the Grams amendment. There are 2 minutes equally divided. The Senator from Minnesota is recognized.

Mr. GRAMS. Mr. President, thank you very much. This is a very moderate and very straightforward amendment. All it does is simply adopt the

funding of the Appalachian Regional Commission——

Mr. DOMENICI. May we have order?

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order.

Mr. DOMENICI. Might I just say to the Senators who are walking out of here, in 2 minutes, we are going to start voting again on this amendment. So it might be best to stay around.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. GRAMS. Thank you, Mr. President.

Mr. President, again, as I said, this is a very moderate and straightforward amendment. All it does is simply adopt the funding for the Appalachian Regional Commission at the House-passed level of $10 million less than that approved by the Senate.

It requires that the commission provide a specific plan for future downsizing. Like many Federal programs, the ARC was created back in 1965 as a temporary response—temporary response—to poverty in Appalachia.

Today, over 30 years later and despite the infusion of more than $7 billion of taxpayer money into the region, we are still pouring money into the area under the pretext of fighting poverty. This program is one of 62 Federal economic development programs. The ARC is the only major Government agency targeted toward a specific region of the country.

This program has outlived its original mandate. It is ineffective and it is expensive and simply does not work. American taxpayers can no longer afford such extravagant spending. That is why CBO, the Senate, the House budget committees all recommended elimination of the ARC. Even President Clinton recommended reducing it by $500 million in budget authority and $300 million in outlays over the next 5 years. Although I strongly believe the ARC should be terminated, the Grams-McCain amendment does not zero out funding for the ARC, nor does it reduce it significantly. It simply reduces the level of funding to that approved by the House of $155 million, not the $165 million in the Senate budget. It also provides a specific plan for future downsizing. I urge my colleagues to support this very moderate amendment. Thank you, Mr. President.

The PRESIDING OFFICER. The Chair will note that while we have been observing 2 minutes equally divided, there is not an agreement limiting debate on this amendment to that level. Who seeks recognition?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we strongly oppose the Grams-McCain amendment and strongly support the Appalachian Regional Commission at this level. Mr. President, this has been an effective program to fight poverty in Appalachia. Appalachia is still one of the most expensive places to build roads, one of the poorest places on the face of the United States, and one of the most needed functions of Government that I can think of.

It is an ongoing program that brings roads and access to people in the mountains and hollows and poor areas of West Virginia and other States in Appalachia. We strongly oppose the Grams amendment and support Senator DOMENICI's motion to table.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I rise today in opposition to the Grams amendment to further reduce spending for the Appalachian Regional Commission. ARC serves parts of 13 States including 39 counties in my State, and I'm disappointed to see that may colleague from Minnesota is still not convinced of the importance of this program.

The people of eastern Kentucky have much to be proud. That region of the country has a strong tradition of producing some of this country's most gifted musicians, writers, and artists. But, unfortunately, they also produce something none of us are particularly proud of—poverty.

Back in 1993, the Washington Post wrote that ''the last time the United States fought a war on poverty here, poverty won.'' That's because the forces at work manufacturing this region's double-digit poverty figures and all the social disintegration that comes with those figures, are deeply imbedded in a region that was subjected to a century of economic exploitation and geographic isolation.

While poverty claimed victory 30 years ago in the first years of President Johnson's admirable battle, those of us with a deep-seated commitment to the Appalachian region knew that the task of undoing a century of destruction would not be quick in coming. ARC was borne of this commitment to see the battle against entrenched poverty through to the end—to the time when poverty would no longer be the norm.

And in fact ARC has had a dramatic effect in improving the lives of Appalachian citizens, including cutting the region's poverty rate in half, reducing the infant mortality rate by two-thirds, doubling the percentage of high school graduates, slowing the regions out migration, and reducing unemployment rates.

With 115 of the region's 399 counties still classified as economically distressed, we certainly cannot say we have won the war. But, we can say that we have weakened poverty's hold on this region. * * * that we have given the proud people of this region a finger hold in the climb back to self-sufficiency and productivity.

My colleagues should be aware that the ARC's fiscal year 1996 appropriation represents a cut of almost 40 percent from the fiscal year 1995 funding level, while the bill we're considering today makes an additional cut of $5 million for fiscal year 1997. We have already had this debate last year, when my colleague also made an attempt to cripple this program and to cripple the Nation's ability to move an entire region of the country from poverty to productivity.

On August 1 of last year, a very similar amendment offered by the Senator from Minnesota was tabled by a vote of 60 to 38. His amendment failed last year for the same reasons it should not prevail today. ARC is doing its job—helping communities put in place the building blocks of social and economic development to create self-sustaining local economies that can become contributors to the Nation's resources rather than drains on the Nation's resources.

It does this by providing the glue money that leverages other investment from the private sector, other Federal programs, or State and local funds. Since 1992, in my State alone ARC has provided over $80 million that in turn leveraged more than $115 million in additional funds. These were for a wide range of projects from water and sewage systems to tourism to adult literacy.

And as my colleagues pointed out last year, the ARC that is accomplishing this mission is lean and efficient. When it comes to administrative and personnel expenses you'd be hard pressed to find an agency as efficient. Total overhead accounts for less than 4 percent of all expenditures with State Governors contributing 50 percent of those administrative costs.

I can assure you, those Governors wouldn't be made that contribution in these tight fiscal times if they didn't believe they were getting their money's worth.

But, ARC work is far from done. As the national highway system began cris-crossing the country tieing State's together and creating jobs in its wake, the mountainous Appalachian region was left behind.

Today, ARC's highway project has had a tremendous impact on the region. A 1987 survey showed that between 1980 and 1986, 560,000 jobs were created in the Appalachian counties with a major highway—4 times that of counties without.

With only 76 percent of the 3,025 mile Appalachian development highway system constructed or under contract, those figures tell all too clearly why it's so important to let ARC complete its work.

The same is true with ARC's involvement with a wide range of other

projects from health care to job training to water treatment to small business assistance. And, even with ARC funding, Appalachia receives 11 percent less in total per capita Federal spending than the national average.

And, I hope my colleagues will remember that this debate takes place just 1 week after this body made huge changes in the welfare program. We cannot ignore the total impact of changes to the welfare system and crippling cuts in ARC to this region of the country.

Mr. President, I hope my colleagues will join me in defeating this amendment and sending a strong signal to the people of Appalachia that we support their tremendous efforts to move their region forward and secure productive and prosperous futures for their children.

Also, the Senator from Minnesota said that this duplicated a lot of other Federal programs. Mr. President, I ask unanimous consent that a statement that shows that it does not duplicate other Federal programs be printed in the RECORD.

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

ARC DOES NOT DUPLICATE OTHER FEDERAL PROGRAMS

Many distressed Appalachian communities lack the resources to meet the match requirement of other federal programs, making them unable to take advantage of programs from EDA, FmHA, HUD, Education or other agencies. Rather than duplicating these other programs, ARC funds essentially make the programs available to communities that otherwise could not take advantage of them. In that sense our funds are supplemental, not duplicative. This increases federal participation in Appalachian areas, which was a part of the original purpose of ARC. [The administration of these ARC grants then goes through the basic agency whose program we are supplementing.]

ARC funds are more flexible than programs from other federal agencies, allowing states and communities to tailor the projects to their individual needs. An ARC project, for example, could include elements of an EDA project, a FmHA project, or a HUD project, while it would not have been fully eligible for funding under any single program at another federal agency.

ARC projects originate from the local level and are determined by each state's governor. Unlike most other federal programs, this lets the governors decide which projects will receive federal funding.

Up until ISTEA in 1991, the ARC highway program was not on the regular federal highway system. ISTEA added all but roughly 240 miles of ARC highways to the National Highway System. Separate highway funding is important for several reasons. First, for those miles not covered by ISTEA the ARC funding is the only federal source. Second, ARC funding allows the highways to be constructed sooner than they might be if they were funded solely through ISTEA. This is in keeping with the commitment that the nation made to this region almost 30 years ago to break down the isolation that had plagued the region and ink it to national and international commerce. Third, ARC sees highways as elements of an economic development strategy, rather than just a transportation strategy.

Even with ARC's special assistance to the region, Appalachia receives 11% less in total per capita federal spending (including grants, contracts, and transfer payments) than the national average.

WHY SPECIAL ASSISTANCE TO APPALACHIA?

ARC was designed to address the special problems of an entire region that had suffered from over a hundred years of neglect, a region marked by profound problems of persistent and widespread economic distress in a concentrated geographic area that set it apart from the economic mainstream of the nation.

The economic problems of Appalachia are long-term, widespread and fundamental. They are not, for example, the result of short-term cyclical changes in the economy (to which programs like EDA are designed to respond). Rather, the region's economic troubles extend back for at least four generations. Few other areas of the country have economic problems that are so deeply ingrained. In addition, ARC's problems reach broadly across state lines, affecting the economies of the 13 states. This is not a case of sporadic distress that affect single counties. Instead, it is the result of region-wide historic patterns of underdevelopment, isolation, exploitation and migration. Only a couple of other areas of the country have such profound economic problems that sweep across state lines the way Appalachia does.

The economic challenges faced by communities in Appalachia ultimately dampen the growth of the American economy. They create a drain on the national economy, through lowered productivity and reduced output, diminished economic growth and investment, increased government support through transfer payments, and a lowered standard of living. Half of the counties in the ARC region receive federal transfer payments in excess of the national average on a per capita basis. Until we help these people and communities move into the economic mainstream, they will continue to be a drain on the national resources, diminishing our national wealth. It is, therefore, in the interest of California, or Wisconsin or Florida to help Appalachian communities become economically strong and contributing their fair share to the national wealth.

Even with ARC's special assistance, Appalachia receives 11% less in per capita federal spending than the national average. Total per capita federal spending (including grants, contracts, and transfer payments) in Appalachia is $4407, while the national average is $4,917. Rather than giving Appalachia something ''extra,'' ARC just helps the region come closer to getting its fair share of federal resources.

From its creation ARC has worked to develop regional solutions to these economic problems that reach across state lines. Much of the Commission's success flows from this regional approach. No other federal program is deliberately designed to address problems on a multistate basis.

GENERAL ACCOMPLISHMENTS

ARC's diverse programs have produced tangible results across the region:

Water and Sewer Systems. ARC funding brought the first sewer lines and clean drinking water to 700,000 residents of Appalachian counties designated as ''distressed'' due to high rates of poverty and unemployment, and low per capita income. This often corrected severe public health problems. About 2,000 new water and/or sewer systems have provided the infrastructure needed for job creation. As a result of these projects, thousands of jobs have been created or retained.

Access to Health Care. A network of more than 400 primary health care clinics and hospitals has been completed with ARC funding and now serves some 4 million Appalachians a year. More than 5,000 new physicians have opened practices in Appalachia just since 1980. Infant mortality has dropped from 26.5 infant deaths per 1,000 live births in 1960 to 8.3 in 1994.

Child Care Centers. ARC has supported child development in the Region by helping build child care centers that offer low-income families a full range of educational, health and social services. These services have assisted more than 220,000 pre-school-age children and allowed mothers to earn income needed to keep their families above the poverty line.

Educational Advancement. ARC has helped construct and/or equip more than 700 vocational and technical education facilities serving more than 500,000 students a year. In 1965, only 32% of Appalachians over age 25 had finished high school. Today, that figure has risen to 68.4% Among young adults age 18–24, 77% of Appalachians have completed 12 or more years of school, compared with the national average of 76%.

Job Skills Training. In the past 10 years, about 60,000 workers who lack a high school diploma or GED have been retrained through basic skills training in the workplace. The skills of more than 30,000 other workers have been upgraded to compete for high-tech jobs or to provide specific skills required by local employers.

Affordable Housing. Housing shortages have been alleviated by the rehabilitation and construction of more than 14,000 housing units, especially in areas hampered by the lack of construction sites and construction loans. ARC has pioneered innovative approaches to housing development finance to make home ownership more affordable.

Leveraged Investments. A sample of 556 ARC community development projects that were funded between 1983 and 1996 showed that those grants had leveraged over $7.3 billion in private sector investments in the region.

Small Business Assistance. ARC grants to revolving loan funds in ten stated totaled $18.7 million, thereby assisting 822 small businesses—the source of some 8,000 new jobs in Appalachia. In the past, small businesses could not start and grow due to the lack of capital and conservative lending practices in small towns and rural areas, sources of most new jobs in Appalachia. The ARC loan program has leveraged $328.9 million of small business investment in the region—a ratio of almost 20 to 1.

Local Leadership Development. ARC has actively supported the Local Development District (LDD) concept, which was in its infancy in 1965. These 69 multi-county local planning and development agencies foster cooperation in decision-making and leadership development among hundreds of locally-elected officials and private citizens who serve on their boards. LDDs have strengthened the ability of local governments to provide efficient, modern services to their constituents.

SOCIOECONOMIC ACCOMPLISHMENTS

ARC's investments in the region have yielded impressive measurable improvement in the lives of the people of Appalachia and in the economic condition of the region.

The poverty rate in has been cut in half, falling from 31.1% in 1960 to 15.2% in 1990.

The infant mortality rate has been cut by two-thirds, going from 26.5 (deaths per thousand births) in 1960 to 8.3 in 1994.

Per capita income has improved dramatically. In 1960, the region's income was 78.1% of the national average. Today it is 83.5% of the national average.

The percentage of adults with a high school degree has doubled from 32.8% in 1960 to 68.4% in 1990.

Among adults age 18–24, the high school graduation rate now equals the national average (78%).

Overall employment rates now approximate the national average.

New outmigration has slowed, from 12.2% during the 1950s to 2.2% in the 1980s.

Population in growing. Between 1990 and 1995, the region's population increased 4.6% with all parts of Appalachia showing growth over the five-year period.

Thirty-eight counties now have economies which are performing at or near national norms of income, employment, and poverty.

THE TASK IS NOT YET DONE

Despite the significant progress the region has made, many portions of Appalachia still do not participate fully in the strength of the American economy. In a word, Appalachia has become a region of contrasts in the past 30 years. The region has made enormous strides, but because it began so far behind the rest of the nation, there is need for continued special assistance that will make these hundreds of communities and millions of people contributors to, rather than drains on, the national resources.

115 of ARC's 399 countries are classified as severely distressed. This means that they suffer from unemployment rates that are at least 150% of the national average, poverty rates that are at least 150% of the national average, and per capita incomes that are no more than ⅔ of the national average. These are areas of persistent and widespread economic distress.

The region of contrasts means that while northern and southern Appalachia have done relatively well, central Appalachia is still severely distressed. In all three sections, the non-metro counties lag the nation on almost all socioeconomic measures.

The poverty rate for Appalachia is 16% higher than the national average.

Appalachia's per capita income is only 83% ($17,406) of the U.S. average ($20,800).

Over 20% of the youth in northern and southern rural areas are growing up in poverty, and an even higher 34% of youth in central Appalachia live in poverty.

Across the region as a whole, rural Appalachia is poorer than the rest of rural America, and metropolitan Appalachia is poorer than the rest of metropolitan America.

The problems are particularly acute in Central Appalachia, where the poverty rate is 27% rural per capita income is still only two-thirds of the national average, and unemployment rates are almost double the national average.

The Appalachian Regional Development Highway System, the federal government's commitment to ending the region's isolation, is only 76% complete, with major segments not yet under contract for construction.

Mr. FORD. Mr. President, I remind my colleagues that over 60 Members voted for tabling last time.

Mr. BYRD. Mr. President, I rise in opposition to the amendment offered by the Senator from Minnesota that would reduce the Committee recommendation for the Appalachian Regional Commission from $165 million to $155.3 million. The House and Senate have voted on three different occasions against efforts to terminate or reduce funding for ARC, and I urge the Senate to reject again this attempt to penalize Appalachia.

The Committee recommendation already reduces ARC by $5 million below the amount requested in the President's Budget. The recommendation of the Senate Appropriations Committee is $17 million below the amount approved by the Senate last year for ARC. And when compared to prior year funding levels, ARC has already borne more than its fair share of deficit reduction in this appropriations bill. When compared to the fiscal year 1995 funding level for ARC, the amount recommended in the bill by the Appropriations Committee is down $117 million, or 41 percent. Let me repeat—in two years, the funding for this agency has decreased by $117 million.

Mr. President, the Committee's recommendation is a responsible one. Funding for ARC is already reduced below the President's budget. The Energy and Water appropriations bill is within its 602(b) allocation. Because of the efforts of Senator DOMENICI, the Energy and Water Subcommittee has a higher allocation than the House. As a result, additional funds are allocated throughout the bill to produce a more balanced, reasoned approach to funding for the programs in the bill. The Senate version of the Energy and Water bill provides more funding than the House bill for several programs—not just ARC. For example, funding for flood control along the Mississippi River and its tributaries is above the House level, as is funding for the Bureau of Reclamation construction (which benefits just the 17 States west of the Mississippi River). The Senate bill provides considerably more funding than the House bill for Atomic Energy Defense Activities. However, it is only ARC that is targeted for further reduction.

I cannot help but wonder if this type of amendment would be proposed if the name of this agency were the Rural Development Commission. Is it appropriate for the Senate to punish the people who are served by an agency's programs by virtue of where they live? I do not believe this is the tradition of the Senate. The Senate supports those who are in need—whether it is through quick response with additional funds when disaster occurs, or through assistance to improve the opportunities available to those who are struggling.

Mr. President, there are any number of programs in the Government that benefit a limited geographic area of the country. But in making decisions about Federal programs, the Appropriations Committee does not target spending reductions for programs based solely on geographic criteria. There are any number of programs that continue to receive funding even though they might not benefit all areas equally. In the Interior bill, for example, we appropriated over $113 million in fiscal year 1996 for the Payments in Lieu of Taxes program, even though 67 percent of the funds went to just eight States. Similarly, the Oregon and California Grant Lands account, which benefits just one State, continues to receive funding. So it is extremely unfair to suggest that the ARC funding should be reduced simply because of the reference to Appalachia in the title.

The mission of ARC is straightforward—to provide an effective regional development program that will create economic opportunity in distressed areas so that communities are better positioned to contribute to the national economy. Traditionally, there has been a great disparity in poverty and income levels between Appalachia and other parts of the country. And while great strides have been made, there is still much to be done. The programs of the ARC have contributed to improvements in the ability of the region to address the disparity in poverty and income levels between Appalachia and other parts of the country. Despite the progress in recent years, there is still much to be done. The income level in Appalachia is only 84 percent of the national average. The poverty rate in Appalachia is 16 percent above the national average. When it comes to United States expenditures on a per capita basis, even with the ARC funding, Appalachia receives 11 percent less in per capita Federal spending than the national average.

Mr. President, the programs of ARC help communities to develop their resources so that they will contribute to the Nation's economy. Many of the communities which benefit from the resources provided to ARC are without some of the most basic of services, including water and sewer infrastructure, access to health care, and decent roadways. Unless a transportation network is put in place that provides access to and from the rest of the Nation, Appalachia will remain isolated, and thus removed from competing for jobs with other population centers.

Some 30 years after establishment of the Appalachian Regional Corridor Highways, this network of 3,025 miles of highway is only about 76 percent complete. At the funding levels recommended in this bill, it will be well into the next century before this highway system is completed. The amendment offered by the Senator from Minnesota will delay further this access to safe and modern highways. The people of Appalachia deserve better from the United States Senate.

Sadly, there are still children in Appalachia who lack decent transportation routes to school. There are still pregnant women, elderly citizens and others who lack adequate, modern road access to area hospitals. There are thousands upon thousands of people who find it difficult to obtain sustainable, well-paying jobs because of poor road access to major employment centers. The ARC's limited resources play an important role in improving these circumstances. We should not reduce our efforts when so much work remains to be done.

ARC's programs do not duplicate those of other Federal agencies. The highway funds in ARC are the only source of Federal funding for Appalachian miles not covered in the Intermodal Surface Transportation Act

[ISTEA]. Because of the poverty in Appalachia, many communities are unable to qualify for other Federal programs because they can't meet the matching requirements for local cost-sharing. How are communities ever to improve their circumstances if they are never given a helping hand? Because of the situations that exist in some of the small, isolated communities of Appalachia, flexibility is critical to successful problem solving. Thus, an existing program in one Federal agency may not suit the need—but the flexible nature of the ARC program does help solve problems.

The ARC was not set up as a temporary agency. It was set up to deal with long-term, wide-spread fundamental problems in Appalachia. The problems with which ARC deals are not short term in nature. Rather, ARC deals with region wide problems of under development, isolation, and economic disparity. In no other region of the country do such problems stretch across such a vast area.

Mr. President, we hear a great deal of talk in this body about empowering local communities and States to make decisions about what works best for them. The structure of the Appalachian Regional Commission does just that. ARC operates from the bottom up—projects originate at the local level, and the Commission is comprised of the Governors of the thirteen States in the region, along with a Federal co-chairman. At present, there are eight Republican and five Democratic Governors who serve on the Commission and who have endorsed its continuation. No policy can be set or any money spent unless the Federal representative and a majority of the Governors reach agreement.

Mr. President, I urge Senators to reject this amendment. This agency is already funded $117 million below the fiscal year 1995 level, $17 million below the fiscal year 1996 level approved by the Senate, and $5 million below the fiscal year 1997 budget request level. Cuts are already being imposed on the ARC. I urge the Senate to stand by its earlier votes in support of the Appalachian Regional Commission.

Mr. ROCKEFELLER. Mr. President, I urge all of my colleagues to vote against the Grams amendment. It would be a mistake to cut funding for the Appalachian Regional Commission, a small and valuable agency that has earned strong, bipartisan support here in Congress and in the 13 States it serves.

Some Senators may think this is an amendment that only affects those of us representing Appalachian States. I want to explain why everyone in this body has reason to reject this amendment and its call for another cut in the ARC.

The people of every State have a stake in the economic strength of the rest of the country. When floods ravage the Midwest or the Gulf States; when a major defense installation or space center is located in a State like Texas or Alabama; when payments are made to farmers for crop support or losses; when California, Colorado, or some other Western State needs water to survive; when Federal research labs are placed in New Mexico or Massachusetts—when any of this support and assistance is extended, it is the country's way of investing in each region and in the future of Americans everywhere.

The Appalachian Regional Commission is the Federal Government's principal means of helping one distinct part of the country overcome some very real barriers. Its mission is to act as a Federal partner with the States of the Appalachian region—to overcome barriers from geography to infrastucture to poverty, and to lay the foundation for economic growth and prosperity.

The ARC has not exploded in size or scope or funding. Quite the opposite. In fact, as the dividends of its work have come through, Congress has been able to reduce its budget in the recent years.

This agency is a success story, and it is in the national interest to keep its work going to get the job done.

In many parts of the region, major progress has been achieved. But the ARC's job is not quite finished, and the agency needs adequate funding to continue its partnership with West Virginia and the Appalachian region to finish the foundation we need for more growth, more jobs, and more hope for our people.

In the bill before us, ARC's budget is cut by $5 million from last year's level. And more importantly, Senators should know that last year's level was set after ARC was cut by close to 40 percent from its fiscal year 1995 funding. The ARC and the States served by this small agency are doing their share of sacrifice for deficit reduction. The appropriation in this year's bill is fully consistent with the budget resolution, which assumed the continuation of the ARC. Its funding should not be further reduced.

The Grams amendment would cause real damage to the agency and to the parts of the Appalachian region where ARC's resources and expertise are still needed.

As a former Governor, and now as a U.S. Senator from West Virginia, I know vividly the value of the ARC and how it improves the lives of many hard-working citizens. Whether the funding is used for new water and sewer systems, physician recruitment, adult literacy programs, or the Appalachian corridor highways, it has made the difference in West Virginia, Kentucky, and the other Appalachian States.

The highways are the most visible and best known investments made by the ARC for the people of Appalachia. As of today, over two-thirds of the ARC highway system have been completed. But if the ARC is further cut, the job of bringing the Appalachian States up to the level of non-Appalachian States will be further delayed or never achieved at all.

At this very moment, some of these highways are called highways halfway to nowhere, because they are just that—half built, and only halfway to their destination.

The job has to be completed, so these highways become highways the whole way to somewhere. And that somewhere is called jobs and prosperity that will benefit the rest of the country, too. Appalachia simply wants to be connected to our national grid of highways. Parts of the region weren't lucky enough to come out as flat land, so the job takes longer and costs more. But it is essential in giving the people and families in this part of the United States of America a shot—a chance to be rewarded for a work ethic and commitment with real economic opportunity and a decent quality of life.

I won't speak for my colleagues from other Appalachian States, but West Virginia was not exactly the winner in the original Interstate Highway System. And Senators here represent many States that were. As a result, areas of my State have suffered, economically and in human terms. Without roads, people are shut off from jobs. That's obvious. But without roads, people also can't get decent health care. Dropping out of school is easier sometimes than taking a 2-hour bus ride because the roads aren't there.

Long before it was fashionable, ARC used a from-the-bottom-up approach to addressing local needs rather than a top-down, one-size-fits-all mandate of the type that has become all too familiar to citizens dealing with Federal agencies. It works, too.

I urge everyone in this body to keep a promise made to a region that has been short-shrifted. Each region is unique. Solutions have to differ, depending on our circumstances. When it comes to Appalachia, a small agency called the Appalachian Regional Commission should finish its work. Cutting its budget further will only create more problems and more costs that should be avoided. I urge my colleagues to vote against the Grams amendment, and again, I remind everyone that it is in the entire Nation's interest to invest in each region and each State in ways that deal with their needs and their potential.

Mr. WARNER. Mr. President, I rise in opposition to an amendment offered by Senator GRAMS of Minnesota which would drastically reduce funding for the Appalachian Regional Commission.

At a time when we are correctly terminating or scaling back outdated Federal programs, I believe the Appalachian Regional Commission is the type of Federal initiative we should be encouraging. It is important to recognize that the ARC uses its limited Federal dollars to leverage additional State and local funding. This successful partnership enables communities in Virginia to have tailored programs which help

them respond to a variety of grassroots needs.

In the Commonwealth of Virginia, 21 counties rely heavily on the assistance they receive from the Appalachian Regional Commission. Income levels for this region of Virginia further indicate that on average my constituents who reside in this region have incomes which are $6,000 below the average per capita income for the rest of the Nation.

In 1960, when the ARC was created, the poverty rate in Virginia's Appalachian region was 24.4 percent. Since that time the ARC has helped slash the region's poverty rate in half. However, we are still a long way from achieving the U.S. average poverty level of 13.1 and also the regional poverty level of other ARC-member States of 15.2 percent.

In addition to the progress made on the region's staggering poverty rate, the ARC has made important inroads curbing several other problems inherent in Appalachia. Since the inception of the ARC, the infant mortality rate in the region has fallen by two thirds. The high school graduation rate has doubled, and unemployment rates have significantly declined.

Even with these substantial improvements, however, the region still lags behind the rest of the Nation in all of these categories. Of the 339 counties within the purview of the ARC, 115 are classified as economically distressed. Meanwhile, the ARC continues with a 40-percent reduction from fiscal year 1995, and the pending Senate appropriations bill contains a further reduction of $5 billion from fiscal year 1996.

With these statistics in mind, I would like to offer some specific points one should keep in mind regarding the effectiveness of ARC programs, its relationship with the Commonwealth of Virginia, and the direct impact that this relationship has on the private sector.

In recent years, a significant portion of ARC funds have been dedicated to local economic development efforts. Were it not for this assistance, the LENOWISCO Planning District and Wise County would not have been able to complete construction of the water and sewage lines to provide utility services to the Wise County Industrial Park at Blackwood. These lines were financed by a $500,000 grant from the ARC and a $600,000 grant from the U.S. Economic Development Administration. The construction of these utilities to serve a new industrial park has attracted a major wood products manufacturing facility which has created 175 new jobs for the community.

The Fifth Planning District serving the Allegheny Highlands of Virginia is a prominent example of leveraging other State and local funds and stimulating economic development with partial funding from the ARC. For fiscal year 1995 with $350,000 from the ARC, the Allegheny Regional Commerce Center in Clifton Forge, VA was established. This new industrial center already has a commitment from 2 industries bringing new employment opportunities for over 220 persons.

The ARC funds for this project has generated an additional $500,000 in State funds, $450,000 from the Virginia Department of Transportation, $145,000 from Allegheny County, and $168,173 from the Allegheny Highlands Economic Development Authority. As a result of a limited Federal commitment, there is almost a 4 to 1 ratio of non-Federal dollars compared to Federal funds.

In many cases these funds have been the sole source of funding for local planning efforts for appropriate community development. For example, such funds have been used to prepare and update comprehensive plans which are required by Virginia State law to be updated every 5 years in revise zoning, subdivision, and other land use ordinances. In addition funds are used to prepare labor force studies or marketing plans to guide industrial development sites.

Mr. President, the mission of the Appalachian Regional Commission is as relevant today as it was when the program was created. This rural region of our Nation remains beset with many geographic obstacles that have kept it isolated from industrial expansion. It is a region that has been attempting to diversify its economy from its dependency on one industry—coal mining—to other stable employment opportunities. It is a program that provides essential services and stimulates the contributions of State and local funds.

I urge the Senate to reject the Grams amendment and supply the necessary funding for this crucial and important program.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to lay on the table the Grams amendment. The yeas and nays have been ordered. Those in favor of tabling the Grams amendment will vote aye. Those opposed to tabling the GRAMS amendment will vote no. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—69

Akaka	Cochran	Ford
Baucus	Conrad	Frist
Bennett	Coverdell	Glenn
Biden	D'Amato	Gorton
Bingaman	Daschle	Graham
Boxer	DeWine	Harkin
Bradley	Dodd	Hatch
Breaux	Domenici	Hatfield
Bryan	Dorgan	Heflin
Bumpers	Exon	Helms
Burns	Faircloth	Hollings
Byrd	Feinstein	Inouye
Jeffords	McConnell	Rockefeller
Johnston	Mikulski	Santorum
Kassebaum	Moseley-Braun	Sarbanes
Kennedy	Moynihan	Shelby
Kerrey	Murkowski	Simon
Kerry	Murray	Specter
Lautenberg	Nunn	Stevens
Leahy	Pell	Thurmond
Levin	Pryor	Warner
Lieberman	Reid	Wellstone
Lott	Robb	Wyden

NAYS—30

Abraham	Gramm	Mack
Ashcroft	Grams	McCain
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Campbell	Hutchison	Roth
Chafee	Inhofe	Simpson
Coats	Kempthorne	Smith
Cohen	Kohl	Snowe
Craig	Kyl	Thomas
Feingold	Lugar	Thompson

NOT VOTING—1

Frahm

The motion to lay on the table the amendment (No. 5100) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I understand Senator WELLSTONE has a colloquy in lieu of an amendment.

Mr. WELLSTONE. I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BIOMASS RURAL ELECTRICITY PROJECTS

Mr. WELLSTONE. Mr. President, let me be quite brief because I know we are going to a final vote. One of the more exciting developments for rural America are biomass rural electricity projects. I was in Granite Falls, MN, yesterday, and the high school auditorium was filled with citizens excited about a project with the alfalfa producers co-op. This is biomass rural electricity. This is a value-added, farmer-owned co-op. This is rural economic development. This is environmentally sound. This is new products for agriculture. It is renewable energy.

The question I ask the managers of the bill is, will these projects be eligible for consideration for funding in fiscal 1997 out of the funds provided? My concern, as the Senator from Minnesota, is that, as a matter of fact, these kinds of projects, based upon this renewable energy policy, based upon this concern about the environment and rural economic development, will be eligible for funding.

So my question, one more time, is whether or not these projects will be eligible for consideration of funding in fiscal 1997 out of the funds provided.

Mr. JOHNSTON. Mr. President, the answer is, yes, these projects for biomass electric will be eligible, and the Department should give full consideration to these projects along with those mentioned in the committee report. These appear to be promising technologies, and we will urge the department to fully consider them.

Mr. DOMENICI. Mr. President, I have listened to the colloquy and reviewed it before. I agree.

Mr. WELLSTONE. Mr. President, I thank both the Senator from Louisiana and the Senator from New Mexico.

AMENDMENT NO. 5122

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 5122.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 22, line 17, following ''$92,629,000'' insert the following: '': *Provided further*, That in addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department of Energy shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has bee paid under this paragraph''.

Mr. DOMENICI. Mr. President, yesterday we accepted an amendment to the bill to provide the Secretary of Energy with buyout authority in fiscal year 1997. If buyouts are offered, the Civil Service Retirement and Disability Fund would be required to make previously unanticipated payments which results in a scoring issue.

The technical amendment I offer will resolve the scoring issue by directing the Secretary of Energy to make appropriate payments to the Civil Service Retirement and Disability Fund on behalf of employees who accept buyouts.

Mr. President, I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5122) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ADVANCED COMPUTATIONAL TECHNOLOGY INITIATIVE

Mr. STEVENS. I would like to enter into a colloquy with the bill manager, Senator DOMENICI, and Senator BENNETT. The Advanced Computational Technology Initiative [ACTI] is an ongoing DOE advanced R&D Program involving joint research efforts by the national labs and the oil and gas industry. The program pairs the unique supercomputing capabilities of DOE's nine multi-purpose National Laboratories with the domestic oil and natural gas industry. These research capabilities that would not otherwise be readily available will enable American industry to solve some of the grand challenge problems that exist in exploration and production geophysics, engineering, and geoscience.

Mr. BENNETT. This program is a collaborative effort that will produce significant energy security benefits. For example, the program is advancing technology to reduce the costs of acquiring seismic data and enhance 3D simulation using advanced visualization and virtual reality in reservoir engineering. These advances will bring down development costs in marginal areas thereby increasing net production and reducing the surface impacts of oil drilling. The application of advanced technologies will enhance oil recovery from current producing areas in Prudhoe Bay, the Gulf of Mexico, and the Appalachian Basin.

Mr. STEVENS. The Federal funding supports the national lab and university components, no Federal funds go to the industry. The projects have been selected on a competitive basis to ensure only relevant and widely beneficial research is supported by DOE. Industry contributes over 50 percent on a cost-sharing basis.

Mr. BENNETT. In order to adequately fund this program, $9,000,000 under Engineering and Geosciences in Basic Energy Sciences, and $5,000,000 in computational technology research in other energy research programs must be committed to the Department's Advanced Computational Technology Initiative.

Mr. DOMENICI. I agree with my colleagues as to the value of the ACTI Program and support Department funding of the program at this level.

SOLAR, WIND, AND RENEWABLES ACCOUNT

Mr. JEFFORDS. Mr. President, I would like to engage in a brief colloquy with the chairman of the Energy and Water Appropriations Subcommittee regarding the amendment that was adopted yesterday restoring funding to the solar, wind, and renewables account. Is it the chairman's understanding that $23.072 million has been transferred into the solar and renewables account in this appropriations measure, leaving a total of $269.713 million for the solar and renewable energy account.

Mr. DOMENICI. That is my understanding.

Mr. JEFFORDS. Is it also your understanding that of this $23.072 million in the amendment, $16.5 million shall be for an increase in wind energy systems of which $2 million shall be for the Kotzebue, Alaska project. In addition, the amendment would provide increases of $2.0 million for international solar, $1.5 million for solar thermal; $1.0 million for resource assessment; $1.072 million for the renewable energy production incentive program; and $1 million for the utility climate challenge program.

Mr. DOMENICI. That is correct, Senator.

Mr. JEFFORDS. I would like to thank the managers of this bill for their assistance with this important amendment.

INEL

Mr. KEMPTHORNE. Mr. President, the senior Senator from Idaho, Mr. CRAIG, and I, should like to engage the chairman of the Senate Energy and Water Appropriations Subcommittee, Mr. DOMENICI, in a colloquy for purposes of clarification regarding the status of two INEL projects, funding for which is not specific in the report.

Mr. DOMENICI. Mr. President, under the Defense Environmental Restoration and Waste Management account for the Department of Energy; more specifically within the nuclear material and facility stabilization section, it is stated that the ''Committee is aware that the Idaho National Engineering Laboratory has been designated the lead lab under DOE's National Spent Nuclear Fuel Program and that the Department has acknowledged that increased funding will be needed to carry out the additional responsibilities.'' In this regard, Mr. President, the Committee—Energy and Water Appropriations—recommendation is consistent with the Senate authorizing committee action for this activity.

Mr. KEMPTHORNE. As the distinguished chairman of the Senate Energy and Water Appropriations Subcommittee, the Senator from New Mexico, knows, the Senate Defense authorization bill for fiscal year 1997, H.R. 3230, also authorizes funding under the nuclear material and facility stabilization provision for spent fuel vulnerabilities associated with activities at INEL's power burst facility. Was it the intent of the committee recommendation, to be consistent with the Senate authorizing committee action for the national spent fuel activity, to also include funding for this provision?

Mr. DOMENICI. While the two INEL projects under the National Spent Nuclear Fuel Program were not actually described in report language, it was the intent of the committee to include both activities for funding under this section—nuclear material and facility stabilization.

Mr. CRAIG. Will the Senator from New Mexico indulge me in turning to another section of the energy and water appropriations bill, S. 1959; specifically the Waste Management Program under the Defense environmental restoration and waste management section for further clarification?

Mr. DOMENICI. Certainly.

Mr. CRAIG. The fiscal year 1997 Defense authorization bill also provided authorization for a surety program at the INEL to improve waste minimization efforts in the new stockpile management modernization program. Was it the intent of the committee to also provide funding for this activity within the waste management section, which

received an additional $138.4 million from the President's budget request?

Mr. DOMENICI. The DOE Waste Management Program seeks to protect the public and workers by seeking to minimize, treat, store, and dispose of radioactive, hazardous, mixed and sanitary waste generated by past and ongoing operations at DOE facilities, which is consistent with the surety program.

INDIAN ENERGY RESOURCES PROGRAM

Mr. STEVENS. Included in this appropriations bill is funding for the Indian Energy Resources Grant program, which was originally authorized in the Energy Policy Act of 1992. As the Senator from New Mexico knows well, in its short history, this program has been put to good use in providing up to a 50-percent match for funding for sorely needed energy projects in Native communities.

Mr. DOMENICI. I share the sentiments of the Senator from Alaska regarding the importance of the grants provided under the Indian Energy Resources Program.

Mr. STEVENS. I appreciate that the Senator's work on this year's bill included funding for three important renewable energy projects in Alaska—two are clean, small hydroelectric projects to partially or fully replace 100 percent diesel-generated electricity in rural parts of Alaska, which are predominantly Native. Funding for the third project will be for the construction of a transmission intertie to bring energy from a recently completed hydroelectric project to several communities.

For rural Alaska, electric power is still expensive and limited in supply. Electricity is produced in rural Native villages by burning diesel fuel that is brought in to the villages during the summer months and stored in fuel tanks. For the past two decades the State of Alaska has been able to provide subsidies to rural Alaskans through its Power Cost Equalization Program. Because the oil fields of Alaska's North Slope are now in decline, however, and because development of the known oil field on the Coastal Plain of the Arctic National Wildlife Refuge is still restricted, the State's continuation of this program is uncertain.

Rural Alaskans, therefore could be facing an increase in their energy bills on the order of 30 cents to more than $1 per kilowatt hour. The national average for electric power is just 7 to 8 cents per kilowatt hour. For this reason, development of renewable energy and energy transmission projects in rural Alaska is all the more important.

My only disappointment regarding this program is that, with the limited funding we are able to provide this year, several worthy projects, such as the hydroelectric projects proposed for Old Harbor and Admiralty Island, Alaska, were not funded. Additionally, the authorization for the Indian Energy Resources Program is only through fiscal year 1997.

It is my hope that the Department of Energy will give what support it can to Native projects such as the Old Harbor and Admiralty Island hydroelectric projects this year. I also fully support the reauthorization of this program.

Mr. DOMENICI. I agree with the Senator that we would have hoped to provide funding to all the proposed worthy projects. As this was simply not possible, however, the absence of earmarks should not prohibit the Department of Energy from providing technical and financial assistance where possible. This program has been important to Indian projects in my State as well, and I look forward to working with the Senator from Alaska in its continuation.

TITLE XVI WATER RECYCLING PROGRAM

Mr. BENNETT. I thank my friend from New Mexico, the distinguished chairman of the Energy and Water Development Subcommittee for his leadership on this bill. I particularly wish to thank the Senator for his personal commitment to the Bureau of Reclamation's title XVI water recycling program. As the Senator knows, I am a strong advocate of this program. In arid Western States like Utah, water reuse is the next logical step, both economically and environmentally toward guaranteeing more dependable water supplies for our cities and towns.

As the Senator knows, I have sponsored legislation to expand the existing title XVI program which I am hopeful will be enacted this year. This legislation includes projects in my own State of Utah as well as projects in New Mexico, Texas, Nevada, and California. In anticipation of the enactment of that legislation, I have asked the distinguished chairman to seek the inclusion of certain language in the conference report accompanying this bill at the proper time. This language that would instruct the Bureau of Reclamation to make available to other water recycling projects authorized under title XVI any funds appropriated by this bill of title XVI projects that the Bureau may be unable to obligate for whatever reasons when it is possible.

Would the distinguished chairman agree to seek the inclusion of this language in the conference report?

Mr. DOMENICI. The Senator from Utah is correct.

Mr. BENNETT. I thank the Senator for his courtesy in this regard.

ADVANCED RESERVOIR MANAGEMENT PROGRAM

Mr. DOMENICI. Mr. President, I rise today to point out to my colleagues the importance of an initiative within the Department of Energy [DOE] that represents the proper partnership role for the Department and our private sector. I speak of the advanced reservoir management [ARM] project that has been funded under the Defense Activities, Technology Transfer account within the Energy and Water Appropriations bill. This program takes advantage of the unique computer capabilities of our national lab stockpile stewardship initiative and the common problems facing the independent oil and gas producers of the country. These problems involve complex legacy databases and require advanced computational challenges that are simply beyond the grasp of most independent oil and gas producers to solve on their own. This program represents a new model for industry-lab partnerships and serves the Nation by enhancing the stockpile stewardship mission while contributing to essential new knowledge and capability in our energy sector. In doing so, this partnership contributes to both our national defense and to the Nation's energy security. I suggest that this program should continue to be an important part of the DOE mission.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

Mr. D'AMATO. Mr. President, I wonder if the chairman will yield for a moment.

Mr. DOMENICI. I am happy to yield to my friend from New York.

Mr. D'AMATO. Thank you, Mr. President. Tonawanda, NY, is home to seven sites that are on the Department of Energy's Formerly Utilized Sites Remedial Action Program [FUSRAP] list. Four of these sites—Ashland 1, Ashland 2, Seaway Industrial Park and Linde Air Products—are collectively known as the Tonawanda Site. The Tonawanda site is a legacy of the Manhattan Project and contains approximately 350,000 cubic yards of radioactive waste. For 18 years, the Department of Energy has engaged in study after study and has spent over $20 million to determine how to permanently dispose of this waste. There is no support for Tonawanda's 80,000 residents for siting this waste within the town. For 50 years they have had to endure this waste and the blight it has cast upon their town. They are sick of it and they want it gone.

Mr. MOYNIHAN. If I may add, the citizens of Tonawanda, through their elected officials, have engaged our offices and have asked Senator D'AMATO and me to request that the Congress give direction to the Department of Energy in order to start the process towards removal and disposal of this waste. We both agreed that we would do what we could to relieve the town's burden. Now, Mr. President, this is a daunting task requiring many tens of millions of dollars. We do not believe for a moment that it will be easy. However, we are here today to ask the chairman's assistance with the next step.

Mr. D'AMATO. Mr. President, the Department of Energy has indicated that moving this waste will be expensive, however, we are not aware of any fixed price of what it would cost to remove, transport and dispose of this waste. We do not know if a business, operating in the open market, can present a reasonable, competitive bid. We do not know because no bids have been put forth by the Department that would determine the private sector's

ability to manage this waste. Hence, the waste remains where it is, the studies continue and the citizens of Tonawanda grow frustrated.

Mr. MOYNIHAN. The Department should at least explore the options available to them. The private sector may be able to present a bid that would speed-up the clean-up of the Tonawanda site in a cost-effective manner. Maybe it cannot. The problem is the Department of Energy is reluctant to even find out.

Mr. DOMENICI. I appreciate hearing the concerns of my friends from New York. I can understand their wanting to see this site cleaned-up as quickly and efficiently as possible. I can also understand the concerns of the citizens of Tonawanda—they will only be pleased with the total removal of this 350,000 cubic yards of radioactive waste. Finally, I can understand the funding constraints of the FUSRAP program within the Department of Energy that can make decisions like these very difficult. Nevertheless, I believe that the Senators from the State of New York have a right to find out what analyses the Department of Energy possesses that indicate that removal, transportation and off-site storage appear unacceptable to the Department.

Mr. D'AMATO. I thank my friend from New Mexico for his indulgence.

Mr. MOYNIHAN. I thank the chairman, as well.

RENEWABLE AND CONSERVATION RESOURCES

Mr. HATFIELD. Mr. President, if I might have the attention of my friend from New Mexico, the distinguished manager of the pending legislation, I would like to clarify a clerical error which appeared in the Senate committee report on this legislation. The item I seek to clarify involves the role of the Bonneville Power Administration in advancing the use of renewable energy resources and promoting energy conservation in the Pacific Northwest.

The following language was included in the subcommittee report to accompany S. 1959:

Renewable Resource Development.—The Committee understands that the BPA, in keeping with the goals of the 1980 Northwest Power Planning and Conservation Act, is involved in four renewable resource demonstration projects in the region. The Committee supports BPA's efforts to confirm and expand the supply of renewable resources in the Northwest, and expects BPA to complete the two wind and two geothermal projects it has underway. Completing these projects will lay the foundation for building a renewable marketplace in the region, and will benefit both the environment and the local economy. The Committee understands that BPA may spend up to $40,000,000 each year on these projects once they are all in service, and encourages BPA to move forward expeditiously on their completion. The Committee directs BPA to prepare a report on the progress of this program by March 1, 1997.

Subsequently, during the markup of S. 1959 in the full Appropriations Committee, language on renewable energy was agreed to which was intended to replace, not be added to, the above subcommittee report language. The language is as follows:

Renewable and conservation resources.—The Committee continues to strongly support conservation and renewable energy resources. These resources remain the foundation for a sustainable energy future in the Pacific Northwest as the region approaches the new century. The Committee strongly encourages the Bonneville Power Administration, the Northwest Power Planning Council, and other participants in the regional review being conducted by the Governors of the four Northwest States, to explore all innovative measures to assure achievement of pace-setting energy conservation and renewable resource targets in the coming decade. The Committee urges that new mechanisms be defined to assure adequate funding to sustain and substantially expand energy conservation and renewable resources as the electric power industry transitions to a more deregulated energy marketplace. While the Committee recognizes the BPA's need to remain competitive and assure its payments to the U.S. Treasury, BPA should make every effort to fulfill the commitments it has made to renewable energy and energy conservation resources.

To summarize, the paragraph entitled, ''Renewable and conservation resources,'' adopted in the full committee markup, was meant to replace the paragraph entitled, ''Renewable Resource Development'', which was adopted in the subcommittee markup.

My purpose in speaking on this issue is to clarify this point with the chairman of the subcommittee, Mr. Domenici. Does the Senator from New Mexico's understanding of committee's intent comport with what I just described.

Mr. DOMENICI. Mr. President, the Senator from Oregon has accurately described the intent of the committee. I thank my friend for clarifying the committee's intent with regard to this clerical error.

RENEWABLE ENERGY PROGRAMS

Mr. ROTH. Mr. President, I am pleased that the Senate Energy and Water Appropriations bill includes my amendment that increase funding for renewable energy programs. My amendment restore $23 million to solar and wind energy programs, bringing funding to these programs up to last year's levels.

Mr. President, renewable energy technologies represent our best hopes for reducing air pollution, creating jobs and decreasing our reliance on imported oil and finite supplies of fossil fuels. These programs promise to supply economically competitive and commercially viable energy, while also assisting our Nation in reducing greenhouse gases and oil imports. I believe that the Nation should be looking toward alternative forms and sources of energy, not taking a step backward by cutting funding for these programs.

My own State of Delaware has a long tradition in solar energy. In 1972, the University of Delaware established one of the first photovoltaic laboratories in the Nation. The University has been instrumental in developing solar photovoltaic energy, the same type of energy that powers solar watches and calculators.

Delaware has a major solar energy manufacturer, Astro Power, which is now the fastest growing manufacturer of photovoltaic cells in the world. In collaboration with the University of Delaware and Astro Power, Delaware's major utility—Delmarva Power & Light—has installed an innovative solar energy system that has successfully demonstrated the use of solar power to satisfy peak electrical demand.

Through this collaboration, my State has demonstrated that solar energy technology can be an economically competitive and commercially viable energy alternative for the utility industry.

It is vital that we continue to manufacture these solar cell products with the high performance, high quality, and low costs required to successfully compete worldwide. Investment in Department of Energy solar and renewable energy programs has put us on the threshold of explosive growth. Continuation of the present renewable energy programs is required to achieve the goal of a healthy photovoltaic industry in the United States.

While the solar energy industries might have evolved in some form on their own, the Federal investment has accelerated the transition from the laboratory bench to commercial markets in a way that has already accrued valuable economic benefits to the Nation.

The solar energy industries—like Astro Power—have already created thousands of jobs and helped to reduce our trade deficit through exports of solar energy systems overseas, mostly to developing nations, where 2 billion people are still without access to electricity.

International markets for solar energy systems are virtually exploding, due to several key market trends. Most notably, solar energy is already one of the lowest cost options available to developing countries that cannot afford to build large, expensive centralized power generation facilities with elaborate distribution systems.

The governments of Japan, Germany, and Australia are investing heavily in aggressive technology and market development in partnership with their own solar energy industries. Until recently, Japan and Germany held the lead in world market share for photovoltaics; the United States has only recently recaptured international market dominance. Cutting funding for commercializing these technologies would have a chilling effect on the U.S. industry's ability to compete on an international scale in these billion-dollar markets of today and tomorrow. The employment potential of renewables represents a minimum of 15,000 new jobs this decade with nearly 120,000 the next decade.

It is imperative that this Senate support solar and renewable energy technologies and be a partner to an energy future that addresses our economic needs in an environmentally acceptable manner. My State has done and will continue to do its part. I hope my colleagues in the Senate will look to the future and do their part in securing a safe and reliable energy future by supporting this amendment.

Mr. MCCAIN. Mr. President, before final passage of this bill I wanted to make a few points.

First, I want to thank the managers of the bill. Their job is a thankless task and they deserve great credit for moving this important measure with such speed through the Senate.

But, Mr. President, this bill is fundamentally a flawed measure. As is the custom in the Energy and Water Appropriations bill, we put into statute all of the Army Corps of Engineer projects. This practice is very disconcerting.

After carefully examining where such funds are to be spent, one comes to the conclusion that the needs of the States represented by members of the Appropriations Committee have more weight than the needs of other States. It is for this reason that we should end this practice of earmarking Army Corps funds.

Instead, Mr. President, we should develop a system where the States and the Corps work together, develop a priority list based on national needs, and then that list is funded from a lump sum. Such a practice would eliminate the earmaking of this money as it now occurs and would—I believe—prove much more fair.

I am also concerned that some of the projects in the bill are fully funded by the Federal Government while others are not.

I note that on page 5 of the bill a project in Shreveport, LA is funded ''at full Federal expense.'' I wonder why this is being done.

On page 7, we do the same thing with a project in West Virginia.

Mr. President, it is these kinds of earmarks that I believe we should all be concerned.

Additionally, on page 11 of the bill, section 108, we are funding a wharf at the Charleston Riverfront Park in West Virginia. Why aren't there similar sections for other parks?

Mr. President, it is this constant earmarking that leaves me no choice but to vote against this bill. I would hope that in the future we could develop a better system for spending this money.

Mr. WYDEN. Mr. President, I rise in support of S. 1959, the fiscal year 1997 energy and water development appropriations bill.

I am particularly pleased that the Senate is restoring funding for renewable energy programs. A portion of the restored funds will go to support a Federal interagency board, The Committee on Renewable Energy Commerce and Trade [CORECT]. This program came out of legislation authored by Senator HATFIELD and myself in the 97th Congress which President Reagan signed. The premise of the legislation was simple: build effectiveness of Government export assistance programs by having Federal agencies work together, team together. CORECT has worked well. Not only has United States industry identified nearly $2 billion of potential in Latin America alone, but global sales for United States renewable energy equipment and services have more than doubled over the last few years.

Mr. President, I also want to thank the chairman and ranking member for including funding for a particular project—the restoration of wetlands on the Williamson River in Oregon.

This project is one of the results of an environmental initiative by my colleague, Senator HATFIELD, over the past several years.

When endangered fish concerns and other environmental problems started coming to light on the Upper Klamath River in the southern part of our state, it was Senator HATFIELD who provided funding and direction to all the Federal agencies involved to work together on solutions, instead of standing around blaming each other for the problems. And, it was Senator HATFIELD who got them to bring the local stakeholders together to work in league with the agencies in considering those problems and trying to agree on solutions—not in the courts, but sitting down face to face with each other.

The people at that table—including the farmers who use water from the Bureau of Reclamation's Klamath project, the Klamath Tribe, hydro generators, other commercial interests, Oregon Trout, and the Nature Conservancy—probably won't ever achieve perfect harmony. They each have their own priorities. But working together, they have been able to agree on positive steps to take to solve some of the environmental problems in the Upper Klamath Basin—and the Tulana Farms wetlands restoration project at the mouth of the Williamson River is one of those.

The Fish and Wildlife Service identified this restoration as a key element in restoring two endangered fish species on the river, and the Nature Conservancy worked with CH2MHill to design the project in such a way that it adds flexibility to the use of the hydro and irrigation projects on the river, rather than constraining it.

They also designed the project to keep a parcel of the Tulana Farms property in agricultural production, because of its role as an important source of seed potatoes for neighboring farmers.

The Federal Government has a responsibility to address the sorts of problems people are facing on the Upper Klamath. But I am proud to say that the Klamath Basin Working Group working with the Klamath Ecosystem Restoration Office did not simply pass the responsibility for solving these problems—or the bill—to the Federal Government.

They have taken on a substantial part of that responsibility. The restoration work and management of the project will be done by the Nature Conservancy. PacifiCorp and the New Earth Co., both of which have operations on the Upper Klamath system, are contributing $4 million of private funding to the project.

Complaining about a problem is a whole lot easier than solving it, especially when a solution affects lots of different interests, and lots of different people. I want to congratulate the people who have worked together to make this project possible, and urge my colleagues to support the work they have taken on.

TVA COMPETING WITH PRIVATE SECTOR ON ENGINEERING WORK

Mr. COCHRAN. Mr. President, Congress has for many years provided a specific appropriation to fund the Environmental Research Center in Muscle Shoal, AL, until last year, when Congress directed TVA to begin looking for ways to finance the Center's operations with funds other than appropriations.

The Chairman of TVA's Board, Craven Crowell, acknowledged this past March in testimony before our subcommittee that TVA had prepared a plan to continue operating the Environmental Research Center using outside funding sources. It has recently come to my attention that one of the ways TVA plans to continue the Center's operation is to compete for work with the private sector.

Under the latest effort, TVA has produced and distributed materials intended to capitalize on their in-house expertise and resources to perform private sector engineering work. These services include: constructed wetland for wastewater treatment; removal of underground storage tanks; site assessment; environmental restoration; groundwater monitoring, and hazardous waste management. In Mississippi alone, there are over 78 private firms, many of them small businesses, who already provide these services.

TVA's marketing of these activities to the private sector has not only created a competitive challenge because of TVA's reputation and resources, but their Government status has created a greater financial and marketing disadvantage to hundreds of private, small business engineering firms across the seven State Tennessee Valley region who are capable and have an excellent track record in performing these kinds of activities.

I have serious concerns whenever the Federal Government or quasi-governmental agencies attempt to unfairly compete with the private sector. I raise this issue today as we consider the energy and water appropriations bill because our friends in the other body have proposed to eliminate funding for the Environmental Research Center. The effect of their provision will be for TVA to accelerate its efforts to compete for private sector work.

I encourage the Energy and Water Development Subcommittee to look into this issue to ensure that TVA is not unfairly competing with private sector engineering consulting firms.

Mr. DOMENICI. Mr. President, I would like to take a moment to discuss the budget impact of S. 1959, the Energy and Water Development Appropriations Act, 1997.

This bill as reported provides $20.3 billion in budget authority and $13.1 billion in new outlays to fund the civil programs of the Army Corps of Engineers, the Bureau of Reclamation, certain independent agencies, and most of the activities of the Department of Energy. When outlays from prior year budget authority and other actions are taken into account, this bill provides a total of $19.9 billion in outlays.

The subcommittee met its budget authority allocation for defense and nondefense. The bill falls below its defense discretionary outlay allocation by $305 million and its nondefense discretionary outlay allocation by $13 million.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD at this point.

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

ENERGY AND WATER SUBCOMMITTEE SPENDING TOTALS—SENATE-REPORTED BILL

[Fiscal year 1997, in millions of dollars]

	Budget authority	Outlays
Defense discretionary:		
Outlays from prior-year BA and other actions completed	.....	2,863
S. 1959, as reported to the Senate	11,600	8,065
Scorekeeping adjustment	.....	.....
Subtotal defense discretionary	11,600	10,928
Nondefense discretionary:		
Outlays from prior-year BA and other actions completed	.....	3,970
S. 1959, as reported to the Senate	8,708	4,986
Scorekeeping adjustment	.....	.....
Subtotal nondefense discretionary	8,708	8,956
Mandatory:		
Outlays from prior-year BA and other actions completed	.....	.....
S. 1959, as reported to the Senate	.....	.....
Adjustment to conform mandatory programs with Budget	.....	.....
Resolutoin assumptions	.....	.....
Subtotal mandatory	.....	.....
Adjusted bill total	20,308	19,884
Senate Subcommittee 602(b) allocation:		
Defense discretionary	11,600	11,233
Nondefense discretionary	8,708	8,969
Violent crime reduction trust fund	.....	.....
Mandatory	.....	.....
Total allocation	20,308	20,202
Adjusted bill total compared to Senate Subcommittee 602(b) allocation:		
Defense discretionary	.....	−305
Nondefense discretionary	.....	−13
VIolent crime reduction trust fund	NA	NA
Mandatory	.....	.....
Total allocation	.....	−318

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. Mr. President, I think we are prepared to go to third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 3816.

The legislative clerk read as follows:

A bill (H.R. 3816) making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and S. 1959, as amended, will be inserted in lieu thereof, and the bill is considered read the third time.

The bill was considered read the third time.

The PRESIDING OFFICER. The question occurs on passage of H.R. 3816, as amended.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mr. FRAHM], is necessarily absent.

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—93

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Pell
Bryan	Hatch	Pressler
Bumpers	Hatfield	Pryor
Burns	Heflin	Reid
Byrd	Helms	Robb
Campbell	Hollings	Rockefeller
Chafee	Hutchison	Santorum
Coats	Inhofe	Sarbanes
Cochran	Inouye	Shelby
Cohen	Jeffords	Simon
Conrad	Johnston	Simpson
Coverdell	Kassebaum	Smith
Craig	Kempthorne	Snowe
D'Amato	Kennedy	Specter
Daschle	Kerrey	Stevens
DeWine	Kohl	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	Wyden

NAYS—6

Brown	Kerry	McCain
Feingold	Kyl	Roth

NOT VOTING—1

Frahm

The bill (H.R. 3816), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3816) entitled ''An Act making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $154,557,000, to remain available until expended, of which funds are provided for the following projects in the amounts specified:

Coastal Studies Navigation Improvements, Alaska, $500,000;

Red River Navigation, Southwest, Arkansas, $600,000;

Tahoe Basin Study, Nevada and California, $200,000;

Walker River Basin Restoration Study, Nevada and California, $300,000;

Bolinas Lagoon restoration study, Marin County, California, $500,000;

Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, $300,000;

South Shore of Staten Island, New York, $300,000; and

Rhode Island South Coast, Habitat Restoration and Storm Damage Reduction, Rhode Island, $300,000.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,049,306,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri, Lock and Dam 14, Mississippi River, Iowa, and Lock and Dam 24, Mississippi River, Illinois and Missouri, projects, and of which funds are provided for the following projects in the amounts specified:

Larsen Bay Harbor, Alaska, $2,000,000;

Ouzinkie Harbor, Alaska, $2,000,000;

Valdez Harbor, Alaska, Intertidal Water Retention, $1,000,000;

Red River Emergency Bank Protection, Arkansas, $6,000,000;

Indianapolis Central Waterfront, Indiana, $2,000,000;

Harlan (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $10,000,000;

Williamsburg (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,700,000;

Middlesboro (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $4,000,000;

Pike County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), Kentucky, $3,000,000;

Ouachita River Levees, Louisiana, $2,600,000;

Lake Pontchartrain and Vicinity, Louisiana, $18,525,000;

Lake Pontchartrain (Jefferson Parish) Stormwater Discharge, Louisiana, $3,500,000;

Red River Emergency Bank Protection, Louisiana, $4,400,000;

Mill Creek, Ohio, $500,000;

Seelconk River, Rhode Island Bridge removal, $650,000;

Red River Chloride Control, Texas, $4,500,000;

Wallisville Lake, Texas, $5,000,000;

Richmond Filtration Plant, Virginia, $3,500,000;

Virginia Beach, Virginia, Hurricane Protection, $8,000,000;

Hatfield Bottom (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $1,600,000;

Lower Mingo (Kermit) (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), $4,200,000;

Lower Mingo, West Virginia, Tributaries Supplement, $105,000; and

Upper Mingo County (Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River), West Virginia, $4,000,000: Provided, That of the funds provided for the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, $3,000,000 is provided, to remain available until expended, for design and construction of a regional visitor center in the vicinity of Shreveport, Louisiana at full Federal expense: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to initiate construction on the following projects in the amounts specified:

Kake Harbor, Alaska, $4,000,000;

Helena and Vicinity, Arkansas, $150,000;

San Lorenzo, California, $200,000;

Panama City Beaches, Florida, $400,000;

Chicago Shoreline, Illinois, $1,300,000;

Pond Creek, Jefferson City, Kentucky, $3,000,000;

Boston Harbor, Massachusetts, $500,000;

Poplar Island, Maryland, $5,000,000;

Natchez Bluff, Mississippi, $5,000,000;

Wood River, Grand Isle, Nebraska, $1,000,000;

Duck Creek, Cincinnati, Ohio, $466,000;

Saw Mill River, Pittsburgh, Pennsylvania, $500,000;

Upper Jordan River, Utah, $1,100,000;

San Juan Harbor, Puerto Rico, $800,000; and

Allendale Dam, Rhode Island, $195,000: Provided further, That no fully allocated funding policy shall apply to construction of the projects listed above, and the Secretary of the Army is directed to undertake these projects using continuing contracts where sufficient funds to complete the projects are not available from funds provided herein or in prior years.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $312,513,000, to remain available until expended: Provided, That the President of the Mississippi River Commission is directed henceforth to use the variable cost recovery rate set forth in OMB Circular A–126 for use of the Commission aircraft authorized by the Flood Control Act of 1946, Public Law 526.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,688,358,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which such sums as become available from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l), may be derived from that fund for construction, operation, and maintenance of outdoor recreation facilities and of which $500,000 shall be made available for the maintenance of Compton Creek Channel, Los Angeles County drainage area, California: Provided, That the Secretary of the Army is directed to design and implement at full Federal expense an early flood warning system for the Greenbrier and Cheat River Basins, West Virginia within eighteen months from the date of enactment of this Act: Provided further, That the Secretary of the Army is directed during fiscal year 1997 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma: Provided further, That no funds, whether appropriated, contributed, or otherwise provided, shall be available to the United States Army Corps of Engineers for the purpose of acquiring land in Jasper County, South Carolina, in connection with the Savannah Harbor navigation project: Provided further, That the Secretary of the Army is directed to use $600,000 of funding provided herein to perform maintenance dredging of the Cocheco River navigation project, New Hampshire: Provided further, That $750,000 is for the Buford-Trenton Irrigation District, section 33, erosion control project in North Dakota.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $101,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the Office of the Chief of Engineers and offices of the Division Engineers; activities of the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, the Engineering Strategic Studies Center, and the Water Resources Support Center, and for costs of implementing the Secretary of the Army's plan to reduce the number of division offices as directed in title I, Public Law 104–46, $153,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the Division Offices: Provided further, That the Secretary of the Army may not obligate any funds available to the Department of the Army for the closure of the Pacific Ocean Division Office of the Army Corps of Engineers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

SEC. 101. The flood control project for Arkansas City, Kansas authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4116) is modified to authorize the Secretary of the Army to construct the project at a total cost of $38,500,000, with an estimated first Federal cost of $19,250,000 and an estimated first non-Federal cost of $19,250,000.

SEC. 102. Funds previously provided under the Fiscal Year 1993 Energy and Water Development Act, Public Law 102–377, for the Elk Creek Dam, Oregon project, are hereby made available to plan and implement long term management measures at Elk Creek Dam to maintain the project in an uncompleted state and to take necessary steps to provide passive fish passage through the project.

SEC. 103. The flood control project for Moorefield, West Virginia, authorized by section 101(a)(25) of the Water Resources Development Act of 1990 (Public Law 101–640, 104 Stat. 4610) is modified to authorize the Secretary of the Army to construct the project at a total cost of $26,200,000, with an estimated first Federal cost of $20,300,000 and an estimated first non-Federal cost of $5,900,000.

SEC. 104. The project for navigation, Grays Landing Lock and Dam, Monongahela River, Pennsylvania (Lock and Dam 7 Replacement), authorized by section 301(a) of the Water Resources Development Act of 1986 (Public Law 99–662, 100 Stat. 4110) is modified to authorize the Secretary of the Army to construct the project at a total cost of $181,000,000, with an estimated first Federal cost of $181,000,000.

SEC. 105. From the date of enactment of this Act, flood control measures implemented under Section 202(a) of Public Law 96–367 shall prevent future losses that would occur from a flood equal in magnitude to the April 1977 level by providing protection from the April 1977 level or the 100-year frequency event, whichever is greater.

SEC. 106. Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to reprogram, obligate and expend such additional sums as are necessary to continue construction and cover anticipated contract earnings of any water resources project that received an appropriation or allowance for construction in or through an appropriations Act or resolution of the then-current fiscal year or the two fiscal years immediately prior to that fiscal year, in order to prevent the termination of a contract or the delay of scheduled work.

SEC. 107. (a) In fiscal year 1997, the Secretary of the Army shall advertise for competitive bid at least 7,500,000 cubic yards of the hooper dredge volume accomplished with government owned dredges in fiscal year 1996.

(b) Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

SEC. 108. The Corps of Engineers is hereby directed to complete the Charleston Riverfront (Haddad) Park Project, West Virginia, as described in the design memorandum approved November, 1992, on a 50–50 cost-share basis with the City. The Corps of Engineers shall pay one-half of all costs for settling contractor claims on the completed project and for completing the wharf. The Federal portion of these costs shall be obtained by reprogramming available Operations & Maintenance funds. The project cost limitation in the Project Cooperation Agreement shall be increased to reflect the actual costs of the completed project.

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For the purpose of carrying out provisions of the Central Utah Project Completion Act, Public Law 102–575 (106 Stat. 4605), and for feasibility studies of alternatives to the Uintah and Upalco Units, $42,527,000, to remain available until expended, of which $16,700,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account: Provided, That of the amounts deposited into the Account, $5,000,000 shall be considered the Federal contribution authorized by paragraph 402(b)(2) of the Act and $11,700,000 shall be available to the Utah Reclamation Mitigation and Conservation Commission to carry out activities authorized under the Act.

In addition, for necessary expenses incurred in carrying out responsibilities of the Secretary of the Interior under the Act, $1,100,000, to remain available until expended.

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, $18,105,000, to remain available until expended: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended: Provided further, That within available funds, $150,000 is for completion of the feasibility study of alternatives for meeting the drinking water needs of Cheyenne River Sioux Reservation and surrounding communities.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, $398,596,700, to remain available until expended, of which $23,410,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $58,325,700 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended, and that $12,500,000 shall be available for the Mid-Dakota Rural Water System: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: Provided further, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: Provided further, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: Provided further, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: Provided further, That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, is amended by inserting ''1996, and 1997'' in lieu of ''and 1996'': Provided further, That the amount authorized by section 210 of Public Law 100–557 (102 Stat. 2791), is amended to $56,362,000 (October 1996 prices plus or minus cost indexing), and funds are authorized to be appropriated through the twelfth fiscal year after conservation funds are first made available: Provided further, That $1,500,000 shall be available for construction of McCall Wastewater Treatment, Idaho facility, and $1,000,000 shall be available for Devils Lake Desalination, North Dakota Project.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, $280,876,000, to remain available until expended: Provided, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: Provided further, That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: Provided further, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For the cost of direct loans and/or grants, $12,290,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $37,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $425,000: Provided, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f) and 3406(c)(1) of Public Law 102–575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to levy additional mitigation and restoration payments totaling $30,000,000 (October 1992 price levels) on a three-year rolling average basis, as authorized by section 3407(d) of Public Law 102–575.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $48,307,000, to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 6 passenger motor vehicles for replacement only.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for energy supply, research and development activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 24 for replacement only), $2,764,043,000, to remain available until expended: Provided, That $5,000,000 shall be available for research into reducing the costs of converting saline water to fresh water.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.) and the Energy Policy Act (Public Law 102–486, section 901), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity as necessary; and the purchase of passenger motor vehicles (not to exceed 3 for replacement only); $42,200,000, to remain available until expended: Provided, That revenues received by the Department for uranium programs and estimated to total $42,200,000 in fiscal year 1997 shall be retained and used for the specific purpose of offsetting costs incurred by the Department for such activities notwithstanding the provisions of 31 U.S.C. 3302(b) and 42 U.S.C. 2296(b)(2): Provided further, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $0.

Section 161k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201k) with respect to the Paducah Gaseous Diffusion Plant, Kentucky, and the Portsmouth Gaseous Diffusion Plant, Ohio, the guidelines shall require, at a minimum, the presence of an adequate number of security guards carrying side arms at all times to ensure maintenance of security at the gaseous diffusion plants.

Section 311(b) of the USEC Privatization Act (Public Law 104–134, title III, chapter 1, subchapter A) insert the following:

''(3) The Corporation shall pay to the Thrift Savings Fund such employee and agency contributions as are required or authorized by sections 8432 and 8351 of title 5, United States Code, for employees who elect to retain their coverage under CSRS or FERS pursuant to paragraph (1).''.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A of the Energy Policy Act of 1992, $205,200,000, to be derived from the Fund, to remain available until expended.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, $1,000,626,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $200,028,000, to remain available until expended, to be derived from the Nuclear Waste Fund: Provided, That no later than June 30, 1998, the Secretary shall provide to the President and to the Congress a viability assessment of the Yucca Mountain site. The viability assessment shall include:

(1) the preliminary design concept for the critical elements for the repository and waste package;

(2) a total system performance assessment, based upon the design concept and the scientific data and analysis available by June 30, 1998, describing the probable behavior of the repository in the Yucca Mountain geological setting relative to the overall system performance standards;

(3) a plan and cost estimate for the remaining work required to complete a license application; and

(4) an estimate of the costs to construct and operate the repository in accordance with the design concept.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $218,017,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511, et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $125,388,000 in fiscal year 1997 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $92,629,000: Provided further, That funds made available by this Act for Departmental Administration may be used by the Secretary of Energy to offer employees voluntary separation incentives to meet staffing and budgetary reductions and restructuring needs through September 30, 1997 consistent with plans approved by the Office of Management and Budget. The amount of each incentive shall be equal to the smaller of the employee's severance pay, or $20,000. Voluntary separation recipients who accept employement with the Federal Government, or enter into a personal services contract with the Federal Government within five years after separation shall repay the entire amount to the Department of Energy: Provided further, That in addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department of Energy shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this paragraph.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $23,103,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 94 for replacement only), $3,988,602,000, to remain available until expended.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 20, of which 19 are for replacement only), $5,605,210,000, to remain available until expended: Provided, That an additional amount of $182,000,000 is available for privatization initiatives: Provided further, That within available funds, up to $2,000,000 is provided for demonstration of stir-melter technology developed by the Department and previously intended to be used at the Savannah River Site. In carrying out this demonstration, the Department is directed to seek alternative use of this technology in order to maximize the investment already made in this technology.

Of amounts appropriated for the Defense Environmental Restoration and Waste Management Technology Development Program, $5,000,000 shall be available for the electrometallurgical treatment of spent nuclear fuel at Argonne National Laboratory.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of passenger motor vehicles (not to exceed 2 for replacement only), $1,606,833,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $200,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $4,000,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1997, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $13,859,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $25,210,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $3,787,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $201,582,000, to remain available until expended, of which $172,378,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, $5,432,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $3,774,000 to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $970,000, to remain

available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $146,290,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $146,290,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1997 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1997 so as to result in a final fiscal year 1997 appropriation from the General Fund estimated at not more than $0.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $165,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $17,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $500,000.

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $342,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91–407), $508,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $471,800,000, to remain available until expended: Provided, That of the amount appropriated herein, $11,000,000 shall be derived from the Nuclear Waste Fund, subject to the authorization required in this bill under the heading, ''Nuclear Waste Disposal Fund'': Provided further, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: Provided further, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act may be retained and used for salaries and expenses associated with those activities, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $457,300,000 in fiscal year 1997 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the funds herein appropriated for regulatory reviews and other activities pertaining to waste stored at the Hanford site, Washington, shall be excluded from license fee revenues, notwithstanding 42 U.S.C. 2214: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1997 appropriation estimated at not more than $14,500,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $5,000,000, to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: Provided, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: Provided further, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: Provided further, That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1997 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1997 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,531,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $300,000.

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $322,000.

TENNESSEE VALLEY AUTHORITY

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $113,000,000, to remain available until expended: Provided, That of the funds provided herein, not more than $20,000,000 shall be made available for the Environmental Research Center in Muscle Shoals, Alabama: Provided further, That of the funds provided herein, not more than $8,000,000 shall be made available for operation, maintenance, improvement, and surveillance of Land Between the Lakes: Provided further, That of the amount provided herein, not more than $9,000,000 shall be available for Economic Development activities: Provided further, That none of the funds provided herein, shall be available for detailed engineering and design or constructing a replacement for Chickamauga Lock and Dam on the Tennessee River System.

TITLE V

GENERAL PROVISIONS

SEC. 501. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 502. The Secretary of the Interior shall extend the construction repayment and water service contracts for the following projects, entered into by the Secretary of the Interior under subsections (d) and (e) of section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) and section 9(c) of the Act of December 22, 1944 (58 Stat. 891, chapter 665), for a period of 1 additional year after the dates on which each of the contracts, respectively, would expire but for this section:

(1) The Bostwick District (Kansas portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Republic County, Jewell County, and Cloud County, Kansas.

(2) The Bostwick District (Nebraska portion), Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Harlan County, Franklin County, Webster County, and Nuckolls County, Nebraska.

(3) The Frenchman-Cambridge District, Missouri River Basin Project, consisting of the project constructed and operated under the Act of December 22, 1944 (58 Stat. 887, chapter 665), as a component of the Pick-Sloan Missouri Basin Program, situated in Chase County, Frontier County, Hitchcock County, Furnas County, and Harlan County, Nebraska.

SEC. 503. Notwithstanding the provisions of 31 U.S.C., funds made available by this Act to the Department of Energy shall be available only for the purposes for which they have been made available by this Act. The Department of Energy shall report monthly to the Committees on Appropriations of the House and Senate on the Department of Energy's adherence to the recommendations included in the accompanying report.

SEC. 504. Following section 4(g)(3) of the Northwest Power Planning and Conservation Act, insert the following new section:

''(4)(g)(4) INDEPENDENT SCIENTIFIC REVIEW PANEL.—(i) The Northwest Power Planning Council (Council) shall appoint an Independent Scientific Review Panel (Panel), which shall be comprised of eleven members, to review projects proposed to be funded through that portion of the Bonneville Power Administration's (BPA) annual fish and wildlife budget that implements the Council's annual fish and wildlife program. Members shall be appointed from a list submitted by the National Academy of Sciences: Provided, That Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Panel.

''(ii) SCIENTIFIC PEER REVIEW GROUPS.—The Council shall establish Scientific Peer Review Groups (Peer Review Groups), which shall be comprised of the appropriate number of scientists, from a list submitted by the National Academy of Sciences to assist the Panel in making its recommendations to the Council for projects to be funded through BPA's annual fish and wildlife budget: Provided, That Pacific Northwest scientists with expertise in Columbia River anadromous and non-anadromous fish and wildlife and ocean experts shall be among those represented on the Peer Review Groups.

''(iii) CONFLICT OF INTEREST AND COMPENSATION.—Panel and Peer Review Group members may be compensated and shall be considered as special government employees subject to 45 CFR 684.10 through 684.22.

''(iv) PROJECT CRITERIA AND REVIEW.—The Peer Review Groups, in conjunction with the Panel, shall review projects proposed to be funded through BPA's annual fish and wildlife budget and make recommendations on matters related to such projects, to the Council. Project recommendations shall be based on a determination that projects are based on sound science principles; benefit fish and wildlife; and have a clearly defined objective and outcome with provisions for monitoring and evaluation of results. The Panel, with assistance from the Peer Review Groups, shall review, on an annual basis, the results of prior year expenditures based upon these criteria and submit its findings to the Council for its review.

''(v) PUBLIC REVIEW.—Upon completion of the review of projects to be funded through BPA's annual fish and wildlife budget, the Peer Review Groups shall submit their findings to the Panel. The Panel shall analyze the information submitted by the Peer Review Groups and submit recommendations on project priorities to the Council. The Council shall make the Panel's findings available to the public and subject to public comment.

''(vi) RESPONSIBILITIES OF THE COUNCIL.—The Council shall fully consider the recommendations of the Panel when making its final recommendations of projects to be funded through BPA's annual fish and wildlife budget, and if the Council does not incorporate a recommendation of the Panel, the Council shall explain in writing its reasons for not accepting Panel recommendations. In making its recommendations to BPA, the Council shall: consider the impact of ocean conditions on fish and wildlife populations; and shall determine whether the projects employ cost effective measures to achieve project objectives. The Council, after consideration of the recommendations of the Panel and other appropriate entities shall be responsible for making the final recommendations of projects to be funded through BPA's annual fish and wildlife budget.

''(vii) COST LIMITATION.—The cost of this provision shall not exceed $2,000,000 in 1997 dollars.

''(viii) EXPIRATION.—This paragraph shall expire on September 30, 2000.''.

SEC. 505. OPPORTUNITY FOR REVIEW AND COMMENT BY STATE OF OREGON ON CERTAIN REMEDIAL ACTIONS AT HANFORD RESERVATION, WASHINGTON.

(a) OPPORTUNITY.—(1) Subject to subsection (b), the Site Manager at the Hanford Reservation, Washington, shall, in consultation with the signatories to the Tri-Party Agreement, provide the State of Oregon an opportunity to review and comment upon any information the Site Manager provides the State of Washington under the Hanford Tri-Party Agreement if the agreement provides for the review and comment upon such information by the State of Washington.

(2) In order to facilitate the review and comment of the State of Oregon under paragraph (1), the Site Manager shall provide information referred to in that paragraph to the State of Oregon at the same time, or as soon thereafter as is practicable, that the Site Manager provides such information to the State of Washington.

(b) CONSTRUCTION.—This section may not be construed—

(1) to require the Site Manager to provide the State of Oregon sensitive information on enforcement under the Tri-Party Agreement or information on the negotiation, dispute resolution, or State cost recovery provisions of the agreement;

(2) to require the Site Manager to provide confidential information on the budget or procurement at Hanford under terms other than those provided in the Tri-Party Agreement for the transmission of such confidential information to the State of Washington;

(3) to authorize the State of Oregon to participate in enforcement actions, dispute resolution, or negotiation actions, conducted under the provisions of the Tri-Party Agreement;

(4) to authorize any delay in the implementation of remedial, environmental management, or other programmatic activities at Hanford; or

(5) to obligate the Department of Energy to provide additional funds to the State of Oregon.''.

SEC. 506. SENSE OF THE SENATE, HANFORD MEMORANDUM OF UNDERSTANDING.

It is the Sense of the Senate that—

(1) the State of Oregon has the authority to enter into a memorandum of understanding with the State of Washington, or a memorandum of understanding with the State of Washington and the Site Manager of the Hanford Reservation, Washington, in order to address issues of mutual concern to such States regarding the Hanford Reservation; and

(2) such agreements are not expected to create any additional obligation of the Department of Energy to provide funds to the State of Oregon.

SEC. 507. CORPUS CHRISTI EMERGENCY DROUGHT RELIEF.

For the purpose of providing emergency drought relief, the Secretary of the Interior shall defer all principal and interest payments without penalty or accrued interest for a period of one year for the city of Corpus Christi, Texas, and the Nueces River Authority under contract No. 6–07–01–X0675 involving the Nueces River Reclamation Project, Texas.

SEC. 508. CANADIAN RIVER MUNICIPAL WATER AUTHORITY EMERGENCY DROUGHT RELIEF.

The Secretary shall defer all principal and interest payments without penalty or accrued interest for a period of one year for the Canadian River Municipal Water Authority under contract No. 14–06–500–485 as emergency drought relief to enable construction of additional water supply and conveyance facilities.

SEC. 509. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) INTERSTATE WASTE.—

(1) INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.—

(A) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

''SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

''(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

''(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

''(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

''(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

''(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

''(iii) In calendar year 2003, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

''(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

''(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

''(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

''(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

''(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

''(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

''(V) In calendar year 2000, 1,000,000 tons.

''(VI) In calendar year 2001, 750,000 tons.

''(VII) In calendar year 2002 or any calendar year thereafter, 550,000 tons.

''(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

''(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

''(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

''(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities and the Governor of the importing State may only apply subparagraph (A) or (B) but not both.

''(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(C).

''(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

''(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

''(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

''(A) shall be applicable throughout the State;

''(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

''(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall be applied to all States in violation of paragraph (3).

''(6) ANNUAL STATE REPORT.—

''(A) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located, information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year, and the amount of waste that was received pursuant to host community agreements or permits authorizing receipt of out-of-State municipal solid waste. Within 120 days after enactment of this section and on May 1 of each year thereafter each State shall publish and make available to the Administrator, the Governor of the State of origin and the public, a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

''(B) CONTENTS.—Each submission referred to in this section shall be such as would result in criminal penalties in case of false or misleading information. Such information shall include the amount of waste received, the State of origin, the identity of the generator, the date of the shipment, and the type of out-of-State municipal solid waste. States making submissions referred to in this section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator.

''(C) LIST.—The Administrator shall publish a list of importing States and the out-of-State municipal solid waste received from each State at landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste. The list for any calendar year shall be published by June 1 of the following calendar year.

For purposes of developing the list required in this section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this section, nor to verify data provided by the States pursuant to this section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this section shall be final and not subject to judicial review.

''(D) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

''(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action to enter into a host community agreement after the date of enactment of this subsection shall, prior to taking such action—

''(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

''(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

''(C) provide an opportunity for public comment; and

''(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

''(8) Any owner or operator seeking a host community agreement after the date of enactment of this subsection shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

''(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

''(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

''(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

''(D) A description of environmental controls to be utilized at the facility.

''(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate

of the timing and extent of increased local truck traffic.

''(F) A list of all required Federal, State, and local permits.

''(G) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner and operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective measures taken as a result of the proceedings.

''(H) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

''(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

''(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

''(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

''(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

''(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

''(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

''(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

''(A) that is permitted under Federal or State law;

''(B) that is identified under the State plan; and

''(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

''(d) COST RECOVERY SURCHARGE.—

''(1) AUTHORITY.—A State described in paragraph (2) may adopt a law and impose and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

''(2) APPLICABILITY.—The authority to impose a cost recovery surcharge under this subsection applies to any State that on or before April 3, 1994, imposed and collected a special fee on the processing or disposal of out-of-State municipal solid waste pursuant to a State law.

''(3) LIMITATION.—No such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that is being received at the facility under 1 or more contracts entered into after April 3, 1994, and before the date of enactment of this section.

''(4) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (6) and in no event may exceed $1.00 per ton of waste.

''(5) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivision that incur costs for which the surcharge is collected.

''(6) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the processing or disposal within the State of out-of-State municipal solid waste if—

''(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

''(ii) the surcharge is based on those costs to the State demonstrated under clause (i) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

''(iii) the surcharge is compensatory and is not discriminatory.

''(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or its political subdivision or to the extent that the amount of the surcharge is offset by voluntarily agreed payments to a State or its political subdivision in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

''(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

''(7) DEFINITIONS.—As used in this subsection:

''(A) The term 'costs' means the costs incurred by the State for the implementation of its laws governing the processing or disposal of municipal solid waste, limited to the issuance of new permits and renewal of or modification of permits, inspection and compliance monitoring, enforcement, and costs associated with technical assistance, data management, and collection of fees.

''(B) The term 'processing' means any activity to reduce the volume of solid waste or alter its chemical, biological or physical state, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

''(e) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

''(1) to have any effect on State law relating to contracts; or

''(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period: Provided That such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

''(f) DEFINITIONS.—As used in this section:

''(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

''(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

''(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

''(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

''(ii) If a Governor fails to make and publish notice of such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

''(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

''(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State waste is also included.

''(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is inconsistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States. Notwithstanding any other provision of law, generators of municipal solid waste outside the United States shall possess no greater right of access to disposal facilities in a State than United States generators of municipal solid waste outside of that State.

''(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

''(A) any solid waste identified or listed as a hazardous waste under section 3001;

''(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

''(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

''(D) any solid waste that is—

''(i) generated by an industrial facility; and

''(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company in which the generator of the waste has an ownership interest;

''(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

''(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

''(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

''(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

''(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.

''(6) The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to any place of origin, reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources outside the State.

''(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.''.

(B) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

''Sec. 4011. Interstate transportation of municipal solid waste.''.

(2) NEEDS DETERMINATION.—The Governor of a State may accept, deny or modify an application for a municipal solid waste management facility permit if—

(A) it is done in a manner that is not inconsistent with the provisions of this section;

(B) a State law enacted in 1990 and a regulation adopted by the governor in 1991 specifically requires the permit applicant to demonstrate that there is a local or regional need within the State for the facility; and

(C) the permit applicant fails to demonstrate that there is a local or regional need within the State for the facility.

(b) FLOW CONTROL.—

(1) STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.), as amended by subsection (a)(1)(A), is amended by adding after section 4011 the following new section:

''SEC. 4012. STATE AND LOCAL GOVERNMENT CONTROL OF MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIAL.

''(a) DEFINITIONS.—In this section:

''(1) DESIGNATE; DESIGNATION.—The terms 'designate' and 'designation' refer to an authorization by a State, political subdivision, or public service authority, and the act of a State, political subdivision, or public service authority in requiring or contractually committing, that all or any portion of the municipal solid waste or recyclable material that is generated within the boundaries of the State, political subdivision, or public service authority be delivered to waste management facilities or facilities for recyclable material or a public service authority identified by the State, political subdivision, or public service authority.

''(2) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of municipal solid waste or voluntarily relinquished recyclable material and direct such solid waste or voluntarily relinquished recyclable material to a designated waste management facility or facility for recyclable material.

''(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means—

''(A) solid waste generated by the general public or from a residential, commercial, institutional, or industrial source, consisting of paper, wood, yard waste, plastics, leather, rubber, and other combustible material and noncombustible material such as metal and glass, including residue remaining after recyclable material has been separated from waste destined for disposal, and including waste material removed from a septic tank, septage pit, or cesspool (other than from portable toilets); but

''(B) does not include—

''(i) waste identified or listed as a hazardous waste under section 3001 of this Act or waste regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(ii) waste, including contaminated soil and debris, resulting from a response action taken

under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604, 9606) or any corrective action taken under this Act;

''(iii) medical waste listed in section 11002;

''(iv) industrial waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling;

''(v) recyclable material; or

''(vi) sludge.

''(4) PUBLIC SERVICE AUTHORITY.—The term 'public service authority' means—

''(A) an authority or authorities created pursuant to State legislation to provide individually or in combination solid waste management services to political subdivisions;

''(B) other body created pursuant to State law; or

''(C) an authority that was issued a certificate of incorporation by a State corporation commission established by a State constitution.

''(5) PUT OR PAY AGREEMENT.—(A) The term 'put or pay agreement' means an agreement that obligates or otherwise requires a State or political subdivision to—

''(i) deliver a minimum quantity of municipal solid waste to a waste management facility; and

''(ii) pay for that minimum quantity of municipal solid waste even if the stated minimum quantity of municipal solid waste is not delivered within a required period of time.

''(B) For purposes of the authority conferred by subsections (b) and (c), the term 'legally binding provision of the State or political subdivision' includes a put or pay agreement that designates waste to a waste management facility that was in operation on or before December 31, 1988 and that requires an aggregate tonnage to be delivered to the facility during each operating year by the political subdivisions which have entered put or pay agreements designating that waste management facility.

''(C) The entering into of a put or pay agreement shall be considered to be a designation (as defined in subsection (a)(1)) for all purposes of this title.

''(6) RECYCLABLE MATERIAL.—The term 'recyclable material' means material that has been separated from waste otherwise destined for disposal (at the source of the waste or at a processing facility) or has been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic material such as food and yard waste, or reuse (other than for the purpose of incineration).

''(7) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means a facility that collects, separates, stores, transports, transfers, treats, processes, combusts, or disposes of municipal solid waste.

''(b) AUTHORITY.—

''(1) IN GENERAL.—Each State, political subdivision of a State, and public service authority may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction by directing the municipal solid waste or recyclable material to a waste management facility or facility for recyclable material, if such flow control authority—

''(A)(i) had been exercised prior to May 15, 1994, and was being implemented on May 15, 1994, pursuant to a law, ordinance, regulation, or other legally binding provision of the State or political subdivision; or

''(ii) had been exercised prior to May 15, 1994, but implementation of such law, ordinance, regulation, or other legally binding provision of the State or political subdivision was prevented by an injunction, temporary restraining order, or other court action, or was suspended by the voluntary decision of the State or political subdivision because of the existence of such court action;

''(B) has been implemented by designating before May 15, 1994, the particular waste management facilities or public service authority to which the municipal solid waste or recyclable material is to be delivered, which facilities were in operation as of May 15, 1994, or were in operation prior to May 15, 1994 and were temporarily inoperative on May 15, 1994.

''(2) LIMITATION.—The authority of this section extends only to the specific classes or categories of municipal solid waste to which flow control authority requiring a movement to a waste management facility was actually applied on or before May 15, 1994 (or, in the case of a State, political subdivision, or public service authority that qualifies under subsection (c), to the specific classes or categories of municipal solid waste for which the State, political subdivision, or public service authority prior to May 15, 1994, had committed to the designation of a waste management facility).

''(3) LACK OF CLEAR IDENTIFICATION.—With regard to facilities granted flow control authority under subsection (c), if the specific classes or categories of municipal solid waste are not clearly identified, the authority of this section shall apply only to municipal solid waste generated by households.

''(4) DURATION OF AUTHORITY.—With respect to each designated waste management facility, the authority of this section shall be effective until the later of—

''(A) the end of the remaining life of a contract between the State, political subdivision, or public service authority and any other person regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994);

''(B) completion of the schedule for payment of the capital costs of the facility concerned (as in effect May 15, 1994); or

''(C) the end of the remaining useful life of the facility (as in existence on the date of enactment of this section), as that remaining life may be extended by—

''(i) retrofitting of equipment or the making of other significant modifications to meet applicable environmental requirements or safety requirements;

''(ii) routine repair or scheduled replacement of equipment or components that does not add to the capacity of a waste management facility; or

''(iii) expansion of the facility on land that is—

''(I) legally or equitably owned, or under option to purchase or lease, by the owner or operator of the facility; and

''(II) covered by the permit for the facility (as in effect May 15, 1994).

''(5) ADDITIONAL AUTHORITY.—

''(A) APPLICATION OF PARAGRAPH.—This paragraph applies to a State or political subdivision of a State that, on or before January 1, 1984—

''(i) adopted regulations under State law that required the transportation to, and management or disposal at, waste management facilities in the State, of—

''(I) all solid waste from residential, commercial, institutional, or industrial sources (as defined under State law); and

''(II) recyclable material voluntarily relinquished by the owner or generator of the recyclable material; and

''(ii) as of January 1, 1984, had implemented those regulations in the case of every political subdivision of the State.

''(B) AUTHORITY.—Notwithstanding anything to the contrary in this section (including subsection (m)), a State or political subdivision of a State described in subparagraph (A) may continue to exercise flow control authority (including designation of waste management facilities in the State that meet the requirements of subsection (c)) for all classes and categories of solid waste that were subject to flow control on January 1, 1984.

''(6) FLOW CONTROL ORDINANCE.—Notwithstanding anything to the contrary in this section, but subject to subsection (m), any political subdivision which adopted a flow control ordinance in November 1991, and designated facilities to receive municipal solid waste prior to April 1, 1992, may exercise flow control authority until the end of the remaining life of all contracts between the political subdivision and any other persons regarding the movement or delivery of municipal solid waste or voluntarily relinquished recyclable material to a designated facility (as in effect May 15, 1994). Such authority shall extend only to the specific classes or categories of municipal solid waste to which flow control authority was actually applied on or before May 15, 1994. The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

''(c) COMMITMENT TO CONSTRUCTION.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(1) (A) and (B), any political subdivision of a State may exercise flow control authority under subsection (b), if—

''(A)(i) the law, ordinance, regulation, or other legally binding provision specifically provides for flow control authority for municipal solid waste generated within its boundaries; and

''(ii) such authority was exercised prior to May 15, 1995, and was being implemented on May 15, 1994.

''(B) prior to May 15, 1994, the political subdivision committed to the designation of the particular waste management facilities or public service authority to which municipal solid waste is to be transported or at which municipal solid waste is to be disposed of under that law, ordinance, regulation, plan, or legally binding provision.

''(2) FACTORS DEMONSTRATING COMMITMENT.—A commitment to the designation of waste management facilities or public service authority is demonstrated by 1 or more of the following factors:

''(A) CONSTRUCTION PERMITS.—All permits required for the substantial construction of the facility were obtained prior to May 15, 1994.

''(B) CONTRACTS.—All contracts for the substantial construction of the facility were in effect prior to May 15, 1994.

''(C) REVENUE BONDS.—Prior to May 15, 1994, revenue bonds were presented for sale to specifically provide revenue for the construction of the facility.

''(D) CONSTRUCTION AND OPERATING PERMITS.—The State or political subdivision submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, substantially complete permit applications for the construction and operation of the facility.

''(d) FORMATION OF SOLID WASTE MANAGEMENT DISTRICT TO PURCHASE AND OPERATE EXISTING FACILITY.—Notwithstanding subsection (b)(1) (A) and (B), a solid waste management district that was formed by a number of political subdivisions for the purpose of purchasing and operating a facility owned by 1 of the political subdivisions may exercise flow control authority under subsection (b) if—

''(1) the facility was fully licensed and in operation prior to May 15, 1994;

''(2) prior to April 1, 1994, substantial negotiations and preparation of documents for the formation of the district and purchase of the facility were completed;

''(3) prior to May 15, 1994, at least 80 percent of the political subdivisions that were to participate in the solid waste management district had adopted ordinances committing the political subdivisions to participation and the remaining political subdivisions adopted such ordinances within 2 months after that date; and

''(3) the financing was completed, the acquisition was made, and the facility was placed under operation by the solid waste management district by September 21, 1994.

''(e) CONSTRUCTED AND OPERATED.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by

the owner or generator of the material that is generated within its jurisdiction if—

''(1) prior to May 15, 1994, the political subdivision—

''(A) contracted with a public service authority or with its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or is within or under the control of the political subdivision, in order to support revenue bonds issued by and in the name of the public service authority or on its behalf by a State entity for waste management facilities; or

''(B) entered into contracts with a public service authority or its operator to deliver or cause to be delivered to the public service authority substantially all of the disposable municipal solid waste that is generated or collected by or within the control of the political subdivision, which imposed flow control pursuant to a law, ordinance, regulation, or other legally binding provision and where outstanding revenue bonds were issued in the name of public service authorities for waste management facilities; and

''(2) prior to May 15, 1994, the public service authority—

''(A) issued the revenue bonds or had issued on its behalf by a State entity for the construction of municipal solid waste facilities to which the political subdivision's municipal solid waste is transferred or disposed; and

''(B) commenced operation of the facilities.

The authority under this subsection shall be exercised in accordance with section 4012(b)(4).

''(f) STATE-MANDATED DISPOSAL SERVICES.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

''(1) was responsible under State law for providing for the operation of solid waste facilities to serve the disposal needs of all incorporated and unincorporated areas of the county;

''(2) is required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent;

''(3) has been authorized by State statute to exercise flow control authority and had implemented the authority through the adoption or execution of a law, ordinance, regulation, contract, or other legally binding provision;

''(4) had incurred, or caused a public service authority to incur, significant financial expenditures to comply with State law and to repay outstanding bonds that were issued specifically for the construction of solid waste management facilities to which the political subdivision's waste is to be delivered; and

''(5) the authority under this subsection shall be exercised in accordance with section 4012(b)(4).

''(g) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district or a political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

''(1) the solid waste district, political subdivision or municipality within said district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

''(2) prior to May 15, 1994, the solid waste district, political subdivision or municipality within said district—

''(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

''(B) was authorized by State statute (enacted prior to January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law, ordinance, regulation, regulatory proceeding, contract, franchise, or other legally binding provision; and

''(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

''(h) STATE-AUTHORIZED SERVICES AND LOCAL PLAN ADOPTION.—A political subdivision of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if, prior to May 15, 1994, the political subdivision—

''(1) had been authorized by State statute which specifically named the political subdivision to exercise flow control authority and had implemented the authority through a law, ordinance, regulation, contract, or other legally binding provision; and

''(2) had adopted a local solid waste management plan pursuant to State statute and was required by State statute to adopt such plan in order to submit a complete permit application to construct a new solid waste management facility proposed in such plan; and

''(3) had presented for sale a revenue or general obligation bond to provide for the site selection, permitting, or acquisition for construction of new facilities identified and proposed in its local solid waste management plan; and

''(4) includes a municipality or municipalities required by State law to adopt a local law or ordinance to require that solid waste which has been left for collection shall be separated into recyclable, reusable or other components for which economic markets exist; and

''(5) is in a State that has aggressively pursued closure of substandard municipal landfills, both by regulatory action and under statute designed to protect deep flow recharge areas in counties where potable water supplies are derived from sole source aquifers.

''(i) RETAINED AUTHORITY.—

''(1) REQUEST.—On the request of a generator of municipal solid waste affected by this section, a State or political subdivision may authorize the diversion of all or a portion of the solid waste generated by the generator making the request to an alternative solid waste treatment or disposal facility, if the purpose of the request is to provide a higher level of protection for human health and the environment or reduce potential future liability of the generator under Federal or State law for the management of such waste, unless the State or political subdivision determines that the facility to which the municipal solid waste is proposed to be diverted does not provide a higher level of protection for human health and the environment or does not reduce the potential future liability of the generator under Federal or State law for the management of such waste.

''(2) CONTENTS.—A request under paragraph (1) shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method.

''(j) LIMITATIONS ON REVENUE.—A State or political subdivision may exercise flow control authority under subsection (b), (c), (d), or (e) only if the State or political subdivision certifies that the use of any of its revenues derived from the exercise of that authority will be used for solid waste management services or related landfill reclamation.

''(k) REASONABLE REGULATION OF COMMERCE.—A law, ordinance, regulation, or other legally binding provision or official act of a State or political subdivision, as described in subsection (b), (c), (d), or (e), that implements flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce retroactive to its date of enactment or effective date and shall not be considered to be an undue burden on or otherwise considered as impairing, restraining, or discriminating against interstate commerce.

''(l) EFFECT ON EXISTING LAWS AND CONTRACTS.—

''(1) ENVIRONMENTAL LAWS.—Nothing in this section shall be construed to have any effect on any other law relating to the protection of human health and the environment or the management of municipal solid waste or recyclable material.

''(2) STATE LAW.—Nothing in this section shall be construed to authorize a political subdivision of a State to exercise the flow control authority granted by this section in a manner that is inconsistent with State law.

''(3) OWNERSHIP OF RECYCLABLE MATERIAL.—Nothing in this section—

''(A) authorizes a State or political subdivision of a State to require a generator or owner of recyclable material to transfer recyclable material to the State or political subdivision; or

''(B) prohibits a generator or owner of recyclable material from selling, purchasing, accepting, conveying, or transporting recyclable material for the purpose of transformation or remanufacture into usable or marketable material, unless the generator or owner voluntarily made the recyclable material available to the State or political subdivision and relinquished any right to, or ownership of, the recyclable material.

''(m) REPEAL.—(1) Notwithstanding any provision of this title, authority to flow control by directing municipal solid waste or recyclable materials to a waste management facility shall terminate on the date that is 30 years after the date of enactment of this Act.

''(2) This section and the item relating to this section in the table of contents for subtitle D of the Solid Waste Disposal Act are repealed effective as of the date that is 30 years after the date of enactment of this Act.

''(n) TITLE NOT APPLICABLE TO LISTED FACILITIES.—Notwithstanding any other provision of this title, the authority to exercise flow control shall not apply to any facility that—

''(1) on the date of enactment of this Act, is listed on the National Priorities List under the Comprehensive Environmental, Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.); or

''(2) as of May 15, 1994, was the subject of a pending proposal by the Administrator of the Environmental Protection Agency to be listed on the National Priorities List.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents for subtitle D in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901), as amended by subsection (a)(1)(B), is amended by adding after the item relating to section 4011 the following new item:

''Sec. 4012. State and local government control of movement of municipal solid waste and recyclable material.''.

(c) GROUND WATER MONITORING.—

(1) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—Section 4010(c) of the Solid Waste Disposal Act (42 U.S.C. 6949a(c)) is amended—

(A) by striking ''CRITERIA.—Not later'' and inserting the following: ''CRITERIA.—

''(1) IN GENERAL.—Not later''; and

(B) by adding at the end the following new paragraph:

''(2) ADDITIONAL REVISIONS.—Subject to paragraph (2), the requirements of the criteria described in paragraph (1) relating to ground water monitoring shall not apply to an owner or operator of a new municipal solid waste landfill unit, an existing municipal solid waste landfill unit, or a lateral expansion of a municipal solid

waste landfill unit, that disposes of less than 20 tons of municipal solid waste daily, based on an annual average, if—

''(A) there is no evidence of ground water contamination from the municipal solid waste landfill unit or expansion; and

''(B) the municipal solid waste landfill unit or expansion serves—

''(i) a community that experiences an annual interruption of at least 3 consecutive months of surface transportation that prevents access to a regional waste management facility; or

''(ii) a community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

''(3) PROTECTION OF GROUND WATER RESOURCES.—

''(A) MONITORING REQUIREMENT.—A State may require ground water monitoring of a solid waste landfill unit that would otherwise be exempt under paragraph (2) if necessary to protect ground water resources and ensure compliance with a State ground water protection plan, where applicable.

''(B) METHODS.—If a State requires ground water monitoring of a solid waste landfill unit under subparagraph (A), the State may allow the use of a method other than the use of ground water monitoring wells to detect a release of contamination from the unit.

''(C) CORRECTIVE ACTION.—If a State finds a release from a solid waste landfill unit, the State shall require corrective action as appropriate.

''(4) ALASKA NATIVE VILLAGES.—Upon certification by the Governor of the State of Alaska that application of the requirements of the criteria described in paragraph (1) to a solid waste landfill unit of a Native village (as defined in section 3 of the Alaska Native Claims Settlement Act (16 U.S.C. 1602)) or unit that is located in or near a small, remote Alaska village would be infeasible, or would not be cost-effective, or is otherwise inappropriate because of the remote location of the unit, the State may exempt the unit from some or all of those requirements. This subsection shall apply only to solid waste landfill units that dispose of less than 20 tons of municipal solid waste daily, based on an annual average.

''(5) NO-MIGRATION EXEMPTION.—

''(A) IN GENERAL.—Ground water monitoring requirements may be suspended by the Director of an approved State for a landfill operator if the operator demonstrates that there is no potential for migration of hazardous constituents from the unit to the uppermost aquifer during the active life of the unit and the post-closure care period.

''(B) CERTIFICATION.—A demonstration under subparagraph (A) shall—

''(i) be certified by a qualified ground-water scientist and approved by the Director of an approved State.

''(C) GUIDANCE.—Not later than 6 months after the date of enactment of this paragraph, the Administrator shall issue a guidance document to facilitate small community use of the no migration exemption under this paragraph.

''(6) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow States to promulgate alternate design, operating, landfill gas monitoring, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average: Provided That such alternate requirements are sufficient to protect human health and the environment.''.

(2) REINSTATEMENT OF REGULATORY EXEMPTION.—It is the intent of section 4010(c)(2) of the Solid Waste Disposal Act, as added by paragraph (1), to immediately reinstate subpart E of part 258 of title 40, Code of Federal Regulations, as added by the final rule published at 56 Federal Register 50798 on October 9, 1991.

(d) STATE OR REGIONAL SOLID WASTE PLANS.—

(1) FINDING.—Section 1002(a) of the Solid Waste Disposal Act (42 U.S.C. 6901(a)) is amended—

(A) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(B) by adding at the end the following:

''(5) that the Nation's improved standard of living has resulted in an increase in the amount of solid waste generated per capita, and the Nation has not given adequate consideration to solid waste reduction strategies.''.

(2) OBJECTIVE OF SOLID WASTE DISPOSAL ACT.—Section 1003(a) of the Solid Waste Disposal Act (42 U.S.C. 6902(a)) is amended—

(A) by striking ''and'' at the end of paragraph (10);

(B) by striking the period at the end of paragraph (11) and inserting ''; and''; and

(C) by adding at the end the following:

''(12) promoting local and regional planning for—

''(A) effective solid waste collection and disposal; and

''(B) reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies.''.

(3) NATIONAL POLICY.—Section 1003(b) of the Solid Waste Disposal Act (42 U.S.C. 6902(b)) is amended by inserting ''solid waste and'' after ''generation of''.

(4) OBJECTIVE OF SUBTITLE D OF SOLID WASTE DISPOSAL ACT.—Section 4001 of the Solid Waste Disposal Act (42 U.S.C. 6941) is amended by inserting ''promote local and regional planning for effective solid waste collection and disposal and for reducing the amount of solid waste generated per capita through the use of solid waste reduction strategies, and'' after ''objectives of this subtitle are to''.

(5) DISCRETIONARY STATE PLAN PROVISIONS.—Section 4003 of the Solid Waste Disposal Act (42 U.S.C. 6943) is amended by adding at the end the following:

''(e) DISCRETIONARY PLAN PROVISIONS RELATING TO SOLID WASTE REDUCTION GOALS, LOCAL AND REGIONAL PLANS, AND ISSUANCE OF SOLID WASTE MANAGEMENT PERMITS.—Except as provided in section 4011(a)(4), a State plan submitted under this subtitle may include, at the option of the State, provisions for—

''(1) establishment of a State per capita solid waste reduction goal, consistent with the goals and objectives of this subtitle; and

''(2) establishment of a program that ensures that local and regional plans are consistent with State plans and are developed in accordance with sections 4004, 4005, and 4006.''.

(6) PROCEDURE FOR DEVELOPMENT AND IMPLEMENTATION OF STATE PLANS.—Section 4006(b) of the Solid Waste Disposal Act (42 U.S.C. 6946(b)) is amended by inserting ''and discretionary plan provisions'' after ''minimum requirements''.

(e) GENERAL PROVISIONS.—

(1) BORDER STUDIES.—

(A) DEFINITIONS.—In this paragraph:

(i) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(ii) MAQUILADORA.—The term ''maquiladora'' means an industry located in Mexico along the border between the United States and Mexico.

(iii) SOLID WASTE.—The term ''solid waste'' has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(B) IN GENERAL.—

(i) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH NORTH AMERICAN FREE TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator is authorized to conduct a study of solid waste management issues associated with increased border use resulting from the implementation of the North American Free Trade Agreement.

(ii) STUDY OF SOLID WASTE MANAGEMENT ISSUES ASSOCIATED WITH UNITED STATES-CANADA FREE-TRADE AGREEMENT.—As soon as practicable after the date of enactment of this Act, the Administrator may conduct a similar study focused on border traffic of solid waste resulting from the implementation of the United States-Canada Free-Trade Agreement, with respect to the border region between the United States and Canada.

(C) CONTENTS OF STUDY.—A study conducted under this paragraph shall provide for the following:

(i) A study of planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border involved.

(ii) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(iii) In the case of the study described in subparagraph (B)(i), research concerning methods of tracking of the transportation of—

(I) materials from the United States to maquiladoras; and

(II) waste from maquiladoras to a final destination.

(iv) In the case of the study described in subparagraph (B)(i), a determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(v) A review of the adequacy of existing emergency response networks in the border region involved, including the adequacy of training, equipment, and personnel.

(vi) An analysis of solid waste management practices in the border region involved, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(D) SOURCES OF INFORMATION.—In conducting a study under this paragraph, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(i) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and, in the case of the study described in subparagraph (B)(i), census data prepared by the Government of Mexico.

(ii) In the case of the study described in subparagraph (B)(i), information from the United States Customs Service of the Department of the Treasury concerning solid waste transported across the border between the United States and Mexico, and the method of transportation of the waste.

(iii) In the case of the study described in subparagraph (B)(i), information concerning the type and volume of materials used in maquiladoras.

(iv)(I) Immigration data prepared by the Immigration and Naturalization Service of the Department of Justice.

(II) In the case of the study described in subparagraph (B)(i), immigration data prepared by the Government of Mexico.

(v) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(vi) A listing of each site in the border region involved where solid waste is treated, stored, or disposed of.

(vii) In the case of the study described in subparagraph (B)(i), a profile of the industries in the region of the border between the United States and Mexico.

(E) CONSULTATION AND COOPERATION.—In carrying out this paragraph, the Administrator shall consult with the following entities in reviewing study activities:

(i) With respect to reviewing the study described in subparagraph (B)(i), States and political subdivisions of States (including municipalities and counties) in the region of the border between the United States and Mexico.

(ii) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and with respect to reviewing the study described in subparagraph (B)(i), equivalent officials of the Government of Mexico.

(F) REPORTS TO CONGRESS.—On completion of the studies under this paragraph, the Administrator shall, not later than 2 years after the date of enactment of this Act, submit to the appropriate committees of Congress reports that summarize the findings of the studies and propose methods by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(G) BORDER STUDY DELAY.—The conduct of the study described in subparagraph (B)(ii) shall not delay or otherwise affect completion of the study described in subparagraph (B)(i).

(H) FUNDING.—If any funding needed to conduct the studies required by this paragraph is not otherwise available, the president may transfer to the administrator, for use in conducting the studies, any funds that have been appropriated to the president under section 533 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3473) that are in excess of the amount needed to carry out that section. States that wish to participate in study will be asked to contribute to the costs of the study. The terms of the cost share shall be negotiated between the Environmental Protection Agency and the State.''.

(2) STUDY OF INTERSTATE HAZARDOUS WASTE TRANSPORT.—

(A) DEFINITION OF HAZARDOUS WASTE.—In this paragraph, the term ''hazardous waste'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(B) STUDY.—not later than 3 years after the date of enactment of this act, the administrator of the environmental protection agency shall conduct a study, and report to congress on the results of the study, to determine—

(i) the quantity of hazardous waste that is being transported across state lines; and

(ii) the ultimate disposition of the transported waste.

(3) STUDY OF INTERSTATE SLUDGE TRANSPORT.—

(A) DEFINITIONS.—In this paragraph:

(i) SEWAGE SLUDGE.—The term ''sewage sludge''—

(I) means solid, semisolid, or liquid residue generated during the treatment of domestic sewage in a treatment works; and

(II) includes—

(i) domestic septage;

(ii) scum or a solid removed in a primary, secondary, or advanced wastewater treatment process; and

(iii) material derived from sewage sludge (as otherwise defined in this clause); but

(III) does not include—

(i) ash generated during the firing of sewage sludge (as otherwise defined in this clause) in a sewage sludge incinerator; or

(ii) grit or screenings generated during preliminary treatment of domestic sewage in a treatment works.

(ii) SLUDGE.—The term ''sludge'' has the meaning provided in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(B) STUDY.—Not later than 3 years after the date of enactment of this act, the administrator of the environmental protection agency shall conduct a study, and report to congress on the results of the study, to determine—

(i) the quantity of sludge (including sewage sludge) that is being transported across state lines; and

(ii) the ultimate disposition of the transported sludge.

SEC. 510. SENSE OF SENATE REGARDING UNITED STATES SEMICONDUCTOR TRADE AGREEMENT.

(a) FINDINGS.—

(1) The United States-Japan Semiconductor Trade Agreement is set to expire on July 31, 1996;

(2) The Governments of the United States and Japan are currently engaged in negotiations over the terms of a new United States-Japan agreement on semiconductors;

(3) The President of the United States and the Prime Minister of Japan agreed at the G–7 Summit in June that their two governments should conclude a mutually acceptable outcome of the semiconductor dispute by July 31, 1996, and that there should be a continuing role for the two governments in the new agreement;

(4) The current United States-Japan Semiconductor Trade Agreement has put in place both government-to-government and industry-to-industry mechanisms which have played a vital role in allowing cooperation to replace conflict in this important high technology sector such as by providing for joint calculation of foreign market share in Japan, deterrence of dumping, and promotion of industrial cooperation in the design-in of foreign semiconductor devices;

(5) Despite the increased foreign share of the Japanese semiconductor market since 1986, a gap still remains between the share United States and other foreign semiconductor makers are able to capture in the world market outside of Japan through their competitiveness and the sales of these suppliers in the Japanese market, and that gap is consistent across the full range of semiconductor products as well as a full range of end-use applications;

(6) The competitiveness and health of the United States semiconductor industry is of critical importance to the United States' overall economic well-being as well as the nation's high technology defense capabilities;

(7) The economic interests of both the United States and Japan are best served by well-functioning, open markets and deterrence of dumping in all sectors, including semiconductors;

(8) The Government of Japan continues to oppose an agreement that (A) ensures continued calculation of foreign market share in Japan according to the formula set forth in the current agreement, and (B) provides for continuation of current measures to deter renewed dumping of semiconductors in the United States and in the third country markets; and

(9) The United States Senate on June 19, 1996, unanimously adopted a sense of the Senate resolution that the President should take all necessary and appropriate actions to ensure the continuation of a government-to-government United States-Japan semiconductor trade agreement before the current agreement expires on July 31, 1996.

(b) SENSE OF SENATE.—It is the sense of the Senate that if a new United States-Japan Semiconductor Agreement is not concluded by July 31, 1996, that (1) ensures continued calculation of foreign market share in Japan according to the formula set forth in the current agreement, and (2) provides for continuation of current measures to deter renewed dumping of semiconductors in the United States and in third country markets, the President shall—

(A) Direct the Office of the United States Trade Representative and the Department of Commerce to establish a system to provide for unilateral United States Government calculation and publication of the foreign share of the Japanese semiconductor market, according to the formula set forth in the current agreement;

(B) Report to the Congress on a quarterly basis regarding the progress, or lack thereof, in increasing foreign market access to the Japanese semiconductor market; and

(C) Take all necessary and appropriate actions to ensure that all United States trade laws with respect to foreign market access and injurious dumping are expeditiously and vigorously enforced with respect to U.S.-Japan semiconductor trade, as appropriate.

This Act may be cited as the ''Energy and Water Development Appropriations Act, 1997''.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the bill was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I ask unanimous consent that S. 1959, the fiscal year 1997 energy and water development appropriations bill, be indefinitely postponed.

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

Mr. DOMENICI. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ASHCROFT) appointed Mr. DOMENICI, Mr. HATFIELD, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. REID, Mr. KERREY and Mrs. MURRAY conferees on the part of the Senate.

Mr. DOMENICI. Mr. President, I thank the combined staff—the Republican staff and the Democratic staff—for the marvelous job they did. I, most of all, thank all the Senators for being as cooperative as they were. This is a bill that is not singular in purpose but has an awful lot of facets to it. We were able in 2 days to complete it, and that is because we got great cooperation.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m. today.

Thereupon, at 12:42 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SMITH).

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3754, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3754) making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Chafee amendment No. 5119, to provide for a limitation on the exclusion copyrights of literary works reproduced or distributed in specialized formats for use by blind or disabled persons.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 5119

Mr. MACK. Mr. President, I understand that there is a pending amendment before the Senate, which is the Chafee amendment.

The PRESIDING OFFICER. The Senator is correct. The pending amendment is the amendment by the Senator from Rhode Island.

Mr. MACK. Mr. President, I understand the amendment has been cleared by both sides of the aisle, including the authorizing committee chair and ranking member. Therefore, I ask unanimous consent that Senator FORD and Senator FRIST be added as cosponsors to the Chafee amendment and that the amendment be agreed to.

The amendment (No. 5119) was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, yesterday Senator MURRAY was good enough to file on my behalf an amendment dealing with a recently adopted rule on the acceptable uses of the Senate Internet Services. I have some very serious concerns about this new rule, concerns that many of my colleagues in the Senate share.

Senator FORD and Senator WARNER have worked closely with me on this issue and I think we have reached a compromise which is very reasonable and accommodating for both the Rules Committee and the Senators who would be affected by the new Internet policy. I would like to thank them for agreeing to take another look at this policy. As a result of that compromise, I have withdrawn my amendment and am looking forward to working with the members of the Rules Committee and other Senators who are interested in the Senate Internet policy over the next 2 months. During that time, implementation of the rule dealing with promotional or commercial links on Senate home pages will be delayed.

I do want to take a moment to inform other Senators who may not have had a chance to read the new Senate Internet policy, about the issue my amendment addressed. On July 22, 1996, the Senate Committee on Rules and Administration adopted a policy for the use of the U.S. Senate Internet Services. Among other things, the rule states that ''The use of Senate Internet Services for personal, promotional, commercial, or partisan political campaign purposes is prohibited.''

Now most of those restrictions I would agree are appropriate and prudent. But I am concerned about the ambiguity of the terms ''promotional'' and ''commercial''. My amendment would have clarified that language by allowing a ''home state exemption''—similar to the one that is included under the gift rule to allow gifts of home State products. Under my amendment, Senators would have been allowed to link to sites, businesses, and organizations in their home State as long as those links are accompanied by a disclaimer stating that the link is not an endorsement of the products, locations, or services they feature.

Like many Senators I have links on my Web page to places and organizations in my home State. My home page is a virtual office for people who may not be able to get to my offices in Montpelier or Burlington. Without the links to Vermont sites it would be a pretty uninviting place—no native Vermont art on the walls, no calendar of events, and no directory of places to go and things to see while you are in the area. That's not the kind of hospitality I like to show people who have taken the time to visit my office.

Under the July 22 rule, I will probably have to eliminate most of the home state links on my Senate Web page or defend my decision to keep those links before the Senate Ethics Committee. However I won't be alone—over half of my colleagues in the Senate have similar links on their Web pages to tourist spots, businesses or event listings in their home States, including most of the members of the Rules Committee itself. Mr. President, I do not believe that is what the committee intended. I do not believe that most Members are aware of this rule and the affect that it will have on the individuality of their home pages.

The Internet is a new milestone in communication which the Senate should be using to the advantage of all States. But it is also a rapidly changing field, and I understand completely the difficulty that Senator FORD, Senator WARNER and the other members of the Rules Committee have had in setting down a policy for Senate use of the Internet. The World Wide Web is uncharted territory when it comes to drawing the line between what is an appropriate use of Senate resources and what is not. But by opening up this dialog between all interested Senators, we can will go a long way toward finding that balance.

This will certainly not be the last time that the Senate grapples with the problem of fitting advances in telecommunications technology to a government body that pre-dates the pony express. However, I hope that the process we are establishing now of open communication between Senators who are deeply interested in this emerging technology and the Rules Committee, will continue as we travel down this road.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. MACK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. COATS. Mr. President, may I ask what the current business of the Senate is?

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is to be recognized for up to 20 minutes, followed immediately by a vote on passage of the bill.

Mr. COATS. Mr. President, I noted the absence of a quorum and thought perhaps there was a timeframe open here for me to introduce a bill; however, I see the Senator from West Virginia is here and prepared to go ahead.

Under the previous order, I am happy to abide by that and will do this at another time.

Mr. BYRD. How much time did the Senator need to introduce his bill?

Mr. COATS. There is no rush on this. I think we should stick with what was agreed upon.

Mr. BYRD. I probably have more time under the order than I will use.

Mr. COATS. I just want to introduce legislation. I can probably do it in 2 minutes.

Mr. BYRD. I yield the Senator 2 minutes, and I ask unanimous consent that he may speak as in morning business and introduce a bill.

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

The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank the Chair and I thank the Senator from West Virginia.

(The remarks of Mr. COATS pertaining to the introduction of S. 2000 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BYRD. Mr. President, I rise in support of H.R. 3754, the Fiscal Year 1997 Legislative Appropriations Bill. This is the second year, I believe, that the distinguished Senator from Florida [Mr. MACK] has chaired the Legislative subcommittee and it is also the second year that the equally distinguished Senator from Washington [Mrs. MURRAY] has served as the ranking member of the subcommittee. Both Senators are to be commended for the efforts that they have made to ensure that the legislative branch of Government does its share in contributing toward deficit reduction.

As has been stated, the pending measure contains funding levels that are below the previous year's budget by a little over $22 million, or around 1 percent. Further, the proposed fiscal year 1997 funding level, in total, is $13 million less than what the legislative branch had 6 years ago in fiscal year 1991. So when we consider the cost increases that have occurred over this 6

year period, the legislative branch has taken a significant reduction in funding.

I note that the largest reduction contained in the bill is to the budget of the General Accounting Office, for which a reduction of $44 million is recommended, as well as a personnel ceiling of 3,500 positions. That reduction fulfills a commitment made by the GAO to reduce its budget by 25 percent over a 2-year period. But for that 44 million-dollar reduction, the pending measure would, in fact, show an increase above fiscal year 1996.

Overall, I believe that this bill recognizes the fact that we have reached the bottom of the barrel as far as further reductions in the legislative branch budget. A large portion of the legislative branch budget is for personnel whose purpose is to assist Members of the House and Senate in carrying out their responsibilities. It is my strongly held belief that we must be very careful in the future to avoid any further arbitrary reductions in the legislative branch. We have reached the point, by making such dramatic reductions in staff throughout the legislative branch, that it is affecting the ability of Members to adequately address issues of national importance which arise in Congress every day and to adequately serve the people who send us here. In fact, let me take this opportunity to congratulate a very commendable group of individuals. Who are they? The United States Senate staff.

Senators like to think of themselves as akin to stars in the heavens, giving off light, and giving off heat, energy and brilliance—separate and distinct suns in orbits all of our own, as it were, creating their very own blinding illumination. In truth our lights would be very dim indeed without the dedicated hard work and unbelievable loyalty of those who labor so long on our behalf and on behalf of our constituents.

The people who open our mail, who read our mail and who answer much of our mail, the people who answer our telephones, and take a great deal of guff in the process on many occasions, the people who research our issues, the people who prepare our press releases, the people who work on the Nation's problems, as well as on the problems of our respective States, the people on the committees who craft legislative language. I doubt that there is a Senator here—there may be one—who personally writes his own bills, the bills that he introduces. The people who intercede on behalf of our constituents when we cannot do so ourselves, the people who toil on the Senate floor, the people who negotiate far into the night, I am talking about our committee staffs in particular here, negotiate far into the night to reconcile intractable differences with Members of the other body sometimes, long after Senators have gone home and gone to bed. All of these individuals unselfishly give countless hours and energies in order to serve Senators and to benefit their country.

Some of those staff members may have certain advantages, this is true. But these are very special people, and they are special people who are mostly unsung and very often unappreciated. Daily, they combine demanding, stressful, and difficult careers with equally demanding private lives. When they leave home in the morning, they often have no idea what time they may return to their loved ones at night. Many of us, Senators, are here in that same boat. We do not know what time we are going to get to go home at night. But certainly those employees do not for the most part. Still they manage to rear children and cook and clean and carry out the hundreds of other chores which must be performed in their personal lives weekly, despite impossible hours.

Every Senator in this body, each and every Member on both sides of the aisle, is deeply in their debt, as are our constituents and the Nation as a whole.

So we are supposed to pay them well, and in many instances, or most instances, I think we do pay them well. But not always, by any means.

That is why I am particularly concerned that this year those same capable, hard-working, largely uncomplaining individuals have been singled out, not for praise, but, at least indirectly, for scorn. It is my understanding that, for the first time in the years in which there have been cost-of-living adjustments, the staff of the U.S. Senate are alone—alone—among all Federal employees in this land in their failure to receive the COLA. Staffers of the House of Representatives have been authorized to receive their COLAS, the entire rest of the Federal work force has already received a cost-of-living adjustment, including the employees who staff the Federal judiciary.

I often wonder. It strikes me as strange that Senators, many Senators, in thinking of reducing personnel and of not increasing salaries of the staff or of Members themselves, do not dare touch the judiciary. They do not want to touch the judiciary.

So staffers of the Federal judiciary have received the cost-of-living adjustment. I do not regret that. I am not complaining about that. But only Senate staffers have been singled out for this special kind of strange and unfair treatment. I cannot fathom any substantive reason for such gross unfairness. I cannot understand why such a situation has been allowed to develop. I am sure it is not intended to be punitive, but in a way it is punitive. When our staffs in the Senate look across at the other end of the Capitol and see the staffs of the House, when they look across the street and see the staffs of the judiciary, and when they look down Pennsylvania Avenue and see the staffs of the executive branch who received their COLA's, how could our staffs, how could our committee staffs, help but wonder, why is this? Why the difference? Why the discrimination?

Unlike most of the Federal work force that normally receives any approved cost-of-living adjustment automatically, Senate staffers may only receive such COLA if their respective Senator approves the increase for each member of his or her staff. Senators do not have to give the COLA to anyone on their staffs or anyone on their committee staffs who is under their jurisdiction if they do not wish to. But, this year even the option for Senators to do so has been effectively taken away from Members.

I would like to at least have the option. I would at least like to be able to pass the COLA's on to the lower paid members of my staff. I would like to make that judgment based on each staff person's merits. But that option I do not have. No other Senator has that option this year.

Do I hear deficit cutting given as a reason for such disparity? If we wanted to make a serious reduction in the deficit through this means, we could prohibit the cost-of-living adjustment for anyone and everyone in the Federal Government in the first place, including the judicial branch. No. Serious deficit reduction is not the issue here. Some sort of misguided symbolism can be the only reason for such an unwarranted slap in the face for our own loyal employees in the Senate on our personal staffs and on committee staffs.

In my opinion, this is a very poor way to thank the hundreds of people who toil to make Senators the celestial heavenly bodies that we sometimes believe we are. It is pretty shabby treatment, if you ask me.

In a city that is as expensive to live in and work in as is Washington, DC, how can any Senator be comfortable knowing that we are treating the very people who help us to serve our constituents in such a fashion?

I thank the managers of the bill. They have included moneys so that the COLA's can be passed on for the coming year. I hope that the leadership will authorize that this be done.

I think the extreme matter should be rectified immediately for this year and should not be repeated in 1997. Why? Because common decency and fairness demand it.

Mr. President, I yield the remainder of my time.

I yield the floor.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I ask unanimous consent that the vote on passage of H.R. 3754, the legislative branch appropriations bill, occur at 3 p.m. today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MACK. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MACK. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. COATS. Mr. President, I call for the regular order.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 6, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—93

Abraham	Ford	Mack
Akaka	Frist	McCain
Ashcroft	Glenn	McConnell
Baucus	Gorton	Mikulski
Bennett	Graham	Moseley-Braun
Biden	Grams	Moynihan
Bingaman	Grassley	Murkowski
Bond	Gregg	Murray
Boxer	Harkin	Nickles
Bradley	Hatch	Nunn
Breaux	Hatfield	Pell
Bryan	Helms	Pressler
Bumpers	Hollings	Pryor
Burns	Hutchison	Reid
Byrd	Inhofe	Robb
Campbell	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Santorum
Cochran	Kassebaum	Sarbanes
Cohen	Kempthorne	Shelby
Coverdell	Kennedy	Simon
Craig	Kerrey	Simpson
D'Amato	Kerry	Smith
Daschle	Kohl	Snowe
DeWine	Kyl	Specter
Dodd	Lautenberg	Stevens
Domenici	Leahy	Thomas
Dorgan	Levin	Thompson
Exon	Lieberman	Thurmond
Feingold	Lott	Warner
Feinstein	Lugar	Wyden

NAYS—6

Brown	Faircloth	Heflin
Conrad	Gramm	Wellstone

NOT VOTING—1

Frahm

The bill (H.R. 3754), as amended, was passed.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, I move that the Senate insist on its amendments to the bill, request a conference with the House on the disagreeing votes thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. MACK, Mr. BENNETT, Mr. CAMPBELL, Mr. HATFIELD, Mrs. MURRAY, Ms. MIKULSKI, and Mr. BYRD conferees on the part of the Senate.

Mr. MACK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. EXON. Mr. President, I ask unanimous consent that the Senator from Nebraska be allowed to proceed as in morning business for not exceeding 2 minutes the purpose of introducing legislation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Nebraska is recognized.

(The remarks of Mr. EXON pertaining to the introduction of S. 2003 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of calendar order 504, H.R. 3675, the transportation appropriations bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3675) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 3675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1997, and for other purposes, namely:

TITLE I

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, **[**$53,816,000**]** *$53,376,000,* of which not to exceed $40,000 shall be available as the Secretary may determine for allocation within the Department for official reception and representation expenses: *Provided,* That notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received in user fees established to support the electronic tariff filing system: *Provided further,* That none of the funds appropriated in this Act or otherwise made available may be used to maintain custody of airline tariffs that are already available for public and departmental access at no cost; to secure them against detection, alteration, or tampering; and open to inspection by the Department.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $5,574,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, systems development, and development activities, to remain available until expended, **[**$3,000,000**]** *$4,158,000.*

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

Necessary expenses for operating costs and capital outlays of the Transportation Administrative Service Center, not to exceed $124,812,000, shall be paid from appropriations made available to the Department of Transportation: *Provided,* That such services shall be provided on a competitive basis to entities within the Department of Transportation: *Provided further,* That the above limitation on operating expenses shall not apply to non-DOT entities: *Provided further,* That no funds appropriated in this Act to an agency of the Department shall be transferred to the Transportation Administrative Service Center without the approval of the agency modal administrator: *Provided further,* That no assessments may be levied against any program, budget activity, subactivity or project funded by this Act unless notice of such assessments and the basis therefor are presented to the House and Senate Committees on Appropriations and are approved by such Committees.

PAYMENTS TO AIR CARRIERS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION OF CONTRACT AUTHORIZATION)

For liquidation of obligations incurred for payments to air carriers of so much of the compensation fixed and determined under subchapter II of chapter 417 of title 49, United States Code, as is payable by the Department of Transportation, **[**$10,000,000**]** *$25,900,000,* to remain available until expended and to be derived from the Airport and Airway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs in excess of **[**$10,000,000**]** *$25,900,000* for the Payments to Air Carriers program in fiscal year 1997: *Provided further,* That none of the funds in this Act shall be used by the Secretary of Transportation to make payment of compensation under subchapter II of

chapter 417 of title 49, United States Code, in excess of the appropriation in this Act for liquidation of obligations incurred under the ''Payments to air carriers'' program: *Provided further,* That none of the funds in this Act shall be used for the payment of claims for such compensation except in accordance with this provision: *Provided further,* That none of the funds in this Act shall be available for service to communities in the forty-eight contiguous States that are located fewer than seventy highway miles from the nearest large or medium hub airport, or that require a rate of subsidy per passenger in excess of $200 unless such point is greater than two hundred and ten miles from the nearest large or medium hub airport: *Provided further,* That of funds provided for ''Small Community Air Service'' by Public Law 101–508, [$28,600,000] *$12,700,000* in fiscal year 1997 is hereby rescinded.

PAYMENTS TO AIR CARRIERS

(RESCISSION)

Of the budgetary resources remaining available under this heading, $1,133,000 are rescinded.

RENTAL PAYMENTS

For necessary expenses for rental of headquarters and field space not to exceed 8,580,000 square feet and for related services assessed by the General Services Administration, [$127,447,000] *$132,500,000*: *Provided,* That of this amount, $2,022,000 shall be derived from the Highway Trust Fund, $39,113,000 shall be derived from the Airport and Airway Trust Fund, $840,000 shall be derived from the Pipeline Safety Fund, and $193,000 shall be derived from the Harbor Maintenance Trust Fund: *Provided further,* That in addition, for assessments by the General Services Administration related to the space needs of the Federal Highway Administration, [$17,294,000] *$17,192,000,* to be derived from ''Federal-aid Highways'', subject to the ''Limitation on General Operating Expenses''.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $1,500,000, as authorized by 49 U.S.C. 332: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $15,000,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

MINORITY BUSINESS OUTREACH

For necessary expenses of the Minority Business Resource Center outreach activities, $2,900,000, of which $2,635,000 shall remain available until September 30, 1998: *Provided,* That notwithstanding 49 U.S.C. 332, these funds may be used for business opportunities related to any mode of transportation.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed five passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; [$2,609,100,000] *$2,331,350,000,* of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That the number of aircraft on hand at any one time shall not exceed two hundred and eighteen, exclusive of aircraft and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further,* That the Commandant shall reduce both military and civilian employment levels for the purpose of complying with Executive Order No. 12839.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, [$358,000,000] *$393,100,000,* of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund; of which [$205,600,000] *$227,960,000* shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 2001; [$18,300,000] *$19,040,000* shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 1999; [$39,900,000] *$46,200,000* shall be available for other equipment, to remain available until September 30, 1999; [$47,950,000] *$52,900,000* shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 1999; and [$46,250,000] *$47,000,000* shall remain available for personnel compensation and benefits and related costs, to remain available until September 30, 1998: *Provided,* That funds received from the sale of the VC–11A and HU–25 aircraft shall be credited to this appropriation for the purpose of acquiring new aircraft and increasing aviation capacity: *Provided further,* That the Commandant may dispose of surplus real property by sale or lease and the proceeds of such sale or lease shall be credited to this appropriation[: *Provided further,* That the property in Wildwood, New Jersey shall be disposed of in a manner resulting in a final fiscal year 1997 appropriation estimated at $338,000,000: *Provided further,* That none of the funds in this Act may be obligated or expended to continue the ''Vessel Traffic Service 2000'' Program.

[ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

[(RESCISSIONS)

[Of the available balances under this heading provided in Public Law 104–50, $3,400,000 are rescinded.

[Of the available balances under this heading provided in Public Law 103–331, $355,000 are rescinded.]

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, [$21,000,000] *$23,000,000,* to remain available until expended.

PORT SAFETY DEVELOPMENT

For necessary expenses for debt retirement of the Port of Portland, Oregon, $5,000,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, [$16,000,000] *$10,000,000,* to remain available until expended.

RETIRED PAY

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 Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55) $608,084,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $65,890,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, [$19,000,000] *$19,550,000,* to remain available until expended, of which $5,020,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92–75, as amended, [$35,000,000] *$10,000,000,* to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including operations and research activities related to commercial space transportation, administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of subchapter I of chapter 471 of title 49, United States Code, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of four passenger motor vehicles for replacement only, [$4,900,000,000] *$4,899,957,000,* of which [$1,642,500,000] *$2,742,602,000* shall be derived from the Airport and Airway Trust Fund: *Provided,* That notwithstanding any other provision of law, not to exceed [$30,000,000] *$75,000,000* from additional user fees to be established by the Administrator of the Federal Aviation Administration shall be credited to this appropriation as offsetting collections and used for necessary and authorized expenses under this heading: *Provided further,* That the sum herein appropriated from the general fund shall be reduced on a dollar for dollar basis as such offsetting collections are received during fiscal year 1997, to result in a final fiscal year 1997 appropriation from the general fund estimated at not more than [$2,127,398,000] *$2,082,355,000* [*Provided further,* That the only additional user fees authorized as offsetting collections are fees for services provided to aircraft that neither take off from, nor land in, the United States]: *Provided further,* That there may be credited to this appropriation, funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the provision of agency services, including receipts for the maintenance and operation of air navigation facilities and, for issuance, renewal or modification of certificates, including airman, aircraft, and repair station

certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further,* That funds may be used to enter into a grant agreement with a nonprofit standard setting organization to assist in the development of aviation safety standards: *Provided further,* That none of the funds in this Act shall be available for new applicants for the second career training program: *Provided further,* That none of the funds in this Act shall be available for paying premium pay under 5 U.S.C. 5546(a) to any Federal Aviation Administration employee unless such employee actually performed work during the time corresponding to such premium pay: *Provided further,* That none of the funds in this Act may be obligated or expended to operate a manned auxiliary flight service station in the contiguous United States: *Provided further,* That none of the funds derived from the Airport and Airway Trust Fund may be used to support the operations and activities of the Associate Administrator for Commercial Space Transportation.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized under part A of subtitle VII of title 49, United States Code, including initial acquisition of necessary sites by lease or grant; engineering and service testing, including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease, or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, [$1,800,000,000] *$1,788,700,000,* of which [$1,583,000,000] *$1,571,700,000* shall remain available until September 30, 1999, and of which $217,000,000 shall remain available until September 30, 1997: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, as authorized under part A of subtitle VII of title 49, United States Code, including construction of experimental facilities and acquisition of necessary sites by lease or grant, [$185,000,000] *$187,000,000,* to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1999: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development, and for noise compatibility planning and programs as authorized under subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code, and under other law authorizing such obligations, $1,500,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of [$1,300,000,000] *$1,460,000,000* in fiscal year 1997 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 47117(h) of title 49, United States Code.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to 49 U.S.C. 44307, and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program for aviation insurance activities under chapter 443 of title 49, United States Code.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

None of the funds in this Act shall be available for activities under this heading during fiscal year 1997.

ADMINISTRATIVE SERVICES FRANCHISE FUND

There is hereby established in the Treasury a fund, to be available without fiscal year limitation, for the costs of capitalizing and operating such administrative services as the FAA Administrator determines may be performed more advantageously as centralized services, including accounting, international training, payroll, travel, duplicating, multimedia and information technology services: Provided, That any inventories, equipment, and other assets pertaining to the services to be provided by such fund, either on hand or on order, less the related liabilities or unpaid obligations, and any appropriations made prior to the current year for the purpose of providing capital shall be used to capitalize such fund: Provided further, That such fund shall be paid in advance from funds available to the FAA and other Federal agencies for which such centralized services are performed, at rates which will return in full all expenses of operation, including accrued leave, depreciation of fund plant and equipment, amortization of Automated Data Processing (ADP) software and systems (either required or donated), and an amount necessary to maintain a reasonable operating reserve, as determined by the FAA Administrator: Provided further, That such fund shall provide services on a competitive basis: Provided further, That an amount not to exceed four percent of the total annual income to such fund may be retained in the fund for fiscal year 1997 and each year thereafter, to remain available until expended, to be used for the acquisition of capital equipment and for the improvement and implementation of FAA financial management, ADP, and support systems: Provided further, That no later than thirty days after the end of each fiscal year, amounts in excess of this reserve limitation shall be transferred to miscellaneous receipts in the Treasury.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration not to exceed [$510,981,000] *$534,846,000* shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That [$214,698,000] *$234,840,000* of the amount provided herein shall remain available until September 30, 1999.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402 administered by the Federal Highway Administration, to remain available until expended, $2,049,000 to be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of [$17,550,000,000] *$17,650,000,000* for Federal-aid highways and highway safety construction programs for fiscal year 1997.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $19,800,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

None of the funds under this head are available for *net* obligations for right-of-way acquisition during fiscal year 1997.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 31102, $74,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of [$77,425,000] *$79,000,000* for ''Motor Carrier Safety Grants''.

STATE INFRASTRUCTURE BANKS

(HIGHWAY TRUST FUND)

To carry out the State Infrastructure Bank Pilot Program (Public Law 104–59, section 350), $250,000,000, to be derived from the Highway Trust Fund and to remain available until expended, to be distributed by the Secretary to more than 10 States: Provided, That these funds shall be used to advance projects or programs under the terms and conditions of section 350: Provided further, That any State that receives such funds may deposit any portion of those funds into either the highway or transit account of the State Infrastructure Bank: Provided further, That the funds appropriated and deposited into transit accounts authorized by section 350(b)(3) shall be drawn from the Mass Transit account of the Highway Trust Fund and that funds appropriated and deposited into highway accounts authorized by section 350(b)(2) shall be drawn from the Highway Trust Fund (other than the Mass Transit Account): Provided further, That the Secretary shall ensure that the Federal disbursements shall be at a rate consistent with historic rates for the Federal-aid highways program.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under part C of

subtitle VI of title 49, United States Code, and chapter 301 of title 49, United States Code, [$81,895,000] *$80,000,000*, of which $45,646,000 shall remain available until September 30, 1999: *Provided*, That none of the funds appropriated by this Act may be obligated or expended to plan, finalize, or implement any rulemaking to add to section 575.104 of title 49 of the Code of Federal Regulations any requirement pertaining to a grading standard that is different from the three grading standards (treadwear, traction, and temperature resistance) already in effect.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403 and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240), to be derived from the Highway Trust Fund, [$50,377,000] *$53,195,000*, of which $27,066,000 shall remain available until September 30, 1999.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 408, and 410, chapter 303 of title 49, United States Code, and section 209 of Public Law 95–599, as amended, to remain available until expended, [$167,100,000] *$169,100,000*, to be derived from the Highway Trust Fund: *Provided*, That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1997, are in excess of [$167,100,000] *$169,100,000* for programs authorized under 23 U.S.C. 402 and 410, as amended, of which [$127,700,000] *$129,700,000* shall be for ''State and community highway safety grants'', $2,400,000 shall be for the ''National Driver Register'', [$11,000,000] *$12,000,000* shall be for highway safety grants as authorized by section 1003(a)(7) of Public Law 102–240, and [$26,000,000] *$25,000,000* shall be for section 410 ''Alcohol-impaired driving counter-measures programs'': *Provided further*, That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further*, That not to exceed [$5,268,000] *$5,468,000* of the funds made available for section 402 may be available for administering ''State and community highway safety grants'': *Provided further*, That not to exceed $150,000 of the funds made available for section 402 may be available for administering the highway safety grants authorized by section 1003(a)(7) of Public Law 102–240: *Provided further*, That the unobligated balances of the appropriation ''Highway-Related Safety Grants'' shall be transferred to and merged with this ''Highway Traffic Safety Grants'' appropriation: *Provided further*, That not to exceed $500,000 of the funds made available for section 410 ''Alcohol-impaired driving counter-measures programs'' shall be available for technical assistance to the States.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, [$16,469,000] *$16,739,000*, of which $1,523,000 shall remain available until expended: *Provided*, That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further*, That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further*, That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $51,407,000, of which $2,476,000 shall remain available until expended: *Provided*, That notwithstanding any other law, funds appropriated under this heading are available for the reimbursement of out-of-state travel and per diem costs incurred by employees of state governments directly supporting the Federal railroad safety program, including regulatory development and compliance-related activities.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, [$20,341,000] *$20,000,000*, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and 49 U.S.C. 24909, $200,000,000, to remain available until September 30, 1999.

HIGH-SPEED RAIL TRAINSETS AND FACILITIES

For the National Railroad Passenger Corporation, $80,000,000, to remain available until September 30, 1999, to pursue public/private partnerships for high-speed rail trainset and maintenance facility financing arrangements.

RAILROAD REHABILITATION AND IMPROVEMENT PROGRAM

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided*, That no new loan guarantee commitments shall be made during fiscal year 1997.

NEXT GENERATION HIGH-SPEED RAIL

For necessary expenses for Next Generation High-Speed Rail studies, corridor planning, development, demonstration, and implementation, [$19,757,000] *$26,525,000*, to remain available until expended: *Provided*, That funds under this head may be made available for grants to States for high-speed rail corridor design, feasibility studies, environmental analyses, and [track and signal] *track, signal and station* improvements.

TRUST FUND SHARE OF NEXT GENERATION HIGH-SPEED RAIL

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For grants and payment of obligations incurred in carrying out the provisions of the High-Speed Ground Transportation program as defined in subsections 1036(c) and 1036(d)(1)(B) of the Intermodal Surface Transportation Efficiency Act of 1991, including planning and environmental analyses, $2,855,000, to be derived from the Highway Trust Fund and to remain available until expended.

ALASKA RAILROAD REHABILITATION

To enable the Secretary of Transportation to make grants to the Alaska Railroad, $10,000,000 shall be for capital rehabilitation and improvements benefiting its passenger operations.

RHODE ISLAND RAIL DEVELOPMENT

For the costs associated with construction of a third track on the Northeast Corridor between Davisville and Central Falls, Rhode Island, with sufficient clearance to accommodate double stack freight cars, [$4,000,000] *$10,000,000* to be matched by the State of Rhode Island or its designee on a dollar for dollar basis and to remain available until expended: *Provided*, That as a condition of accepting such funds, the Providence and Worcester (P&W) Railroad shall enter into an agreement with the Secretary to reimburse Amtrak and/or the Federal Railroad Administration, on a dollar for dollar basis, up to the first [$10,000,000] *$16,000,000* in damages resulting from the legal action initiated by the P&W Railroad under its existing contracts with Amtrak relating to the provision of vertical clearances between Davisville and Central Falls in excess of those required for present freight operations.

[DIRECT LOAN FINANCING PROGRAM

[Notwithstanding any other provision of law, $58,680,000, for direct loans not to exceed $400,000,000 consistent with the purposes of section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) as in effect on September 30, 1988, to the Alameda Corridor Transportation Authority to continue the Alameda Corridor Project, including replacement of at-grade rail lines with a below-grade corridor and widening of the adjacent major highway: *Provided*, That loans not to exceed the following amounts shall be made on or after the first day of the fiscal year indicated:

[Fiscal year 1997	$140,000,000
[Fiscal year 1998	$140,000,000
[Fiscal year 1999	$120,000,000

Provided further, That any loan authorized under this section shall be structured with a maximum 30-year repayment after completion of construction at an annual interest rate of not to exceed the 30-year United States Treasury rate and on such terms and conditions as deemed appropriate by the Secretary of Transportation: *Provided further*, That specific provisions of section 505(a)(b) and (d) shall not apply: *Provided further*, That the Alameda Corridor Transportation Authority shall be deemed to be a financially responsible person for purposes of section 505 of the Act.]

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation authorized by 49 U.S.C. 24104, [$462,000,000] *$592,000,000*, to remain available until expended, of which $342,000,000 shall be available for operating losses and for mandatory passenger rail service payments, and [$120,000,000] *$250,000,000* shall be for capital improvements: *Provided*,

That funding under this head for capital improvements shall not be made available before July 1, 1997: *Provided further,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, [$41,367,000] *$42,147,000.*

FORMULA GRANTS

For necessary expenses to carry out 49 U.S.C. 5307, 5310(a)(2), 5311, and 5336, to remain available until expended, [$490,000,000] *$218,335,000*: *Provided,* That no more than [$2,052,925,000] *$2,149,185,000* of budget authority shall be available for these purposes: *Provided further,* That, *notwithstanding any other provision of law,* of the funds provided under this head for formula grants, no more than $400,000,000 may be used for operating assistance under 49 U.S.C. 5336(d): *Provided further,* That the limitation on operating assistance provided under this heading shall, for urbanized areas of less than 200,000 in population, be no less than seventy-five percent of the amount of operating assistance such areas are eligible to receive under Public Law 103–331: *Provided further,* That in the distribution of the limitation provided under this heading to urbanized areas that had a population under the 1990 census of 1,000,000 or more, the Secretary shall direct each such area to give priority consideration to the impact of reductions in operating assistance on smaller transit authorities operating within the area and to consider the needs and resources of such transit authorities when the limitation is distributed among all transit authorities operating in the area.

UNIVERSITY TRANSPORTATION CENTERS

For necessary expenses for university transportation centers as authorized by 49 U.S.C. 5317(b), to remain available until expended, $6,000,000.

TRANSIT PLANNING AND RESEARCH

For necessary expenses for transit planning and research as authorized by 49 U.S.C. 5303, 5311, 5313, 5314, and 5315, to remain available until expended, $85,500,000, of which $39,500,000 shall be for activities under Metropolitan Planning (49 U.S.C. 5303); $4,500,000 for activities under Rural Transit Assistance (49 U.S.C. 5311(b)(2)); $8,250,000 for activities under State Planning and Research (49 U.S.C. 5313(b)); $22,000,000 for activities under National Planning and Research (49 U.S.C. 5314); $8,250,000 for activities under Transit Cooperative Research (49 U.S.C. 5313(a)); and $3,000,000 for National Transit Institute (49 U.S.C. 5315).

TRUST FUND SHARE OF EXPENSES

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(a), $1,920,000,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided,* That $1,920,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of [$1,665,000,000] *$1,900,000,000* in fiscal year 1997 for grants under the contract authority in 49 U.S.C. 5338(b): *Provided,* That *notwithstanding any provision of law,* there shall be available for fixed guideway modernization, [$666,000,000] *$725,000,000*; there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities, [$333,000,000] *$375,000,000*; and, notwithstanding any other provision of law, except for fixed guideway modernization projects, [$10,510,000] *$8,890,000* made available under Public Law 102–240 and Public Law 102–143 under ''Federal Transit Administration, Discretionary Grants'' for projects specified in those Acts or identified in reports accompanying those Acts, not obligated by September 30, 1996; together with, notwithstanding any other provision of law, $744,000 funds made available for the ''New Bedford and Fall River Massachusetts commuter rail extension'' under Public Law 103–331; together with, notwithstanding any other provision of law, $47,322,000 funds made available for the ''Chicago Central Area Circulator Project'' in Public Law 103–122 and Public Law 103–331, shall be made available for new fixed guideway systems together with the [$666,000,000] *$800,000,000* made available for new fixed guideway systems in this Act, to be available as follows:

$6,390,000 for the Alaska-Hollis to Ketchikan ferry project;

[$66,820,000] *$62,000,000* for the Atlanta-North Springs project;

[$10,260,000] *$5,000,000* for the Baltimore-LRT Extension project;

[$40,181,000] *$30,000,000* for the Boston Piers-MOS–2 project;

$2,000,000 for the Burlington-Charlotte, Vermont commuter rail project;

[$5,500,000 for the Canton-Akron-Cleveland commuter rail project;]

[$25,000,000,] *$20,000,000* notwithstanding any other provision of law, for transit improvements in the Chicago downtown area;

$3,000,000 for the Cincinnati Northeast-Northern Kentucky rail line project;

[$10,000,000] *$12,000,000* for the DART North Central light rail extension project;

[$12,500,000] *$18,000,000* for the Dallas-Fort Worth RAILTRAN project;

[$1,000,000 for the DeKalb County, Georgia light rail project;]

[$3,000,000 for the Denver Southwest Corridor project;]

[$9,000,000] *$20,000,000* for the Florida Tri-County commuter rail project;

[$2,000,000 for the Griffin light rail project;]

[$40,590,000] *$24,000,000* for the Houston Regional Bus project;

$7,400,000 for the Jackson, Mississippi Intermodal Corridor;

[$15,300,000 for the Jacksonville ASE extension project;]

[$1,500,000] *$3,600,000* for the Kansas City Southtown corridor project;

$6,000,000 for the Little Rock, Arkansas Junction Bridge project;

[$90,000,000] *$55,000,000* for the Los Angeles-MOS–3 project;

[$1,500,000 for the Los Angeles-San Diego commuter rail project;]

[$27,000,000] *$50,000,000* for the MARC Commuter Rail Improvements project;

$5,000,000 for the Metro-Dade Transit east-west corridor, Florida project;

[$1,000,000 for the Miami-North 27th Avenue project;]

[$2,000,000] *$6,400,000* for the Memphis, Tennessee Regional Rail Plan;

$4,240,000 for the Morgantown, West Virginia Personal Rapid Transit System;

$10,000,000 for the New Jersey Urban Core/Hudson-Bergen LRT project;

$105,530,000 for the New Jersey Urban Core/Secaucus project;

[$1,000,000 for the New Jersey West Trenton commuter rail project;]

[$8,000,000] *$10,000,000* for the New Orleans Canal Street Corridor project;

[$2,000,000 for the New Orleans Desire Streetcar project;]

$35,020,000 for the New York-Queens Connection project;

[$500,000 for the Northern Indiana commuter rail project;]

$10,000,000 for the Oklahoma City, MAPS corridor transit system;

[$5,000,000 for the Orange County transitway project;]

$2,000,000 for the Orlando Lynx light rail project;

$15,100,000 for the Pittsburgh Airport busway project;

$6,000,000 for the Portland South/North light rail transit project;

[$90,000,000] *$138,000,000* for the Portland-Westside/Hillsboro Extension project;

$5,000,000 for the Research Triangle Park, North Carolina regional transit plan;

[$6,000,000] *$7,000,000* for the Sacramento LRT Extension project;

[$20,000,000] *$58,000,000* for the Salt Lake City-South LRT project[, of which not less than $10,000,000 shall be available only for high-occupancy vehicle lane and corridor design costs];

$30,000,000 for St. Louis Metrolink;

[$20,000,000] *$45,000,000* for the St. Louis-St. Clair Extension project;

[$35,000,000] *$20,000,000* for the San Francisco Area-BART airport extension/San Jose Tasman West LRT projects;

[$3,000,000 for the San Diego-Mid-Coast Corridor project;]

[$9,500,000 for the San Juan Tren Urbano project;]

$5,000,000 for the Seattle-Renton-Tacoma light rail project;

[$375,000 for the Staten Island-Midtown Ferry service project;]

$2,000,000 for the Tampa to Lakeland commuter rail project; [and]

$8,000,000 for the Virginia Rail Express Richmond to Washington commuter rail project; and

[$2,500,000] *$5,000,000* for the Whitehall ferry terminal, New York, New York.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out 49 U.S.C. 5338(b) administered by the Federal Transit Administration, [$2,000,000,000] *$2,300,000,000,* to be derived from the Highway Trust Fund and to remain available until expended.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $200,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint

Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, including the Great Lakes Pilotage functions delegated by the Secretary of Transportation, [$10,037,000] *$10,337,000*, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, [$23,929,000] *$27,675,000*, of which $574,000 shall be derived from the Pipeline Safety Fund, and of which $7,101,000 shall remain available until September 30, 1999: *Provided*, That up to $1,200,000 in fees collected under 49 U.S.C. 5108(g) shall be deposited in the general fund of the Treasury as offsetting receipts: *Provided further*, That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program, for grants-in-aid to carry out a pipeline safety program, as authorized by 49 U.S.C. 60107, and to discharge the pipeline program responsibilities of the Oil Pollution Act of 1990, [$30,988,000] *$31,278,000*, of which $2,528,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 1999; and of which [$28,460,000] *$28,750,000* shall be derived from the Pipeline Safety Fund, of which $15,500,000 shall remain available until September 30, 1999: *Provided*, That in addition to amounts made available for the Pipeline Safety Fund, $1,000,000 shall be available for grants to States for the development and establishment of one-call notification systems and shall be derived from amounts previously collected under section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out 49 U.S.C. 5127(c), $200,000, to be derived from the Emergency Preparedness Fund, to remain available until September 30, 1999: *Provided*, That none of the funds made available by 49 U.S.C. 5116(i) and 5127(d) shall be made available for obligation by individuals other than the Secretary of Transportation, or his designee.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, [$39,450,000] *$39,700,000*: *Provided*, That [none of the funds under this heading shall be for the conduct of contract audits] *of which $1,900,000 shall be for the conduct of contract audits.*

SURFACE TRANSPORTATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the Surface Transportation Board, including services authorized by 5 U.S.C. 3109, $12,344,000: *Provided*, That $3,000,000 in fees collected in fiscal year 1997 by the Surface Transportation Board pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1997: *Provided further*, That any fees received in excess of $3,000,000 in fiscal year 1997 shall remain available until expended, but shall not be available for obligation until October 1, 1997.

TITLE II

RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,540,000: *Provided*, That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $42,407,000, of which not to exceed $2,000 may be used for official reception and representation expenses.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Such sums as may be necessary for fiscal year 1997 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act or previous appropriations Acts.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by title VIII of the Elementary and Secondary Education Act of 1965, 20 U.S.C. 7701, et seq., for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for an Executive Level IV.

SEC. 305. None of the funds in this Act shall be available for salaries and expenses of more than one hundred seven political and Presidential appointees in the Department of Transportation: *Provided*, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. The Secretary of Transportation may enter into grants, cooperative agreements, and other transactions with any person, agency, or instrumentality of the United States, any unit of State or local government, any educational institution, and any other entity in execution of the Technology Reinvestment Project authorized under the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 and related legislation: *Provided*, That the authority provided in this section may be exercised without regard to section 3324 of title 31, United States Code.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 310. (a) For fiscal year 1997 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1996, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 12 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State;

(2) after August 1, 1997, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104, and 144 of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240; and

(3) not distribute amounts authorized for administrative expenses and funded from the administrative takedown authorized by section 104(a), title 23 U.S.C., the Federal lands highway [program,] *program;* the intelligent transportation systems [program, and] *program;* amounts made available under sections 1040, 1047, 1064, 6001, 6005, 6006, 6023, and 6024 of Public Law 102–240, and 49 U.S.C. 5316, 5317, and 5338*; $5,000,000 for activities authorized by section 140(b) of title 23, United States Code; $5,000,000 for activities authorized by section 1012(b) of Public Law 102–240; and $50,000,000 of the obligation limitation established by this Act for Federal-aid highways and highway safety construction: Provided, That $15,000,000 of such undistributed obligation limitation shall be available for administrative costs and allocation*

to States under section 104(I) of title 23, United States Code; $30,000,000 shall be available for allocation to States authorized by section 1069(y) of Public Law 102–240; and $5,000,000 shall be available for administrative costs and allocation to States under section 1302(d) of the Symms National Recreational Trails Act of 1991: ⟦*Provided*⟧ *Provided further*, That amounts made available under section 6005 of Public Law 102–240 shall be subject to the obligation limitation for Federal-aid highways and highway safety construction programs under the head ''Federal-Aid Highways'' in this Act.

(d) During the period October 1 through December 31, 1996, the aggregate amount of obligations under section 157 of title 23, United States Code, for projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, sections 1061, 1103 through 1108, 4008, and 6023(b)(8) and 6023(b)(10) of Public Law 102–240, and for projects authorized by Public Law 99–500 and Public Law 100–17, shall not exceed $277,431,840.

(e) During the period August 2 through September 30, 1997, the aggregate amount which may be obligated by all States shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which would not be obligated in fiscal year 1997 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(f) Paragraph (e) shall not apply to any State which on or after August 1, 1997, has the amount distributed to such State under paragraph (a) for fiscal year 1997 reduced under paragraph (c)(2).

(g) INCREASE IN ADMINISTRATIVE TAKEDOWN.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for fiscal year 1997 only, whenever an allocation is made of the sums authorized to be appropriated for expenditure on the Federal lands highways program, and whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, the Interstate maintenance program, the Interstate reimbursement program, the highway bridge replacement and rehabilitation program, and the donor State bonus program, the Secretary of Transportation shall deduct a sum in such amount not to exceed 4¾ per centum of all sums to be authorized as the Secretary may determine necessary for administering the provisions of law to be financed from appropriations for the Federal-Aid Highway Program and for carrying on the research authorized by subsections (a) and (b) of section 307 of title 23, United States Code. In making such determination, the Secretary shall take into account the unobligated balance of any sums deducted for such purposes in prior years. The sum so deducted shall remain available until expended.

(2) EFFECT.—Any deduction by the Secretary of Transportation in accordance with this Act shall be deemed to be a deduction under 23 U.S.C. § 104(a).

SEC. 311. The limitation on obligations for the programs of the Federal Transit Administration shall not apply to any authority under 49 U.S.C. 5338, previously made available for obligation, or to any other authority previously made available for obligation under the discretionary grants program.

SEC. 312. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 313. None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 314. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration (FAA) instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to FAA design and performance specifications, the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The FAA shall accept such equipment, which shall thereafter be operated and maintained by the FAA in accordance with agency criteria.

SEC. 315. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided*, That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 316. None of the funds provided in this Act shall be made available for planning and executing a passenger manifest program by the Department of Transportation that only applies to United States flag carriers.

SEC. 317. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under ''Federal Transit Administration, Discretionary grants'' for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 1999, shall be made available for other projects under 49 U.S.C. 5309.

SEC. 318. Notwithstanding any other provision of law, any funds appropriated before October 1, 1993, under any section of chapter 53 of title 49 U.S.C., that remain available for expenditure may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 319. None of the funds in this Act shall be available to implement or enforce regulations that would result in the withdrawal of a slot from an air carrier at O'Hare International Airport under section 93.223 of title 14 of the Code of Federal Regulations in excess of the total slots withdrawn from that air carrier as of October 31, 1993 if such additional slot is to be allocated to an air carrier or foreign air carrier under section 93.217 of title 14 of the Code of Federal Regulations.

SEC. 320. None of the funds in this Act may be used to compensate in excess of 335 technical staff years under the federally-funded research and development center contract between the Federal Aviation Administration and the Center for Advanced Aviation Systems Development during fiscal year 1997.

SEC. 321. Funds provided in this Act for the Transportation Administrative Service Center (TASC) shall be reduced by $10,000,000, which limits fiscal year 1997 TASC obligational authority for elements of the Department of Transportation funded in this Act to no more than $114,812,000: *Provided*, That such reductions from the budget request shall be allocated by the Department of Transportation to each appropriations account in proportion to the amount included in each account for the transportation administrative service center.

SEC. 322. Funds received by the Federal Highway Administration, Federal Transit Administration, and Federal Railroad Administration from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training may be credited respectively to the Federal Highway Administration's ''Limitation on General Operating Expenses'' account, the Federal Transit Administration's ''Transit Planning and Research'' account, and to the Federal Railroad Administration's ''Railroad Safety'' account, except for State rail safety inspectors participating in training pursuant to 49 U.S.C. 20105.

⟦SEC. 323. None of the funds in this Act shall be available to prepare, propose, or promulgate any regulations pursuant to title V of the Motor Vehicle Information and Cost Savings Act (49 U.S.C. 32901, et seq.) prescribing corporate average fuel economy standards for automobiles, as defined in such title, in any model year that differs from standards promulgated for such automobiles prior to enactment of this section.⟧

SEC. 324. None of the funds in this Act may be used for planning, engineering, design, or construction of a sixth runway at the new Denver International Airport, Denver, Colorado*: Provided, That this provision shall not apply in any case where the Administrator of the Federal Aviation Administration determines, in writing, that safety conditions warrant obligation of such funds.*

SEC. 325. Notwithstanding 31 U.S.C. 3302, funds received by the Bureau of Transportation Statistics from the sale of data products, for necessary expenses incurred pursuant to the provisions of section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991, may be credited to the Federal-aid highways account for the purpose of reimbursing the Bureau for such expenses: *Provided*, That such funds shall not be subject to the obligation limitation for Federal-aid highways and highway safety construction: *Provided further*, ⟦That in addition to amounts otherwise provided in this Act, not to exceed $3,100,000 in expenses of the Bureau of Transportation Statistics necessary to conduct activities related to airline statistics may be incurred, but only to the extent such expenses are offset by user fees charged for those activities and credited as offsetting collections⟧ *That of the funds provided by section 6006(b) of Public Law 102–240, not to exceed $3,100,000 may be incurred to conduct activities related to airline statistics.*

SEC. 326. The Secretary of Transportation is authorized to transfer funds appropriated in this Act to ''Rental payments'' for any expense authorized by that appropriation in excess of the amounts provided in this Act: *Provided*, That prior to any such transfer, notification shall be provided to the House and Senate Committees on Appropriations.

SEC. 327. None of the funds in this Act may be obligated or expended for employee training which: (a) does not meet identified needs for knowledge, skills and abilities bearing directly upon the performance of official duties; (b) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (c) does not require prior employee notification of the content and methods to be used in the training and written end of course evaluations; (d) contains any methods or content associated with religious or quasi-religious belief systems or ''new age'' belief systems as defined in Equal Employment Opportunity Commission Notice N–915.022, dated

September 2, 1988; (e) is offensive to, or designed to change, participants' personal values or lifestyle outside the workplace; or (f) includes content related to human immunodeficiency virus/acquired immune deficiency syndrome (HIV/AIDS) other than that necessary to make employees more aware of the medical ramifications of HIV/AIDS and the workplace rights of HIV-positive employees.

SEC. 328. None of the funds in this Act shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation: *Provided,* That this shall not prevent officers or employees of the Department of Transportation or related agencies funded in this Act from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

SEC. 329. None of the funds in this Act may be used to support Federal Transit Administration's field operations and oversight of the Washington Metropolitan Area Transit Authority in any location other than from the Washington, D.C. metropolitan area.

[SEC. 330. None of the funds made available in this Act may be used for improvements to the Miller Highway in New York City, New York.]

SEC. 331. Not to exceed [$850,000] *$1,050,000* of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 332. Notwithstanding any other provision of law, the Secretary may use funds appropriated under this Act, or any subsequent Act, to administer and implement the exemption provisions of 49 CFR 580.6 and to adopt or amend exemptions from the disclosure requirements of 49 CFR part 580 for any class or category of vehicles that the Secretary deems appropriate.

[SEC. 333. No funds other than those appropriated to the Surface Transportation Board shall be used for conducting the activities of the Board.]

SEC. 333. Section 24902 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(m) APPLICABLE PROCEDURES.—No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in connection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this title or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land. These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns, in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection (m) shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.''

SEC. 334. None of the funds made available in this Act may be used to construct, or to pay the salaries or expenses of Department of Transportation personnel who approve or facilitate the construction of, a third track on the Metro-North Railroad Harlem Line in the vicinity of Bronxville, New York, when it is made known to the Federal official having authority to obligate or expend such funds that a final environmental impact statement has not been completed for such construction project.

SEC. 335. Section 5328(c)(1)(E) of title 49, United States Code, is amended—

(1) by striking ''Westside'' the first place it appears;

(2) by striking ''and'' after ''101–584,''; and

(3) by inserting before the period at the end the following: '', and the locally preferred alternative for the South/North Corridor Project''.

SEC. 335a. Section 3035(b) of Public Law 102–240 is hereby amended by striking ''$515,000,000'' and inserting in lieu thereof ''$555,000,000''.

SEC. 336. Notwithstanding any other provision of law, of the funds made available to Cleveland for the ''Cleveland Dual Hub Corridor Project'' or ''Cleveland Dual Hub Rail Project,'' $4,023,030 in funds made available in fiscal years 1991, 1992, and 1994, under Public Laws 101–516, 102–143, 102–240, 103–122, and accompanying reports, shall be made available for the Berea Red Line Extension and the Euclid Corridor Improvement projects.

[SEC. 337. Notwithstanding any other provision of law, funds made available under section 3035(kk) of Public Law 102–240 for fiscal year 1997 to the State of Michigan shall be for the purchase of buses and bus-related equipment and facilities.]

[SEC. 338. In addition to amounts otherwise provided in this Act, there is hereby appropriated $2,400,000 for activities of the National Civil Aviation Review Commission, to remain available until expended.]

SEC. 338. Of the amounts made available under the Federal Transit Administration's Discretionary Grants program for Kauai, Hawaii, in Public Law 103–122 and Public Law 103–311, $3,250,000 shall be transferred to and administered in accordance with 49 U.S.C. 5307 and made available to Kauai, Hawaii.

[SEC. 339. Section 423 of H.R. 1361, as passed the House of Representatives on May 9, 1995, is hereby enacted into law.]

SEC. 339. Improvements identified as highest priority by section 1069(t) of Public Law 102–240 and funded pursuant to section 118(c)(2) of title 23, United States Code, shall not be treated as an allocation for Interstate maintenance for such fiscal year under section 157(a)(4) of title 23, United States Code, and sections 1013(c), 1015(a)(1), and 1015(b)(1) of Public Law 102–240: Provided, That any discretionary grant made pursuant to Public Law 99–663 shall not be subject to section 1015 of Public Law 102–240.

SEC. 340. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a–10c).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 341. Notwithstanding any other provision of law, receipts, in amounts determined by the Secretary, collected from users of fitness centers operated by or for the Department of Transportation shall be available to support the operation and maintenance of those facilities.

SEC. 342. None of the funds made available in this Act may be used by the National Transportation Safety Board to plan, conduct, or enter into any contract for a study to determine the feasibility of allowing individuals who are more than 60 years of age to pilot commercial aircraft.

SEC. 343. Funds provided in this Act for bonuses and cash awards for employees of the Department of Transportation shall be reduced by $513,604 which limits fiscal year 1997 obligation authority to no more than $25,448,300: Provided, That this provision shall be applied to funds for Senior Executive Service bonuses, merit pay, and other bonuses and cash awards.

SEC. 344. Hereinafter, the National Passenger Railroad Corporation shall be exempted from any State or local law relating to the payment or delivery of abandoned or unclaimed personal property to any government authority, including any provision for the enforcement thereof, with respect to passenger rail tickets for which no refund has been or may be claimed, and such law shall not apply to funds held by Amtrak as a result of the purchase of tickets after April 30, 1972 for which no refund has been claimed.

SEC. 345. Notwithstanding any other provision in law, of the amounts made available under the Federal Aviation Administration's operations account, the FAA shall provide personnel at Dutch Harbor, Arkansas to provide real-time weather and runway observation and other such functions to help ensure the safety of aviation operations.

SEC. 346. VOLUNTARY SEPARATION INCENTIVES FOR EMPLOYEES.—

(a) AUTHORITY.—Notwithstanding any other provision of law, in order to avoid or minimize the need for involuntary separations due to a reduction in force, reorganization, transfer of function, or other similar action, the Secretary of Transportation may pay, or authorize the payment of, voluntary separation incentive payments to employees of the United States Coast Guard, Research and Special Programs Administration, St. Lawrence Seaway Development Corporation, Office of the Secretary, Federal Railroad Administration, and employees of the Department in positions targeted for reduction under the National Performance Review who separate from Federal service voluntarily through September 30, 2000 (whether by retirement or resignation).

(b) AGENCY STRATEGIC PLAN.—The Secretary shall submit, for review and approval, a strategic plan to the Director of the Office of Management and Budget prior to obligating any resources for voluntary separation incentive payments allowed under this Act.

(1) The plan shall—

(A) include the number and amounts of voluntary separation incentive payments to be offered;

(B) specify how the voluntary separation incentives will achieve downsizing goals;

(C) include a proposed time period for the payment of such incentives; and

(D) include the positions and functions to be reduced or eliminated identified by organizational unit, geographic location or occupational category and grade level.

(2) A voluntary separation incentive payment under this section may be paid to any eligible employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(c) CONDITIONS AND AMOUNT OF PAYMENTS.—In order to receive a voluntary separation incentive payment, an employee must separate from service with the Department (whether by retirement or resignation) within the applicable period of time specified in the agency plan. An employee's agreement to separate with an incentive payment is binding upon the employee and the Department, unless the employee and the Department mutually agree otherwise.

(1) A voluntary separation incentive payment shall be paid in a lump sum after the employee's separation and be equal to the lesser of—

(A) an amount equal to the amount the employee would have been entitled to receive under section 5595(c) of title 5, United States Code (without adjustment for any previous payment made under such section), if the employee were entitled to payment under such section; or

(B) if the employee separates during—

(i) fiscal year 1997, $25,000;

(ii) fiscal year 1998, $20,000;

(iii) fiscal year 1999, $15,000;

(iv) fiscal year 2000, $10,000;

(3) not be a basis for payment, and shall not be included in the computation of any other type of benefit;

(4) not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation;

(5) be available from appropriations or funds available for the payment of the basic pay of the employee.

(d) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An employee who has received a voluntary separation incentive payment under this section and accepts employment with, or enters into a personal services contract with, any Federal agency or instrumentality of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the Department.

(1) The repayment required under this subsection may be waived only by the Secretary.

(e) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the Department covered by chapters 83 or 84 of title 5, United States Code, to whom a voluntary separation incentive payment has been made.

(2) DEFINITION.—For the purpose of this section, the term ''final basic pay,'' with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(f) VOLUNTARY RELEASE PROGRAM.—Notwithstanding any other provision of law, the Department shall implement regulations that shall permit its employees, who are not scheduled for separation by RIF, to volunteer for RIF separation in place of other employees who are scheduled for RIF separation until September 30, 2000.

(g) CONTINUANCE OF GOVERNMENT SHARE OF HEALTH BENEFITS COVERAGE.—Notwithstanding any other provision of law, the Department shall pay the Government share of the health benefits coverage of any of its employees separated by RIF for up to 18 months following the employee's separation from Federal service, provided that the employee pays his requisite share of such costs over the same 18 month period.

TITLE IV—MISCELLANEOUS HIGHWAY PROVISIONS

[SEC. 401. Notwithstanding any other provision of law, semitrailer units operating in a truck tractor-semitrailer combination whose semitrailer unit is more than forty-eight feet in length and truck tractor-semitrailer-trailer combinations specified in section 31111(b)(1) of title 49, United States Code, may not operate on United States Route 15 in Virginia between the Maryland border and the intersection with United States Route 29.

[SEC. 402. Item 30 of the table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2050), relating to Mobile, Alabama, is amended in the second column by inserting after ''Alabama'' the following: ''and for feasibility studies, preliminary engineering, and construction of a new bridge and approaches over the Mobile River''.

[SEC. 403. Item 94 of the table contained in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2052), relating to St. Thomas, Virgin Islands, is amended—

[(1) by striking ''St. Thomas,''; and

[(2) by inserting after ''the island'' the following: ''of St. Thomas and improvements to the VIPA Molasses Dock intermodal port facility on the island of St. Croix to make the facility capable of handling multiple cargo tasks''.]

SEC. 403. The funds authorized to be appropriated for highway-railroad grade crossing separations in Mineola, New York, under the head ''Highway-Railroad Grade Crossing Safety Demonstration Project (Highway Trust Fund)'' in House Report 99–976 and section 302(l) of Public Law 99–591 are hereby also authorized to be appropriated for other grade crossing improvements in Nassau and Suffolk Counties in New York and shall be available in accordance with the terms of the original authoriziaton in House Report 99–976.

SEC. 404. The Secretary of Transportation is hereby authorized to enter into an agreement modifying the agreement entered into pursuant to section 336 of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331) and section 356 of the Department of Transportation and Related Agencies Appropriations Act, 1996 (Public Law 104–50) to provide an additional line of credit not to exceed $25,000,000, which may be used to replace otherwise required contingency reserves; provided, however, that the Secretary may only enter into such modification if it is supported by the amount of the original appropriation (provided by section 336 of Public Law 103–331). No additional appropriation is made by this section. In implementing this section, the Secretary may enter into an agreement requiring an interest rate, on both the original line of credit and the additional amount provided for herein, higher than that currently in force and higher than that specified in the original appropriation. An agreement entered into pursuant to this section may not obligate the Secretary to make any funds available until all remaining contingency reserves are exhausted, and in no event shall any funds be made available before October 1, 1998.

[SEC. 405. Public Law 100–202 is amended in the item relating to ''Traffic Improvement Demonstration Project'' by inserting after ''project'' the following: ''or upgrade existing local roads''.]

SEC. 406. The amount appropriated for the Lake Shore Drive extension study, Whiting, Indiana, under the matter under the heading ''SURFACE TRANSPORTATION PROJECTS'' under the heading ''FEDERAL HIGHWAY ADMINISTRATION'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 108 Stat. 2478), shall be made available to carry out the congestion relief project for the construction of a 4-lane road and overpass at Merrillville, Indiana, authorized by item 35 of section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2030).

[TITLE V—ADDITIONAL GENERAL PROVISIONS

[SEC. 501. (a) LIMITATION ON NEW LOAN GUARANTEES FOR CERTAIN RAILROAD PROJECTS.—None of the funds made available in this Act may be used for the cost of any new loan guarantee commitment for any railroad project, when it is made known to the Federal official having authority to obligate or expend such funds that such railroad project is an international railroad project of the United States and another country, or a railroad project in the United States in the vicinity of the United States border with another country.

[(b) EXCEPTION.—Subsection (a) shall not apply when it is made known to the Federal official having authority to obligate or expend such funds that—

[(1) a comprehensive study has been conducted after the date of the enactment of this Act regarding criminal activities that have occurred on existing railroads of such type, including—

[(A) the use of such railroads to facilitate the smuggling of illegal aliens and illegal drugs into the United States, and the impact of such smuggling on the total number of illegal aliens, and the total amount of illegal drugs, entering the United States; and

[(B) the commission of robberies against such railroads; and

[(2) a detailed report setting forth the results of such study has been issued and made available to the public.

[SEC. 502. None of the funds made available in this Act may be used by the National Transportation Safety Board to plan, conduct, or enter into any contract for a study to determine the feasibility of allowing individuals who are more than 60 years of age to pilot commercial aircraft.]

This Act may be cited as the ''Department of Transportation and Related Agencies Appropriations Act, 1997''.

Mr. HATFIELD. Mr. President, I am very pleased to be able to present the fiscal 1997 appropriations bill dealing with the Department of Transportation and related agencies. The subcommittee allocation was $11.95 billion in budget authority and $35.453 billion in outlays. This allocation is $240 million lower in budget authority than the House's allocation when they passed the bill on June 28.

In spite of this limitation, I am proud of this bill because it addresses a number of concerns of not only the administration and my colleagues but also the American people. I should point out, however, that the bill is right at its allocation for both budget authority and outlays. So any amendments that increased spending would have to be offset with the necessary cuts to other parts of the bill.

This bill provides funding above that requested by the administration and above that provided by the House in two areas of critical importance: Safety and infrastructure development.

In the safety area, this bill provides the Federal Aviation Administration funding for 250 additional air traffic controllers.

In the FAA's regulation and certification area, the bill provides for more than 250 additional staff, including airworthiness inspectors, airline operations inspectors, certification inspectors of engineers and pilots, and manufacturing inspectors. However, in light of and in response to the ValuJet crash, there is also funding for an additional 130 hazardous materials inspectors in the aviation area. These inspectors were not originally requested by the administration, nor were they funded in the House appropriations bill. And the bill also provides 20 new inspectors for the Research and Special Programs Administration, the lead agency within the Department of Transportation regarding hazardous materials.

Global air transportation of hazardous materials has been growing at a steady rate of approximately 7 percent per year. The majority of these goods—60 percent—are transported on passenger-carrying equipment. And, according to the FAA, the reported incidence in air transportation associated with this type of cargo has increased 122 percent since 1991.

Although the FAA with its given resources monitors the compliance of such carriers to the extent possible, it is estimated that almost 80 percent of the problems associated with this type of cargo originates with shippers. I believe that the traveling public needs an acceptable level of safety that can be achieved, not only with air carrier inspections but also with targeted inspections of freight forwarders, repair stations, and commercial shippers.

Therefore, this bill has funding of approximately $12 million above the administration's request to address these safety problems. I believe that this is important to point out in light of the TWA Flight 800 tragedy.

This bill fully funds the administration's request for operational security of $71.9 million which funds approximately 780 security personnel. This is a 6.6 percent increase over what was provided in fiscal year 1996.

The bill also provides the full amount requested at research funding for explosives and weapons detection. That is $27.3 million.

In addition to increasing a number of positions in the aviation control, regulation, safety, and security areas, the bill provides an airport improvement program grant funding level of $1.46 billion, $160 million above the House's level, and $110 million above the administration's level.

I want to emphasize again, Mr. President, that this bill is still under the House allocation.

In the Coast Guard area, the subcommittee has provided funding for very critical maintenance activities, and is $14.3 million above the House level. The House cut was appealed directly to me by the Commandant of the Coast Guard who felt that a continued level was necessary in maintenance in the aircraft and boat area, which severely hamper the operational effectiveness of the Coast Guard in 1997.

I should also point out that the committee has not rescinded previous years' funds for the vessel traffic service systems, known as the VTS, and has provided the requested $6 million for these VTS systems in 1997. However, there is report language directing the Coast Guard to tone down their ambitious plans and to develop a common platform and common architecture for a vessel traffic system before proceeding in the future.

In the highway area, the committee rejected the administration's request that would have made some previously exempt highway programs part of the overall obligation ceiling, and would have rescinded $300 million of previously authorized ISTEA highway projects. Despite the budget constraints, there is an increase of $100 million over the House level for the Federal aid highway program of $17.6 billion. And there is $250 million for the State Infrastructure Bank Program, which was not funded in the House bill.

In the rail area, the committee has increased funding for the House bill by providing $200 million as requested for the Northeast Corridor Improvement Program, and provides $130 million above the House mark for the Amtrak Capital Program. We have also fully funded, as has the House, the $80 million requested for high-speed transits. In the transit area, we are slightly less than $100 million above the House in the formula grants program, and are $235 million above the House in the discretionary grants program. These funds are for rail modernization projects, transit new starts, and bus and bus related projects.

So you can see, despite having a lower 602(b) allocation in budget authority than the House, we have provided significant funding increases for areas that I feel very strongly about; namely, infrastructure improvement and safety related activities.

I believe that summarizes the bill. This year we received 770 separate requests from Senators, totaling $16.3 billion in earmarks and specific requests. It is difficult to balance these varied and sometimes conflicting needs, but I think this bill does a good job performing that balancing act while providing needed funds for safety improvement and infrastructure investments.

Mr. President, I am happy to yield to my colleague and former chairman of the subcommittee, a man who has been very supportive and helpful in crafting this bipartisan bill that we bring to the floor today, Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

I thank my colleague and friend, Senator HATFIELD, for his ever constructive work and comments. This may be the last bill on transportation that Senator HATFIELD will manage. Long after his actions as a Senator, as a leader in the Senate, and as someone whom we all admire and respect, I hope we will continue our friendship and contact, but I will say a little bit more about that in a couple moments, if I may.

Mr. President, I rise in strong support of the Senate amendments to H.R. 3675, the transportation appropriations bill for fiscal 1997. The bill, as we know, was reported unanimously by the Appropriations Committee on Thursday, July 18. It would be my hope we could get a similarly unanimous vote for Senate passage of the bill.

Given the overall funding limitations that we face in this year's appropriations process, I think the bill before us does an excellent job in distributing scarce resources among the Nation's critical transportation needs.

Mr. President, I ask unanimous consent at this moment that Michael Brennan, a legislative fellow from the Department of Transportation who works with us, be granted privileges of the floor during the Senate consideration of H.R. 3675 and the conference report that will accompany this bill.

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

Mr. LAUTENBERG. Mr. President, this transportation bill comes before the Senate and before the Congress at a very sensitive moment in our discussions and deliberations here. The image of TWA Flight 800 is fresh in our mind. We all now grieve with those who lost loved ones, horrified at the shock that families, in some cases, lost two or three members of the family. One man lost his wife and two children. We can hardly comprehend the pain and the anguish that must go with something like that.

What an odd coincidence that at the moment we are considering how much money we spend on transportation, including safety in the air and safety in other modes of transportation, we face a time when, again, we wish that we could have done more, if it was possible, to prevent something like that.

I think it is important as we consider what the investment is going to be in transportation infrastructure in our society we not lose sight of what took

place on that fateful day when TWA 800 went down. But we also cannot easily forget the ValuJet crash, the problem with the Delta Air Lines airplane as it was taking off and the mother and child were killed even though the airplane never got into the air; the engine disintegrated and tore into the fuselage.

We, unfortunately, can recall an accident in New Jersey and an accident in Maryland on the rails when Amtrak, in the Maryland instance, and, in New Jersey, the New Jersey Transit Co. lost people as a result of a crash. We are all too familiar with what happens on our highways each day in each State; that when we invest in transportation, it is not simply another way to spend money; that it has a real life-and-death effect on the way people move between work and home or recreation and home or shopping and home; and that when we look at what happens with our air quality—and everybody is concerned about what we leave to future generations—we try to improve it the best way we can. And the significant way to do that is through effective investments in transportation.

For the knowledge of the body—and I think everyone is aware of it, but I remind you even though it may be redundant—the United States, among the most advanced nations in the world, spends the least as a percentage of GDP on transportation infrastructure. When we look at the per capita spending in the United States on transportation infrastructure spending, we are the equivalent of some of the more primitive or more backward nations of the world, those on the African Continent, poor, poverty-stricken nations. I hope this year we recognize this is one area in which we cannot afford to skimp.

This is an excellent bill considering the appropriations we had to work with. It is a much more balanced approach than the House-passed bill. The bill does an excellent job of addressing to the maximum degree possible—and I emphasize the maximum degree possible—the priorities of all Members as well as the priorities of the administration. It is a testament to Chairman HATFIELD's cooperative effort that there is not even a hint of a veto overshadowing this bill. The administration has seen that the chairman has worked almost magic in terms of getting the appropriate balance with resources still too little, in my view.

For the Federal Aviation Administration, the bill includes additional funds requested by the administration to address the specific problems associated with the transportation of hazardous materials. These materials have been implicated as the possible cause of the recent tragic ValuJet crash.

Moreover, as we await answers to the many questions surrounding the tragedy on TWA flight 800, I think it is important to point out that the bill before us fully funds the administration's requested increase for civil aviation security.

For the Coast Guard, the bill comes close to fully funding the Commandant's request for operations and acquisition. The Coast Guard has implemented its own well-designed streamlining plan to reduce costs, and I am pleased that they will not be required to endure further reductions as part of this bill.

We depend on the Coast Guard to be ever ready and at their post in the event of all kinds of national contingencies, whether it is for emergency response to marine accidents and oil-spills, search and rescue, national security, or, as we have seen most recently, the collection of evidence and debris from the TWA tragedy.

We depend on the Coast Guard to be ready to serve on a moment's notice. I was in East Moriches, Long Island, a week ago Saturday shortly after the crash occurred, and I couldn't have been more proud of the Coast Guard, who was there as quickly as possible. I flew with the helicopter pilot who was the first Coast Guard pilot on the scene. He said when the sea was still burning, it looked like an inferno. And I saw the loyalty, despite the terrible stress, and the commitment of each of them, their having counseling and review of their own emotions, because in each case, they see themselves and they see their own families.

The Coast Guard is a fantastic branch of service, Mr. President. Again, I do not want to leave out the NTSB and the FBI and the Navy and the others who are working so diligently to try to provide the answers that we hope will come soon. But a branch of service like the Coast Guard often does not get the credit that it deserves as we give them ever-more assignments. As one coastal State Senator, I assure you that they have served us well over last year, over the many years in the past.

Within the Federal Highway Administration, the Appropriations Committee has been able to find sufficient resources to allow full funding for prior-year highway projects. The bill before us provides an overall increase in the obligation ceiling for highway formula funds.

Within the Federal Transit Administration, the bill before us achieves a new high in the funding of transit discretionary capital grants, and while the bill freezes operations assistance at the fiscal 1996 level, it provides an increase for transit formula capital assistance.

I am especially pleased with the committee's recommendations for the Federal Railroad Administration. The House-passed bill singled out Amtrak for some truly destructive funding cuts. The bill before us takes a much more balanced approach, and it provides full funding for the President's request for the Northeast Corridor Improvement Program and the special one-time appropriations for new high-speed train assists.

The bill also provides an increase for Amtrak's capital account, permitting them to invest in capital equipment, in trackage, in signs, in electrification. The only way Amtrak can hope to become self-sufficient is if it has adequate funds to invest in its deteriorating capital plant. The bill before us makes a sizable investment toward that goal.

While there are some questions raised about Amtrak and its service in the highly populated Northeast Corridor, I remind our colleagues that were it not for Amtrak, and if we want to provide the same level of transportation facility to those who travel between Boston, New York, and Washington, we need something like 10,000 DC–9's a year to pick up that slack. Imagine, 10,000 extra airplane flights a year over our skies with all the noise and all the congestion and everything else.

So, once again, the funds that we are investing are funds that have a significant effect on the quality of life of our citizens.

Mr. President, it is with some pain that I must make note of the fact—and I have made note of the fact—that this will be the last appropriations bill that Senator HATFIELD will manage in his capacity as subcommittee chairman. In many ways, I hope it is the last and hope that it will get to the President and get signed and we don't have to do this one over again. We shouldn't have to. But as always, his openness and fair mindedness has brought an ability to get things through the maze and bring it to this point and we hope soon to the President's desk.

In his 2 years as chairman of the Transportation Subcommittee, Senator HATFIELD has certainly distinguished himself as an informed and wise policymaker in the transportation arena. I have always admired his leadership, and I will always treasure his friendship. Mr. President, it is obvious there is only one person I would rather see as chairman of that subcommittee than Senator HATFIELD. I will not go any further. Just a joke.

Once again, I commend this bill to all my colleagues, and I hope that they will work with us to support the passage of the bill and that it does not become a forum for other discussions. It is late in the year; it is late in the week. We will soon be departing this place for other activities back home, and it would be too bad if this bill became a forum for debate that is unrelated particularly to transportation matters.

With that, I yield the floor, Mr. President.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I rise in support of H.R. 3675, the transportation appropriations bill for fiscal year 1997. I have been a member of the Subcommittee on Transportation for many years, and was once chairman of the subcommittee. I have long been an advocate for increased and sustained funding for our Nation's transportation infrastructure.

The transportation appropriations bill is the preeminent contributor to our Nation's annual investment in infrastructure. Our Nation's economic prosperity depends heavily on the adequacy of our highways, our airports, our railroads, and our transit systems. As such, this is a critically important bill for the overall economic health of the Nation.

This bill also finances our entire Federal effort in the area of transportation safety, including the safety and security of our aviation and rail systems. The recent explosion on TWA Flight 800, which has been alluded to here already, and the associated loss of life, serve as a cruel reminder of the critical safety mission executed by our Department of Transportation.

I congratulate Senator HATFIELD, the Transportation Subcommittee chairman, and I congratulate the ranking member of the Transportation Subcommittee, Senator LAUTENBERG, for their expeditious action, their skillful and dedicated work on this bill.

Given the overall limitations we face for this year's appropriations bills, I believe that this bill represents a fair and balanced approach to the transportation needs of cities and communities throughout the Nation.

And I am particularly pleased that the committee rejected what I believe to be an ill-considered proposal by the administration that would have placed a cap on previously funded obligations for highway projects. Indeed, the bill before us provides an overall increase in the Federal aid highway obligation ceiling which provides critically needed highway funding for all 50 States.

So I commend Chairman HATFIELD and Senator LAUTENBERG for presenting to the Senate a bill that is free of controversial authorizing legislation. On balance, although I would support substantially more funding for the Nation's infrastructure than we are able to provide in this bill, I believe that H.R. 3675 deserves the support of all Senators.

Finally, Mr. President, I congratulate the efforts of the subcommittee staff—Pat McCann, Anne Miano, and Joyce Rose for the majority, and Peter Rogoff and Carole Geagley for the minority—for their outstanding work on this very important measure.

This is the last time that Senator HATFIELD will manage this transportation bill on the floor of the Senate.

I thank him for his long and illustrious service to the Senate, to his State, and to the Nation. I thank him for his steadfast friendship over the years. I thank him for his bipartisanship, his true bipartisanship, that he has demonstrated not only on this bill but on many other bills and which has been a hallmark of his service in this body. He has tremendous courage. As far as I am concerned, he is one of those few men and women in the history of the Senate who is truly a profile in courage.

I thank both the chairman and the ranking member again, as I say, for their services to the Senate and to the people of this country and to the country itself.

Emerson must have had men like these in mind when he said:

Not gold, but only men can make a nation great and strong;
Men who for truth and honor's sake stand fast and labor long;
Real men who work while others sleep,
Who dare while others fly.
They build a nation's pillars deep
And lift them to the sky.

I yield the floor.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, first I thank my colleague and ranking member of the subcommittee, Senator LAUTENBERG, for his kind personal remarks. It has been a great pleasure and honor to work with Senator LAUTENBERG in this role. I am grateful to him for his many suggestions and recommendations.

I think, I say to Senator LAUTENBERG, if you and I were to really put the focus on the hard work and the effort and the accomplishment of this subcommittee, we would have to really look to our staff—your staff, Peter Rogoff, and my staff, Pat McCann and Anne Miano—who worked so well, beautifully together, meshing our common interests, crafting a bill that we are able to stand here and defend before the Senate.

I say, of Senator BYRD's very generous and kind remarks, that he has been a mentor. I should be thanking him for those remarks because I am sure that, like many, if not most of the Senate who have watched and listened to Senator BYRD over the years, we have learned a great deal not only about the Senate's history, but about the way legislation proceeds and the cooperation, collaboration that must be achieved on both sides of the aisle to pass legislation. I am very grateful for his most generous remarks.

Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc and that they be considered as original text for the purpose of further amendment and that no points of order be waived thereon.

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

The committee amendments were agreed to, en bloc.

AMENDMENTS NOS. 5123 THROUGH 5125, EN BLOC

Mr. HATFIELD. Mr. President, I have three technical amendments that I offer on behalf of the committee. They have been cleared on both sides, correcting the spelling, other such technical matters.

The PRESIDING OFFICER. The clerk will report the amendments by number.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes amendments numbered 5123 through 5125, en bloc.

The amendments (Nos. 5123 through 5125) are as follows:

AMENDMENT NO. 5123

Strike section 346 and insert the following:

SEC. 346. DEPARTMENT OF TRANSPORTATION VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term ''agency'' means the following agencies of the Department of Transportation:

(A) the United States Coast Guard;

(B) the Research and Special Programs Administration;

(C) the St. Lawrence Seaway Development Corporation;

(D) the Office of the Secretary;

(E) the Federal Railroad Administration; and

(F) any other agency of the Department with respect to employees of such agency in positions targeted for reduction under the National Performance Review;

(2) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of an agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000 in fiscal year 1997, $20,000 in fiscal year 1998, $15,000 in fiscal year 1999, or $10,000 in fiscal year 2000;

(D) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(E) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(3) LIMITATION.—No amount shall be payable under this section based on any separation occurring before the date of the enactment of this Act, or after September 30, 2000.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in an agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor each agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

AMENDMENT NO. 5124

On page 63 of the bill, line 24, strike ''Arkansas'' and insert ''Alaska''.

AMENDMENT NO. 5125

On page 60 of the bill, line 21, strike ''5307'' and insert ''5311''.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendments be considered and agreed to, en bloc, and that the motions to reconsider be laid upon the table.

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

The amendments (Nos. 5123 through 5125) were agreed to.

Mr. HATFIELD. Mr. President, I believe the parliamentary situation is the bill is open for further amendments.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Perhaps there are none, and we could go to third reading. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

AMENDMENT NO. 5126

(Purpose: To fully fund the President's request for Aviation Security Research)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes amendment numbered 5126.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, line 17, strike ''132,500,000'' and insert ''132,499,000''.

On page 14, line 22, strike ''187,000,000'' and insert ''188,490,000''.

On page 38, line 5, strike ''200,000,000'' and insert ''198,510,000''.

Mr. LAUTENBERG. Mr. President, this fully funds the President's request for aviation security research. It is offset in budget authority as well as outlays.

Mr. HATFIELD. It is cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5126) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was adopted.

Mr. LAUTENBERG. I move to lay that motion on the table, Mr. President.

Mr. LAUTENBERG. Mr. President, I want the RECORD to be clear that this is ''human factors research for security.'' That is the title under which this legislation is proposed.

Mr. SHELBY. Mr. President, would the chairman yield for a question?

Mr. HATFIELD. Yes. I would be happy to yield for a question from the Senator from Alabama.

Mr. SHELBY. Mr. President, I understand the committee has included $6 million in the transportation appropriations bill for the development of vessel traffic service systems or VTS systems by the Coast Guard. I wanted to briefly ask the chairman whether it is the intent of the committee's report language that the Coast Guard undertake a review of this system, including the costs associated with implementing the program, before proceeding with their plans to install these systems in various ports around the country, including Mobile, AL.

The GAO report that the committee refers to in its report identified serious underestimations of the cost of the VTS 2000 program. I continue to have serious reservations about this system and the Coast Guard's current plan for its implementation and use. It would appear that the GAO has raised many important issues that need to be resolved before the Coast Guard proceeds in the implementation of this program. It is the intent of the committee that such a review take place by the Coast Guard before it proceeds with the VTS program?

Mr. HATFIELD. Yes. The report language directs the Coast Guard to tone down their ambitious plans, and to develop a common platform and common architecture for vessel traffic systems before proceeding in the future.

Mr. SHELBY. I appreciate the chairman's assurances on this matter.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I am concerned that the committee report does not contain bus and bus facility funds for the Regional Transportation Commission of Clark County, NV. The RTC's CAT System has witnessed phenomenal growth and has seen an annual increase of ridership of over 36

percent. Its service hours and service miles per bus is more than double that of any other transit system in the United States.

The RTC has requested $5 million to complete its integrated bus maintenance facilities project to properly maintain and store its equipment fleet, and $5 million for new rolling stock to initiate express bus commuter service. Past transportation appropriations bills have provided funding for this project, recognizing its need and significance.

While I appreciate the many demands on the Senate for bus discretionary funds, I urge the chairman to give full consideration to the needs of Clark County, NV for this important funding.

Mr. HATFIELD. Mr. President, the Senator from Nevada is correct that the RTC of Clark County is certainly a worthy candidate for discretionary bus and bus facility funds. In fiscal year 1996, nearly $17 million was provided for the project. I look forward to working with the Senator to make every effort to assist in advancing its project.

Mr. DEWINE. Mr. President, I would like to thank the distinguished chairman of the Appropriations Committee for his efforts during the appropriation process. I appreciate the fact that the Senate transportation appropriation report includes $30 million for bus and bus-related facilities in the State of Ohio. I would, however, like to make sure that this $30 million will be made available to the Ohio Department of Transportation to be used for bus and bus-related facilities in a manner determined by the Ohio Department of Transportation.

Mr. HATFIELD. I say to Senator DEWINE that it is the intent of the Appropriations Committee that the $30 million earmarked in Senate Report 104–325 for Ohio bus and bus-related facilities be available to the Ohio Department of Transportation to be used for bus and bus-related facilities in a manner determined by the Ohio Department of Transportation.

Mr. President, we have a list of notifications of Members that indicated they wished to present an amendment—about a dozen. I invite Members to the floor to present those amendments. We are going to have to finish this bill tonight, as the leader indicated earlier, and I hope the Senators would see fit, if they are interested in pursuing these amendments, to appear on the floor and make their presentation.

At some point in time I think the courtesy of waiting for those amendments will expire, and I will suggest we might go to a third reading of the bill and pass the bill. My patience is growing less at this point in time. I think every Senator is busy. I have many things I can do rather than stand here waiting for other Senators.

I make a very strong appeal to Senators, and if their staffs are present, to alert those Senators that we are here to do business. If not, we will go to third reading.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 5127 AND 5128, EN BLOC

Mr. HATFIELD. Mr. President, I send two amendments to the desk, en bloc, on behalf of Senator KOHL and Senator BOND, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes amendments numbered 5127 and 5128, en bloc.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 5127

(Purpose: To express the sense of the Senate that Congress should establish the Saint Lawrence Seaway Development Corporation as a performance-based organization)

At the appropriate place in the bill insert the following:

SEC. . It is the Sense of the Senate that Congress should actively consider legislation to establish the Saint Lawrence Seaway Development Corporation as a performance-based organization on a pilot basis beginning in fiscal year 1998.

AMENDMENT NO. 5128

(Purpose: To express the sense of the Congress concerning the use of full and open competition in procurement for the Federal Aviation Administration and to require an independent assessment of the acquisition management system of the Federal Aviation Administration)

At the appropriate place, insert the following new section:

SEC. . FEDERAL AVIATION ADMINISTRATION PROCUREMENT.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Administrator of the Federal Aviation Administration should promote and encourage the use of full and open competition as the preferred method of procurement for the Federal Aviation Administration.

(b) INDEPENDENT ASSESSMENT.—Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

(1) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

(2) submit to the Congress a report on the findings of that independent assessment.

(c) FULL AND OPEN COMPETITION DEFINED.—For purposes of this section, the term ''full and open competition'' has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

Mr. HATFIELD. Mr. President, these two amendments have been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments (No. 5127 and 5128), en bloc, were agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I make an observation that the amendments on the list that we have are all legislation—matters relating to legislation on an appropriations bill. We have indicated that in cases of emergency and timeframe problems, if they are cleared by the authorizing chairman and the authorizing committee ranking member, we would accept them. But we will not accept legislation on this appropriations bill.

Our leadership, both Republican and Democratic, has already stated that we would try to resist all riders on appropriations bills, which held us up a great deal in the last fiscal year and caused us to go, in part, into that situation where we had five appropriation bills that we had to incorporate in an omnibus package 7 months into the fiscal year. We are very desperately trying to avoid that this year. I am proud to say that by the end of this week we will have passed nine appropriation bills here in the Senate. I have already signed, today, the conference report on the agricultural appropriations bill. We are hoping to have five bills passed in the conference, ready for floor action, at the end of this week.

So we are making very significant progress. We will report out the number 12 appropriation bill from our committee, State, Justice, Commerce, on Thursday of this week. We will report the last bill on the first week in September, Labor-HHS. That would give us a schedule that the Republican leader has put together, by which we would be able to meet that October deadline a week to 10 days before the expiration of this fiscal year. What a contrast to last year, and one that I would like to be able to achieve.

So, again, I want to say that we have been here now for about a half-hour waiting for amendments. I informed the Republican leader about 15 minutes ago that we were in this situation, waiting for some kind of action, and that I wanted to consider third reading at an appropriate time, which, to me, would be right now. But I am not the leader and, consequently, I will confer with the leadership on that kind of a decision. But I have to, again, assure our colleagues that we want to do business with them. We want to consider their amendments that have been cleared by both the chairman and the ranking member of authorizing committees, because most all of them are authorization actions. And that is a bipartisan policy that our leadership has

established and which this committee leadership has also agreed to.

I do not know what more we can say to require some action.

Mr. LAUTENBERG. Mr. President, to lend some further impetus to the remarks of the distinguished chairman of the subcommittee, I would plead with my colleagues on the Democratic side to get down here if you want to do business. I think it is a very poor reflection on what has to be done to set the stage for transportation investments in the year beginning October 1, a chance to establish the fact that things are happening, that we are responding to the need for transportation investment. For us to stand here while little, if anything, takes place, I think, reflects very poorly on the commitment to getting the job done.

I urge my colleagues, as we heard from Senator HATFIELD, to come on down, present your amendments, present the argument, and see if you can win the case. If the amendments are important, then I fail to see that there is no urgency to getting them down here, get them on the floor, and let us discuss them.

This is the transportation bill. We are talking about billions of dollars. We are talking about safety. We are talking about the way our Nation competes with other countries. We are talking about quality of air. We are talking about the consumption of fuel. We are talking about so many things here in this bill, and to permit it to languish while we sit here kind of staring at one another is, I think, unacceptable.

So I hope that we can encourage leadership on both sides, and the Senators on both sides, to get with it, get done, get going so we can get on to the next piece of business, or the next pieces of business which are very important.

With that, I note the absence of interest and the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5129

(Purpose: To respond to the tragic explosion of a sugar beet processing plant in Western Nebraska and to provide for the safe and efficient interstate transportation of sugar beets)

Mr. HATFIELD. Mr. President, I send an amendment on behalf of Senators KERREY and EXON to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. KERREY, for himself and Mr. EXON, proposes an amendment numbered 5129.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

49 U.S.C. App. 2311 is amended by adding the following new subsection:

(D) NEBRASKA—In addition to vehicles which the State of Nebraska may continue to allow to be operated under paragraphs (1)(a) and (1)(B) of this section, the State of Nebraska may allow longer combination vehicles that were not in actual operation on June 1, 1991 to be operated within its boundaries to transport sugar beets and from the field where such sugar beets are harvested to storage, market, factory or stockpile or from stockpile to storage, market or factory. This provision shall expire on September 30, 1997.

Mr. HATFIELD. Mr. President, this is one of those examples of a legislative action that has been cleared by the ranking member and the chairman of the Commerce Committee, so under the exigencies of the situation in Nebraska, it has been cleared on both sides to be adopted here today on our bill.

I urge its adoption.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 5129) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5130

(Purpose: To allow funds previously appropriated for a highway safety improvement project in Michigan to be used for construction of a highway that is part of the project)

Mr. HATFIELD. Mr. President, I send to the desk an amendment on behalf of Senator LEVIN of Michigan.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. LEVIN, proposes an amendment numbered 5130.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of title IV, add the following:

SEC. 4. HIGHWAY SAFETY IMPROVEMENT PROJECT, MICHIGAN.

Of the amount appropriated for the highway safety improvement project, Michigan, under the matter under the heading ''SURFACE TRANSPORTATION PROJECTS'' under the heading ''FEDERAL HIGHWAY ADMINISTRATION'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 108 Stat. 2478), for the purposes of right-of-way acquisition for Baldwin Road, and engineering, right-of-way acquisition, and construction between Walton Boulevard and Dixie Highway, $2,000,000 shall be made available for construction of Baldwin Road.

Mr. HATFIELD. Mr. President, this is an amendment by the Senator from Michigan, Mr. LEVIN, that would move some money from one account to another account to handle a situation in Michigan. This is not legislation on an appropriations bill, and there is a zero budget impact.

I believe it has been cleared on both sides of the aisle. So, therefore, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5130) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are now approaching 50 minutes that we have waited here for Senators to arrive to offer amendments—50 wasted minutes. I really think we have approached the time for calling of third reading on this bill and vote this bill out, since we have not had response from Senators.

Is the Senator from North Dakota awaiting to present an amendment? I refrain from asking for third reading at this point.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5131

(Purpose: To require investigation of anticompetitive practices in air transportation)

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 5131.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, line 6 after ''$53,376,000,'' insert the following: ''of which such sums as necessary shall be used to investigate anticompetitive practices in air transportation, enforce Section 41712 of Title 49, and report to Congress by the end of the fiscal year on its progress to address anticompetitive practices, and''.

Mr. DORGAN. Mr. President, I have a couple of amendments. The amendment I have just offered is an amendment that talks about the issue of anticompetitive practices in the airline industry. I know there are some in Congress who think that the deregulation of the airline industry has been a wonderful bonanza for our country. But there are some of us who live in the more sparsely populated areas of our

country who do not believe it has been such a bonanza. The sparsely populated States like North Dakota, for example, have less airline service now and pay more for it than prior to deregulation.

I am not a big fan of airline deregulation. I think I would be a big fan if I lived in Chicago and traveled to New York and Los Angeles, because then I would have far more carriers competing, lower prices, and a wide variety of flights to take. I suppose for folks who live in those markets, this has been a wonderful bonanza. For folks who live elsewhere, it has not worked out so well.

One of the interesting things about deregulation is that even when you deregulate an industry like the airlines you must also continue to have some kind of referee so that when someone does something that distorts the market or injures the market, that someone can step in, an authority can step in and say, ''No, this is a practice that is anticompetitive.''

The whole notion of deregulation is to set free the competitive forces by which, through competition, you have more service and lower prices. But there are practices that are or can be inherently anticompetitive, even under deregulation. That is especially the case in rural areas.

Let me give you a couple of instances. Last week, in North Dakota we learned that a jet carrier that had started up a couple of years ago to provide regional jet service to our State and some other rural areas was going to discontinue service in North Dakota. Now, that is not so unusual. We have lost Continental Airlines from North Dakota. We have lost Delta Airlines. We have lost American Airlines. Now we lose Frontier Airlines. We are getting accustomed to losing airlines under deregulation. We have one large dominant carrier left in North Dakota. It is a good carrier. I think it is a good company. I speak well of it. I admire its service. I think it does well. But we do not do well when we do not have competition. When you do not have competition, you have less service and pay higher prices.

Now, a regional jet carrier starts up to provide some regional jet service competition. What happens under today's deregulation environment when they try to do that? The large carriers squash them like bugs. They say, ''We do not want competition. We do not want a new carrier to start up.''

So what do they do? Well, first of all, under deregulation, the large carriers have no requirement at all to have any sort of code-sharing with any new carrier. Take the airline that started in North Dakota to fly to the Denver hub. The Denver hub is dominated by one carrier, one of the largest airline companies in the country. That carrier says to a new jet service, ''We have no interest in cooperating with you in any way. We are not interested in offering you code-sharing in any circumstance.'' And if you want to make money you make money hauling people from point A to point B, and that is it—from Bismarck, ND, to Denver, CO. Of course most people are not traveling from Bismarck to Denver. They are traveling from Bismarck to Denver and then to Los Angeles, to Chicago, to Phoenix, to San Francisco, or elsewhere.

The result is, because a large carrier prohibits or simply refuses to cooperate in any way—especially with code-sharing—with a startup carrier, the startup carrier is severely disadvantaged.

In addition to that, the large carrier will go to the travel agents in those communities and say, ''I tell you what, we do not want you to ticket on this new competitive airline. We want you to ticket with us. Go a more circuitous route, travel more miles, but travel with us. What we will do is pay the travel agents' override commissions.'' They effectively say to travel agents, ''If you keep people off this new airline, we will pay you to do it.'' Of course, when the new airline leaves that community and no longer serves, all these overrides, the payments to the travel agents, will be gone. But that is the way this practice works.

Fundamentally, anticompetitive practices by airlines who have gotten big enough to wield the economic clout, the sheer muscle power, injure the startup companies. If I dominate a hub, say in Minneapolis, Denver, or some other hub, I will describe the kind of competition I have in and out of that hub, because I can enforce that competition. I can enforce it by keeping people out and by letting in only those who I choose to let in. Now, that is the circumstance under deregulation without a referee.

Now, I happen to think we do not have a very aggressive effort in the Department of Transportation dealing with these issues of anticompetitive behavior or anticompetitive practices. Am I critical of DOT? Yes, I have been after them for 2 years on these issues. If I am a new carrier that starts up to provide jet service from North Dakota to Denver, for example, I do not even show up on the first one or two computer screens when a travel agent in Los Angeles decides it will book a flight from Los Angeles to North Dakota and back. I do not show up on the screen as providing jet service. That is anticompetitive. It is a computer reservation system, controlled by a dominate carrier that is anticompetitive.

There are a number of anticompetitive practices that occur and not much is done about it. For 2 years I have been after the Department of Transportation to do something about it. They drag their feet for a year and a half, and now there is some work, maybe they are starting to do some things—probably too late, maybe not aggressive enough. My hope is that perhaps in the near future we will see the Department of Transportation do what it ought to do—become the referee, the arbiter of fairness, in what is competitive and what is anticompetitive in this industry.

The amendment I have offered simply says that the Secretary of Transportation shall use such funds as is necessary to investigate anticompetitive practices in air transportation, to enforce section 41712 of title 49, and to report to Congress by the end of the fiscal year on its progress to address anticompetitive practices.

I hope if this is accepted, and I understand it will be, that the Secretary of Transportation will take this seriously and do aggressively what it should have been doing the last couple of years.

I understand some people would like there to be no discussion on amendments that are offered that are being accepted. I am sorry about that, but the fact is I have also been waiting here for an hour, and when I offer an amendment, I intend to be able to speak on it as I wish.

I have a couple of other amendments that I will offer. But I ask that this amendment be accepted, if it is acceptable to the majority and minority.

With that, I yield the floor.

Mr. LAUTENBERG. Mr. President, I think the Senator from North Dakota makes a very good case. Despite the fact that I come from one of the most active transportation centers of the country, New Jersey, and we are the most densely populated State, we need access to aviation and so forth. I agree that the problems that have developed since deregulation have not always been things that we anticipated.

I talked with the Secretary of Transportation, and I made the point that the distinguished Senator from North Dakota made so eloquently just now on the floor. He tells me—and I am sure this is nothing new to the Senator from North Dakota—about the fact that United Airlines has agreed with the cooperative baggage arrangements and cooperative ticketing, though code sharing has not yet become part of the picture.

Unfortunately, in the deregulated mode, the contracts are between airlines. But I am assured that the Secretary will be looking at the anticompetitive situation of small rural airports around the country, whether jet service is available and why it is discontinued. I have that commitment to him. I pass that on to the Senator from North Dakota, so he has a basis for review as time goes by.

We continue to subsidize essential air service in the hope that we will be of some help. Meanwhile, I think the Senator has a good point. We accept his amendment from this side. I assume that the other side also is agreeable.

Mr. STEVENS. Mr. President, has there been a modification of the amendment?

The PRESIDING OFFICER. The Senator sent up a modified version of the amendment, which is before us at this time.

Mr. STEVENS. Has the Senator modified his amendment?

The PRESIDING OFFICER. Not technically.

Mr. LAUTENBERG. The Senator makes a good point. The clerk did not fully read the amendment by our request. I wonder if we could just have a reminder about what is an item to item 1 and 2, where it starts——

Mr. STEVENS. Mr. President, I merely want to find out, is the Senator going to modify the amendment in the form I have before me? This is amendment No. 5131, is that correct?

Mr. DORGAN. Mr. President, I can clear that up. I only offered one amendment. It is at the desk. It is the amendment that I had cleared through the manager.

Mr. STEVENS. I misunderstood the situation. I thought it was being modified from its original form.

Mr. DORGAN. The original amendment was never offered.

Mr. STEVENS. Very well. Really, as an original sponsor of the whole concept of the essential air service, I am pleased to see this amendment come forth in this form. We would have had to oppose the creation of a new office. But this does not do that, so we are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5131) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5132

(Purpose: To reduce the level of funding for the National Railroad Passenger Corporation)

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 5132.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following,

On page 25, strike lines 9 through 14, provided that the $200,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes.

On page 29, line 6, strike ''$592,000,000'' and insert ''$462,000,000''.

On page 29, line 9, strike ''$250,000,000'' and insert ''$120,000,000, provided that the $130,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes.''

Mr. MCCAIN. Mr. President, I ask if the managers would like to agree to a time agreement. I would be more than happy to discuss that.

Mr. STEVENS. I am interested in a time agreement if the Senator would indicate how long he might want.

Mr. MCCAIN. If the managers are agreeable, 15 minutes on a side. Senator BIDEN asked to be notified at the time of the presentation of the amendment. He also said he would agree to a time agreement, but he would like to have time to debate this amendment.

Mr. STEVENS. The Senator wishes time to contact the Senator from Delaware. If the Senator will proceed, we will try to get a time agreement.

Mr. MCCAIN. Mr. President, I fully intend to enter into a time agreement with the managers of the bill at the appropriate time when they come up with a proposal.

Mr. President, this amendment would restore Amtrak's funding to the House passed level and provide the savings to the Secretary of Transportation for high priority rail, highway, and aviation safety purposes.

The House overwhelmingly passed the fiscal 1997 Transportation appropriations bill by a vote of 403 to 2 and appropriated a total of $462 million for Amtrak's operating expenses and capital improvements.

The Senate has added $330 million to this bill for Amtrak's capital accounts, adding $200 million for the Northeast Corridor Improvement Program which the House did not fund at all. This amounts to at least a 61-percent increase in Amtrak funding over the House appropriated levels. While I understand that some of my colleagues believe that if we continue to throw additional money at Amtrak, its financial problems will disappear, I believe the House-passed funding levels are more than sufficient and I urge my colleagues to support this amendment.

I also know that some will come to the floor to argue that unless we give Amtrak this massive increase in capital grants over and above the House-passed level, Amtrak will find it even harder to reach self-sufficiency. While their intentions may be good, we have been repeatedly promised that with increased expenditures Amtrak will become self-sufficient. That has never been the case before. I do not believe that will be the case today.

Amtrak began in 1971 as a 2-year experiment. Since its creation in 1971, Amtrak has cost the American taxpayer about 418 billion. This $18 billion has gone to subsidizing rail transportation for less than one-half of 1 percent of America's intercity rail passengers. In addition, a recent study by economists Wendell Cox and Jean Love found that the vast majority of Amtrak riders earn more than $40,000 a year.

Let me just show my colleagues Amtrak funding from 1995. In 1995, there will be allotted to the State of New York $215.862 million; to the State of California, $119.531 million; the State of Pennsylvania, $11.945 million; the State of Washington $108.787 million. Those four States will receive $556.125 million. A percentage of the funding——

Mr. LAUTENBERG. Will the Senator yield?

Mr. MCCAIN. Let me finish my statement, I say to the Senator.

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

Mr. MCCAIN. Mr. President, I have the floor. I ask for the regular order.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. MCCAIN. I would appreciate it if the Senator from New Jersey would observe the regular order. I said to him I do not wish to yield the floor at this time.

Mr. LAUTENBERG. The Senator from New Jersey does not need a lesson on protocol.

Mr. MCCAIN. The Senator from New Jersey obviously needs a lesson on the rules of the Senate because he interrupted me again as I have the floor.

I ask the Chair for the floor again. I hope that the Senator from New Jersey will not interrupt again as long as I choose not to yield the floor to him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, on chart No. 2, I would like to show Amtrak revenues and expenses for fiscal years 1988 through 1994. As we can see, the expenses continue to go up and the revenues are basically flat.

This second chart reveals how, over the years, Amtrak's expenses have steadily grown at an accelerated pace while revenue have remained virtually the same. I believe this shows that Amtrak's problems are fundamental and the only question is whether the Federal Government will, at a minimum, put some limits on the amount of taxpayer dollars we are willing to lose to a failed experiment.

The point made by this third chart is basic. Amtrak appropriations have grown over its 25-year existence, and despite this fact, Amtrak still never seems to have enough Federal subsidization to cover its losses.

Mr. President, I remember with great clarity in 1983 when I came to the House of Representatives of the United States when I was visited by a man that I admired as much as any man I have ever known in my life, the former Secretary of the Navy who I had known on my tour in the Navy, Mr. Graham Claytor, Secretary Graham Claytor. Secretary Claytor was then President of Amtrak, and Secretary Claytor assured me that Amtrak funding would no longer be needed after 5 years; absolutely that would be the end because Secretary Claytor, and the other people who ran Amtrak and other Members of Congress, said that after 5 years there would be no need for any more Federal funding because Amtrak would be self-sufficient.

I would be glad to include for the RECORD how time after time after time over many previous years since 1971 that the assurances were given to this body and to the American taxpayers. ''Do not worry. Four or 5 years from now the funding required for Amtrak will be finished.''

Mr. President, on October 8, 1995, George Will wrote a very interesting and entertaining article that I would like to quote. He says:

Long ago, before Washington decided it did everything so well it should start running a passenger railroad, American slang included a phrase used to express dismay about mismanagement of organizations. The phrase is ''Helluva way to run a railroad.'' Speaking of Amtrak . . .

Congress is speaking of it because conservatives are in a Margaret Thatcher mood. It was said she cold not see an institution without swatting it with her handbag. Republicans, who praise governmental minimalism, can hardly close their year of glory without asking why the government is in the railroad business.

In a sense it has been for more than a century. The word ''cordial'' hardly suggests the intimacy between government—federal and state—and railroads in the 19th century, when 10 percent of the public domain was given in land grants to the transcontinental railroads. The Union Pacific was given one-tenth of Nebraska—4,845,997 acres.

Amtrak began, as did so much that makes today's conservatives cross, under Richard Nixon, during whose administration there occurred the largest peacetime expansion of government power in American history (wage and price controls) and the creation of the Environmental Protection Agency, the Occupational Safety and Health Administration, forced busing and racial set-asides. He failed to get Congress to enact a new entitlement, a guaranteed annual income, and to embark on what is now called ''industrial policy'' by funding development of a supersonic transport aircraft.

''All through grade school,'' said Nixon, ''my ambition was to become a railroad engineer.'' Would that he had. In March 1970, the largest operator of passenger trains, Penn Central, on the verge of bankruptcy, sought permission to end passenger service west of Harrisburg and Buffalo. For that, government deserved a portion of blame, the Interstate Commerce Commission having resisted rate increases commensurate with wage increases unions were winning. In a textbook example of how bad government begets more government, Amtrak was born.

It began operations in 1971, ostensibly as a two-year experiment. It has lost money since 1971, partly because it has been a mini-welfare state appended to the welfare state: It has been forbidden to contract out union jobs, and laid-off workers have been entitled to six years of severance pay. So, having helped make private railroads anemic (jet aircraft, better highways and inept railroad management contributed mightily to the anemia), the government piled on Amtrak its mandates that would keep it running in the red.

Helluva way to run a railroad? What do you expect from something created in defiance of market forces and regarded by its creators, the political class, as several varieties of pork, including an entitlement for small communities that want the government to guarantee continuing rail service for which there is weak demand?

Recently a full-page magazine ad by Amtrak bore this message at the bottom of the page: ''No federal funds were used to pay for this message.'' What mendacity. Money is fungible, so taxpayers paid for as large a portion of the cost of that ad as they pay of the overall costs of Amtrak—about 20 percent. And Amtrak's ads are not producing congestion down at the old railroad depot. Amtrak carries less than one percent of the people who travel between cities, and half of its passengers are in the Northeast Corridor. Most passengers are middle class, many of them business travelers. Almost all have air or long-haul bus transportation alternatives.

Defenders of the subsidies say, as defenders of subsidies do, that we are all benefiting so much that the subsidies ''pay for themselves.'' Their argument is that because of passenger trains, highways are less congested, air is less polluted, we are delaying the evil day when federal money will have to help build another airport for Boston, and so on. There is some truth in all these arguments and a lot in this one: Government even more heavily subsidizes air and road passengers. United Airlines is not expected to build airports, and Greyhound is not responsible for maintaining the highways.

However, Congress is poised to shrink Amtrak subsidies from more than $700 million next year to zero by 2002 at the latest, when Amtrak is scheduled to be privatized.

That obviously, has not been the case since Mr. Will wrote this article.

Mr. Will continues:

Its roadbed needs work, especially in the Northeast, and its rolling stock is old (the average car is 23 years old), so even with more reasonable work rules and more latitude to rationalize routes, privatization may not be possible. But trying to get the government out of railroading is not optional if the conservatives' determination to rationalize government is real.

Mr. President, this money that I am asking to be reduced would go to much needed rail, air, and road safety. We all realize how much safety is important; indeed, uppermost in the minds of many people as a result of some of the aircraft accidents that have taken place, some of the rail accidents that have taken place in America, and also some of the continued terrible tragedies that afflict the highways day in and day out.

So, Mr. President, I wonder if the managers of the bill are ready to enter into a time agreement?

In the meantime, I yield the floor.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. I ask unanimous consent that on this amendment there be a time agreement with 30 minutes on the side of those who oppose Senator MCCAIN's amendment and another 5 minutes for Senator MCCAIN.

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

Mr. LAUTENBERG. If we can modify that, and that is that there be no second-degree amendments prior to a motion to table.

Mr. STEVENS. That time is on or in relation to this amendment and that there be no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. Mr. President, I yield 10 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I rise in strong opposition to the amendment by the Senator from Arizona. Cutting funding for Amtrak back to the inadequate level set by the House would be a big mistake and very bad public policy, in my view. It would be a formula for failure for the only intercity passenger rail service we have in America. The amendment would frustrate Amtrak's ongoing attempts to become self-sufficient. Instead of saving any money, it would waste funds already provided for passenger rail by virtually guaranteeing the demise of Amtrak.

It is a formula for failure, Mr. President, because it prevents Amtrak from completing the comprehensive reforms it needs to eventually become self-sufficient in its day-to-day operations.

I know my friends have heard me over the last 20 years make this same point. But no passenger rail service in the world—and passenger rail plays an important role all over the world—no passenger rail service in the world is, in fact, operated without public support for its capital needs. Whether it is in Europe or Japan, the most advanced industrialized economies in the world, not one passenger rail system in the world operates without support for its capital needs. It is these capital investments, the improvements to the Northeast corridor to carry high-speed trains and funds to purchase new locomotives and passenger cars for the western part of the United States as well as the Northeast corridor, that the McCain amendment hits the hardest.

Without upgrades to the bridges, without straightening out the curves, without completion of the electrification of the rail connections between Washington and Boston, Amtrak would be unable to attract the additional passengers it needs to earn more operating income.

Mr. President, we have put Amtrak on a very strict diet. We have cut service. We have cut subsidies. We have gotten a commitment that they will be self-sufficient by the year 2001. Amtrak on the east coast works on an electrification system, overhead electrical wires, and we have spent millions of dollars to upgrade the system from New York to Boston to allow high-speed Metroliner runs from Boston all the way to Washington. We have had to upgrade the bridges. We are well beyond New Haven and working our way up. This amendment would stop that project cold, absolutely cold.

The Senate is on record in support of providing a half cent from the Federal gasoline tax to provide for Amtrak's

capital budget. This is a step that I believe has to be taken as soon as possible. But until then, Amtrak will continue to require adequate funding through the appropriations process. I have been working here along with my colleague, Senator ROTH, and others for years and years to get a dedicated source of funding for Amtrak. We are on the verge of doing that. Once that is done, one-half cent would provide $600 million a year in capital costs.

That dedicated capital fund would be able to underwrite the capital cost of the entire Amtrak system coast to coast. But, in the meantime, absent that funding source, to eliminate the Northeast corridor improvements and decimate the remainder of their capital budget nationwide would literally be the end of the railroad. It becomes a self-fulfilling prophecy. We say we want this outfit to be self-sufficient, and the very things needed to make it self-sufficient are the things we are going to deny it before we get to that point.

My friend from Arizona said, I am told, that the average Amtrak passenger makes $40,000 a year and does not need a subsidy, et cetera, et cetera, et cetera. I would like to put this thing in focus. My Western colleagues come to us in the East, and they say, ''An integral part of our economy is water.'' They point out to us, time and again, that we need to vote to subsidize their farmers, to subsidize their cities, to subsidize their drinking water. And we do. We spend tens of billions of dollars a year—tens of billions of dollars a year.

I will never forget the first time, as a young man, I flew from the east coast to the west coast. I will never forget flying over the foothills of the Rocky Mountains and then on the other side, seeing all these concentric circles on the ground. I wondered what they were, these concentric circles. I had been in an airplane before, but I had never flown coast to coast.

All of a sudden, I realized that is my mother's tax dollars, on Social Security. That is my tax dollars. It is my dad's tax dollars, on Social Security. Subsidizing what? Subsidizing western farm areas, subsidizing Senator MCCAIN's in-laws and himself and others' drinking water. That is OK with me. We are one nation. The purpose of one nation is for each part of the country to work together. The whole is greater than the sum of the parts. All the parts of the Nation need different things. I do not hear Senator MCCAIN or other Western Senators coming here and saying: You know, let us do away with subsidizing those farmers. Let us do away with subsidizing the water John Doe drinks in Phoenix, AZ. And I am not here doing that.

But rail passenger service is critical to my section of the country and to the west coast. It is critical. If we eliminate Amtrak, how many more lanes of interstate highway are we going to be able to put in? What is it going to do to the environment? What is it going to do to the air? All Amtrak wants is a shot, a chance, a shot to make themselves self-sufficient.

I will not be on the floor trying to restore Amtrak money for operating costs if we get the half-cent gas tax, a measly half cent. But the fact of the matter is, the House Transportation Committee and Congressman WOLF cut this significantly, the same amount that my friend and colleague from Arizona wants to cut it. Senator HATFIELD and Senator LAUTENBERG and their colleagues in the Appropriations Committee have repaired the damage done by the House bill. And, as the chairman of the House Transportation Committee, Congressman WOLF, admitted, the House levels were wholly inadequate and were intended to force the adoption of the half-cent proposal.

I am not sure what I think of that strategy, but I certainly agree that Amtrak funding levels in the House bill, the levels called for in Senator MCCAIN's amendment, would be totally inadequate. The MCCain amendment is a proposal to kill Amtrak; let there be no mistake about that. As a small State in the Northeast corridor, Delaware would be hard hit by the loss of a major part of its transportation system. As a major center for the repair and maintenance of railroads for more than a century, Delaware also faces the loss of important jobs under the severe cuts in the Northeast corridor and the capital budget of Amtrak. But as Senator LAUTENBERG forcefully argued, Amtrak plays a key role in the whole country's transportation system. As Senator HATFIELD, the distinguished departing chair of the Appropriations Committee, well knows, the west coast is a major beneficiary of passenger rail as well.

I acknowledge that, because of all the cuts we made in Amtrak over the past, not every State or region benefits equally from Amtrak. I acknowledge that. But I do not benefit from the water subsidies either. Delaware farmers do not benefit like the farmers from Arizona. My mother does not benefit, like the Senator's family does. I understand that. That is America.

Senator MCCAIN comes from a desert. I come from a place where there is a lot of water. I come from a place where we are overgrown with highways, where we have trouble breathing the air. Passenger rail is needed to relieve traffic congestion and air pollution. It is needed badly.

I will leave Senator MCCAIN's water alone if he leaves my railroad alone.

Mr. President, I ask unanimous consent to proceed for 1 more minute.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. May I have 1 more minute?

Mr. LAUTENBERG. I yield 1 more minute to the Senator from Delaware.

Mr. BIDEN. I want to stress that Amtrak is not important to just one part of the country or to just a few customers. I understand the distinguished majority leader has been assured by his constituents of the importance of Amtrak to the State of Mississippi. If Amtrak were an airline, it would be the largest air carrier in the country. Amtrak is the single largest individual passenger carrier on the east coast, and to replace Amtrak's service in the East, as well as around the country, would require more lanes of interstate highway and more air pollution, more airport construction, additional safety concerns and increased congestion for all parts of the Nation. So let us not kid ourselves that Amtrak is not important to all parts of our country. But I agree, it is of particular importance to my State and the east coast.

I thank the chairman and ranking member, and I yield back the 12 second I may have left.

The PRESIDING OFFICER. Who yields time?

Mr. LAUTENBERG. I yield 5 minutes to the Senator from Rhode Island.

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

Mr. CHAFEE. Mr. President, I am pleased the Senate Appropriations Committee has approved full funding for Amtrak operations, capital support, and the Northeast Corridor Improvement Program. I regret this amendment to cut funding for Amtrak by $173 million is being offered.

Amtrak, as has been pointed out, provides service for millions of Americans, a competitive service at a competitive price. Through a modern nationwide passenger rail system, traffic congestion, and air pollution are reduced by this fuel-efficient alternative to highway and air travel. I certainly recognize that Amtrak cannot survive much longer as a viable entity in its current financial condition. Many of us are familiar with the oft-cited GAO report documenting the widening gap between Amtrak's revenues and expenses since the beginning of this decade. For the past 2 years, the question facing Congress is, what should we do about Amtrak? I do not think anyone believes that simply increasing or even continuing in perpetuity Amtrak's annual subsidy are wise solutions. Instead, a better solution has been proposed. This solution, partially embodied within the Amtrak authorization bill, will enable Amtrak to operate as much like a private business as possible.

Separate legislation, which constitutes the second part of this proposal, would redirect one-half cent of the Federal gas tax to a new passenger rail trust fund similar to those existing for highway and air travel.

I will just say this. Transporting people has never been a profitable business for railroads. At least it certainly has not been in the past 50 years. So, I believe it is unfortunate that prospects for passage of this Amtrak authorization bill and legislation to redirect the half cent of the Federal gas tax, is being proposed. I think if there is no

Amtrak authorization bill and no steady revenue source to allow Amtrak to modernize and privatize, there is going to be trouble. That is the situation we have today. Funding for Amtrak operations and capital support in the Northeast corridor are urgently required for the short-term survival of intercity passenger rail service. Amtrak does want to end its dependence on Federal subsidies. However, until such a plan is in place, Amtrak simply must have the yearly support needed to continue at a minimal level.

I am a user of Amtrak, Mr. President. It is very important to the section of the country I have, and, therefore, I urge the opposition and, indeed, the defeat of the amendment proposed by the Senator from Arizona.

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

Mr. LAUTENBERG. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I rise in opposition to the amendment. I just heard the statement by Senator CHAFEE and agree with his comments. I would like to find a way for Amtrak to become more self-sufficient. I would like to find an additional revenue source for Amtrak. But the fact is, until that occurs, if we do not provide adequate funding, there will not be an Amtrak that represents a national rail system providing service across the country.

If this amendment is adopted, we will be left only with a Northeast corridor service for Amtrak, period. There will be no other Amtrak in the rest of the country. We will have service in the Northeast corridor, and we will have no other service anywhere else. I don't think that advances the interest of a country that does need a mix of transportation services, including rail passenger service.

In fact, the committee cut the Amtrak funding by about $40 million from last year. This amendment would then reduce it another couple hundred million dollars. This does not, in my judgment, move us in the right direction. It moves us exactly in the wrong direction, if you believe that we ought to have some kind of rail passenger system as a national system.

If you believe it only ought to be regional, then you probably will end up all right with this, although I don't think it provides sufficient funding. But if you believe we ought to have a national rail passenger system, then this amendment would severely injure the opportunity to do that, because we would not have a national rail passenger system if this amendment is adopted.

I thank the Senator from New Jersey for the time, and I yield the floor.

Mr. LAUTENBERG. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator from New Jersey has 13 minutes, 43 seconds.

Mr. LAUTENBERG. How many?

The PRESIDING OFFICER. Thirteen minutes, 40 seconds.

Mr. LAUTENBERG. The other side has?

The PRESIDING OFFICER. Five minutes.

Mr. LAUTENBERG. Mr. President, I yield myself so much time as I will use between now and the 13 minutes plus.

Mr. President, I indicate my strong opposition to the amendment offered by the Senator from Arizona. It almost sounds like a vendetta. Talk about $18 billion worth of spending on Amtrak—my gosh, we spend over $8 billion a year on aviation; we spend over $20 billion a year on highways. Amtrak is the only serious railroad opportunity we have for passengers, and it has continued to prove its merit and its worth as time has gone by. Amtrak's farebox comes closer to its revenues than any other major passenger rail service in the world.

It is ridiculous for the United States of America not to have a significant passenger rail service. Just look at what would happen in the Northeast corridor where it is believed that we service almost 100 million people. The Northeast corridor would need 10,000 full DC–9's a year to carry the traffic. Well, perhaps that's not true. Maybe we could push them onto the highways. We could put some 11 million people in their cars and tell them to drive between New York and Washington or Boston and Washington or Boston and New York or Boston and New Haven or Boston and Hartford or Boston and Providence. Get in your cars, use more gas, take up more time, that will mean more congestion, more foul air. That is what the alternative is.

I have never seen anything so shortsighted in my life, but the speech sounds good—throw out statistics that have no merit in fact. One says we allocate by State, as I saw the chart displayed by the Senator from Arizona, at which time when I had a question, he refused to answer it. That is his privilege. He had the floor, and he is right, he did have the floor. But there is also something around here called common courtesy. But we pass on that these days.

Mr. President, I have a letter in hand from no fewer than 19 of the Nation's Governors, both Republican and Democratic Governors, urging adequate capital funding for Amtrak. Among the Governors that have urged the committee to provide adequate capital funding of Amtrak are several who are mentioned as the potential Vice President to the nominee—the likely nominee—of the Republican Party: Gov. Tom Ridge from the State of Pennsylvania; my own Governor, very popular, very thoughtful, very well thought of, Gov. Christine Todd Whitman; Governor Pataki of New York; Governor Weld of Massachusetts; and Governor Rowland of Connecticut. I dare say, probably six Vice Presidential candidates there.

I ask unanimous consent that this letter sent to Senator HATFIELD and myself from 19 of the Nation's Governors be printed in the RECORD.

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

JUNE 25, 1996.

Hon. MARK HATFIELD,
Chairman, Senate Appropriations Committee, Capitol Building, Washington, DC.

Hon. FRANK LAUTENBERG,
Ranking Member, Appropriations Subcommittee on Transportation, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS HATFIELD and LAUTENBERG: As you consider various options for the FY 1997 Transportation Appropriations bill, we urge you to provide adequate capital funding for the National Passenger Rail Corporation (Amtrak). The General Accounting Office (GAO) estimated that in order to keep Amtrak running and to reduce its dependence on federal operating assistance, Amtrak requires an annual capital subsidy of $500 to $600 million. Amtrak, the Administration and GAO agree that the future reduction of Amtrak's federal operating subsidy is dependent on continued capital investment in Amtrak's infrastructure.

Specifically, we urge you to support, at an absolute minimum, last year's level of funding for general capital—$230 million—and the Northeast Corridor Improvement Program—$115 million. These funding levels are consistent with the assumptions made in the recently-adopted budget resolution and with the authorizations levels which have passed the House and are pending in the Senate.

As you are aware, the Amtrak Board of Directors is strongly committed to eliminating its dependence on federal operating assistance over the next six years. Amtrak's ability to continue to reduce its operating costs, however, is dependent on adequate federal capital support.

While we realize the complex and difficult decisions you face this year with respect to funding transportation programs, we urge you to carefully consider the productivity improvements that have been made at Amtrak and to support an ongoing federal role in maintaining this nation's rail system, even as the federal operating subsidy is phased out.

Sincerely,

Tom Carper, Governor, State of Delaware, Gaston Caperton Governor, State of West Virginia; Howard Dean, Governor, State of Vermont; George Pataki, Governor, State of New York; Ben Nelson, Governor, State of Nebraska; Bill Weld, Governor, State of Massachusetts; Zell Miller, Governor, State of Georgia; John Rowland, Governor, State of Connecticut; Roy Romer, Governor, State of Colorado; Parris Glendening, Governor, State of Maryland; Tom Ridge, Governor, State of Pennsylvania; Mike Lowry, Governor, State of Washington; Christine Whitman, Governor, State of New Jersey; Bob Miller, Governor, State of Nevada, Mel Carnahan, Governor, State of Missouri; Evan Bayh, Governor, State of Indiana; Lawton Chiles, Governor, State of Florida; Jim Guy Tucker, Governor, State of Arkansas; Angus King, Governor, State of Maine.

Mr. LAUTENBERG. Mr. President, in recent years, as Amtrak has been required to reduce service and, in some cases, eliminate service to several States, I have noticed that some of the loudest complaints have come from some of our States in the West and in the Midwest. I appreciate the fact the

Senator from North Dakota had comments to make in favor of Amtrak service.

A lot of people are complaining that we have reduced or eliminated Amtrak service. Well, they just don't have the income, and when you think of what it takes to put this system in shape, it is de minimis compared to the service that is being offered. We can dress it up in various terms: high-income people ride the train. See what it looks like and see people getting on there with tattered luggage and not able to figure out another way to get there. It is easy to stand on a high horse and criticize those who ride Amtrak. Try it; you may like it.

The fact of the matter is, while Amtrak's funding levels, as contained in this bill, are higher than the House-passed level, they still remain far lower than the level requested by the administration. The Senator from Arizona wants to take the funding down by almost $400 million, when we worked like the devil, skimped and saved and moved and changed to try and get a balanced funding bill, a balanced transportation bill. And the Senator from Oregon [Mr. HATFIELD], worked very hard to do that.

So, Mr. President, the House Appropriations Committee made a calculated judgment to extract the vast majority of its transportation cuts from Amtrak's budget. I do not agree with those priorities, and neither does the chairman of the committee itself.

The one thing that we ought to be aware of is that if we eliminate Amtrak, we eliminate a serious asset that this country of ours requires. We are the only country in the world, the only country of the more developed countries in the world that does not recognize that you have to invest and you have to subsidize its national passenger rail system. Get on the TGV in France or get on the bullet trains in Japan; the Government pays an awful lot more on a proportionate basis than we are willing to put in Amtrak at our most generous moments.

Mr. President, I yield for a minute or so to my friend from Delaware who has asked to be heard.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. BIDEN. I ask for 1 minute.

Mr. LAUTENBERG. I yield 1 minute.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I see my friend from Arizona is still on the floor. In terms of subsidies, I point out again, because the argument was made, there is a little thing called the central Arizona water project. That is 3.5 billion bucks that my mom is helping to pay for. She will never drink a drop of the water, but Arizona needs it. It is $3.5 billion needed, badly needed—$3.5 billion.

But our country needs Amtrak as well, on the west coast and on the east coast. I yield whatever time I have left.

Mr. McCAIN addressed the Chair.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. The Senator from Arizona asked for the floor. It is all right with me.

Mr. McCAIN. I yield myself 1 minute.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. McCAIN. Sure.

Mr. STEVENS. There is an indication that the chairman will not be able to get back in the time we thought he would get back. I think there are going to be others that seek time on this bill. Will the Senator agree we would extend time on each side for another 10 minutes? I ask unanimous consent that the current time agreement be extended for 10 additional minutes for Senator MCCAIN and 10 additional minutes for Senator LAUTENBERG.

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

Mr. McCAIN. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. McCAIN. While my friend from Delaware is still on the floor, I will say there is no one obviously that knows Amtrak better than the Senator from Delaware, who every evening travels and takes advantage of that opportunity to be back in Delaware with his family and with his friends and his constituents. And I, for one, respect and admire that dedication that the Senator from Delaware has displayed to both his family and the people that he represents. It is obvious why they keep sending him back here.

The Senator from Delaware also mentioned to me that if we did cut Amtrak, we would probably get a lot more speeches from the Senator from Delaware, which I would find enlightening, but others may not.

I understand the commitment that the Senator from Delaware has. I point out, the central Arizona project, as the Senator from Delaware knows, was completed, and the State of Arizona will be repaying the Federal Government for the cost of that.

It is obvious that your then-dollars are not the same as now-dollars. I know the Senator from Delaware appreciates that. My problem is, I say to the Senator from Delaware, this is an unending subsidy, apparently, when the Amtrak authorities themselves maintain every few years that there is only a few more years of subsidy.

My question to the Senator from Delaware is, as they cut more and more service, and basically you are left with the Northeast Corridor and the San Diego-LA route, which is basically what is left, and it is no longer a national rail system for any intents and purposes, how long would this system, which originally was conceived in 1971 to last for 2 years—2 years of subsidies was the deal when it began in 1971—how long will be the requirement to have these subsidies provided by the taxpayers for which one-half of 1 percent of all of the users of transportation, rail transportation, in America, make use of? That is, I think, a legitimate question.

Mr. BIDEN. I would be happy to take 30 seconds to answer the question.

Mr. McCAIN. Mr. President, I reserve the balance of my time. I yield time to the Senator from Delaware from my time to respond.

Mr. BIDEN. Mr. President, I think it is a mistake, but in fact the Congress has agreed—any subsidy would end by the year 2001. The only reasonable way for that to occur, Mr. President, is if in fact we are able to get that half-cent trust fund set up. But whether we get that or not, in the year 2001 this is gone. I think Amtrak made a mistake agreeing to that, to be completely honest with my friend. But that is the answer to the question.

The drop-dead date is the year 2001. In my view, they will not make it—to be completely candid with my friend—they will not make it unless they get that half-cent trust fund.

Mr. MCCAIN. I yield myself an additional 30 seconds.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I say with all due respect to the Senator from Delaware, wasn't that what they said in 1971 when they said it will only be 2 more years? And wasn't that what they said in 1983 when Graham Claytor, a man I respect more than almost any other man I have ever known, said, ''In 4 years we'll be done''? They said, ''In 4 years we'll be done.'' It is always, always, always 4 or 5 years out, I say to the Senator from Delaware. Really what it has proved is that once you start a system on the Federal dole, it is going to continue forever. And that is the case here, unfortunately, with Amtrak, and why this amendment will not prevail again.

Mr. BIDEN. Mr. President, will the manager yield me 2 minutes?

Mr. LAUTENBERG. Absolutely. I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, my friend from Arizona makes at least two valid points—and many more—but two valid points. One is that if Amtrak is out of business, I will be here. I will have to be in Washington; and it means I will not be running out of here after the last vote to get the train home, which means I will get to speak more. That may be inducement enough for my colleagues to vote to continue to subsidize Amtrak, so I am not here late at night debating.

But another truism that the Senator stated is that this has been a subsidy. It is an ongoing subsidy. But when he puts it in the context of being on the dole, you have to put it in the context of all other transportation systems. We subsidize airline tickets more. The average income of people flying in airlines, I suspect, is as high or higher

than anyone getting on an Amtrak train.

We subsidize those airline tickets a number of ways. They are tax deductible for business expenses. We build the airports. We build the towers and pay the air traffic controllers, et cetera, et cetera, et cetera. We also subsidize the highways beyond what we collect in the highway trust fund moneys.

So, Mr. President, all modes of transportation in the United States are subsidized. It seems to me rational public policy would dictate us to look at what makes sense. Different regions have different requirements. I see my friend from North Dakota is here. Amtrak is useful to him, but he does not need Amtrak as much as he needs highways. In Delaware we do not need any more highways. We cannot afford any more highways in my State or the State of Rhode Island or the State of New Jersey or the State of New York and so on and so forth.

So every region of the country has different needs. It is true. They are all subsidized. And the question here is, it seems to me, the appropriate question is, What is an appropriate amount of subsidy? And it seems to me when Amtrak, having its budget cut by a third over the last couple years, having trimmed down significantly, this is not an appropriate cut. I thank the Chair for the time.

The PRESIDING OFFICER. The time has expired.

Mr. LAUTENBERG. Mr. President, I yield 2 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank the Chair and the Senator from New Jersey.

I rise to oppose the amendment offered by my colleague from Arizona, Mr. MCCAIN.

Before I outline my reasons for opposing this amendment, I would like to thank my friend and colleague, Senator HATFIELD, chairman of the Subcommittee on Transportation, and Senator LAUTENBERG, a very strong supporter of passenger rail, for their work on this bill. I believe this bill is a tremendous and necessary improvement over the one passed by the House, and we have these two gentlemen to thank for that.

Regarding the amendment offered by my colleague from Arizona, I think the point made by the Senator from Delaware is very valid. All of the modes of transportation are subsidized to a degree. We hear much about the much vaunted Swiss railroad system. They are subsidized. The one in France is subsidized. The one in Japan is subsidized. But in return for that subsidization, the people of the area get a service and a greater degree of safety and comfort that they would not get otherwise.

As some of my colleagues are aware, I wrote a book on this subject some 30 years ago, ''Megalopolis Unbound.'' And the book remains current today because so little has been done in those 30 years.

I hope that we will sustain the effort of the Transportation subcommittee and keep the money in for Amtrak. I am hopeful that, by doing so, we can really make progress in enhancing intercity high speed passenger rail. In so doing, perhaps we can avoid having a future Member of Congress come along 30 years from now, as I am now, lamenting that much more needs to be done, and how very little has changed in the intervening years.

We should also recognize that modernizing and enhancing, not short-changing, passenger rail is the current trend in Europe and Asia. These various nations are providing their people a form of efficient and safe transportation.

Mr. President, as one who helped shepherd through Congress the High Speed Ground Transportation Act of 1965, it has been my long-held belief that passenger rail service is the most fuel-efficient; the least environmentally disruptive; and ultimately, will be the least expensive mode of transportation.

Finally, there is another thought here. We accept the idea that elevated vertical transportation should be free but not horizontal transportation like the subway because it is horizontal. I can remember when I was a boy there were buildings in Europe—still some in Europe—buildings in New York where you put a nickel in order to be transported up or down. I think this also should be kept in mind.

So for all these reasons, I believe that the money—the subsidy, if you want to call it that—for Amtrak should be preserved because it is giving our people service that the citizenry should expect. I thank the managers of this bill for their very fine efforts, efforts I am pleased to support. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I yield myself 2 minutes.

Mr. President, it is all very enjoyable to debate and discuss issues with the Senator from Delaware. And I believe that he makes valid points. I also hope that we do not spend too much time on this amendment and others so he will be able to take his taxpayer-subsidized trip back to Delaware tonight.

Mr. President, I point out that less than one-half of 1 percent of America's inner-city rail passengers are subsidized by this program. It has been long recognized by Democrats and Republicans alike that we need to curtail this ever-increasing subsidy.

As early as 1979, President Carter's Secretary of Transportation, Brock Adams, acknowledged that. I quote back in 1979.

We can no longer afford to provide disproportionately large and continually increasing amounts of Federal funds for a passenger service that is used by less than one-half of 1 percent of the inner city traveling public.

Again, in 1988, the President's Commission on Privatization, established by President Reagan, recommended, as part of a multiyear plan to move to privatize Amtrak, that ''Federal subsidies should be incrementally reduced and a deadline should be set for the Department of Transportation to decide whether Amtrak or portions of its operation should be continued.''

Mr. President, again, I would like to see a deadline that is adhered to. I think when we have a program that began initially in 1971, that was only supposed to be there for 2 years, and now in the year 1996 we have a policy of some 4 or 5 years from now, it is time we really got realistic. If there is some cynicism on the part of some of us about these dates that continue to slide every 4 or 5 years, I think it is justified.

Mr. President, the money that is cut out of this appropriation, I point out again, will be used for aviation safety, rail safety, and highway safety, which, obviously, have a great claim to limited taxpayers' funds, greater, I think, than the rail service has been, which has not been able to obtain self-sufficiency in the last 25 years.

I reserve the remainder of my time.

Mr. DORGAN. I wonder if the Senator from New Jersey would yield 1 minute to respond to a point?

Mr. LAUTENBERG. I am delighted to yield.

Mr. DORGAN. The Senator from Arizona made a point that I think probably will mischaracterize something. The implication was that the folks in the inner cities really do not get any subsidy in this area.

My understanding is that in this bill there is $4.4 billion in subsidy for mass transit systems. Obviously, virtually all of the cities that have mass transit systems are getting subsidized on an ongoing basis, and part of this is paid for by folks in Bismarck and Fargo. That is fine. I support that. But I do not want people listening to this debate to understand there is not a subsidy for mass transit because there is a $4.4 billion subsidy.

The point I was making before was that I do not object to deciding as a public investment we want to retain an Amtrak system that is a national system. In fact, it still is a national system, but will not be under the amendment offered by the Senator from Arizona. I personally make the observation that I think it is a good investment to make.

I respect the Senator from Arizona, but we disagree on this, because I happen to think this represents a good investment as part of our transportation system.

I did want to clear up the point on whether or not mass transit is subsidized. Of course it is. It is subsidized substantially—by $4.4 billion in this bill alone.

Mr. LAUTENBERG. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to the McCain amendment. It is clear what he is trying to do is kill Amtrak. This is wrong.

Amtrak is integral in transporting people across this great country of ours—not just in the Northeast, although the Northeast, which has horrible problems with traffic and air pollution and everything connected with it, needs to go to railroads, needs to utilize the railroads more than it does now for personal transportation.

In addition to that, with the overload on our airplanes, trying to shuttle back and forth to New York and to Boston, the fast trains, which this would essentially eliminate, will resolve that horrible problem, much to the benefit of the people in this Nation.

Amtrak can survive on its own. We are working toward that goal. Over the last 2 years, Amtrak has restructured itself and is working to be free of Federal support in 5 years. I think they will make it.

Mr. President, do not kill our national railroad now. Give Amtrak time to build up the business and let Congress be responsible and pass the Amtrak authorization bill and move the half-cent gas tax to Amtrak. We must not eliminate Federal support until these plans are in place, until they have been given a chance to demonstrate they can work. I am confident they can.

I yield back the remainder of my time.

Mr. ROTH. Mr. President, I rise in opposition to Senator MCCAIN's amendment that would cut capital funding for Amtrak. This funding cut will cripple the Northeast Corridor Improvement Program and threaten the viability of passenger rail in this country. It is my understanding that if the Senate votes in favor of these cuts, it will have far-reaching effects nationwide.

The reduction in capital could mean the termination of the High Speed Rail Program that has the potential to revive passenger rail as an important component of our national transportation system. It will also impair Amtrak's heavy overhaul and maintenance capabilities—much of which is done in Delaware's Amtrak shops. Shortchanging maintenance will contribute to further decline of rolling stock and locomotives, reducing the quality of service, and discouraging potential passengers from choosing Amtrak.

This is a formula for failure, not a plan to make Amtrak self-sufficient or to secure the place of passenger in our country's transportation system.

Mr. President, we are all working toward an Amtrak which operates without a Federal operating subsidy, which provides quality service, and which is financially stable. Amtrak now covers approximately 80 percent of its operating costs with self-generated revenue, up from 48 percent in 1981. Yet we also know that no intercity rail passenger service anywhere in the world operates without some degree of public sector financial support.

Investment in all modes of transportation is important, but we have gone about it in a lopsided way. Purchasing power for Federal highway programs has increased by 48 percent from 1982 to 1996. It has increased 78 percent for aviation, but has decreased 46 percent for passenger rail. In fact, Amtrak currently receives less than 3 percent of all Federal transportation spending. To attain balance, we must balance our financial support to all transportation components, including passenger rail service.

Capital funding is necessary for Amtrak's future. New capital investments will allow Amtrak to operate more efficiently. With new equipment, Amtrak will attract substantial new ridership with increased revenues. It currently costs Amtrak $60 million per year to operate and maintain its old equipment, which frequently breaks down and often requires parts to be specially made.

As many Members in the Senate are aware, I am working to provide a dedicated source of capital funding for Amtrak. The Senate has overwhelmingly supported my legislation that would give Amtrak one-half cent for capital expenditures. Unfortunately, we have not yet been able to pass this legislation into law. However, I will continue to work hard and make these speeches until this legislation is passed.

Amtrak cannot survive without capital funding. If we do not provide funding for Amtrak, we will have no other option but to watch Amtrak collapse. This amendment does not move us in the right direction. If this Congress wants a national passenger rail system, it will continue to vote for capital funding for Amtrak.

I urge my colleagues to strongly oppose this amendment.

Mr. MCCAIN. Mr. President, I note the return of the distinguished chairman of the committee and the subcommittee. I really do not have anything more to add to this debate. I would be glad to discuss it further if the Senator from Oregon desires.

However, I am prepared to yield back the remainder of my time at any time that is convenient for the distinguished manager of the bill.

Mr. LAUTENBERG. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. On the side of the Senator from New Jersey, 7 minutes 32 seconds; and on the other side, 7 minutes 48 seconds.

Mr. LAUTENBERG. I thought I heard the Senator from Arizona yield back.

The PRESIDING OFFICER. He made an offer to the Senator from Oregon that was not responded to.

Mr. LAUTENBERG. Mr. President, I will take such time as remains out of the time that I have to make a couple of points.

We hear that the subsidy for passenger rail service is an egregious purpose, something that ought not be done, and we talk about the subsidy per passenger.

However, we neglect to talk about the fact that there is over $2 billion a year that goes into maintaining FAA's services. That has nothing to do with the trust fund. That is out of the taxpayers' pocket—$2 billion a year. Those who are paying into the trust fund by virtue of a ticket tax, when that is operating, pay into the fund when, in fact, they may not use a particular routing or particular region when they pay that tax.

If we start to cut up the country into how much did you pay for how much service—I think the Senator from Delaware made the point very clearly when he described the need to subsidize water projects, irrigation projects, and flood control projects out West. It is a very divisive approach, I think, to what this country of ours is supposed to be as a single nation.

Just to remind those who are concerned about what would happen if we did not have the Amtrak service that is now available—those services would not be available, I assure you, if we further diminish the assistance that the Federal Government gives to Amtrak. Yes, the needs have been miscalculated over the years. Yes, they have grown substantially. But so has the population. The population of the country has grown significantly. To no one's surprise, much of that population growth is in the urban areas where rail is an essential factor.

Here we fail to recognize that passenger rail service is part of a balanced transportation structure that we need in a society in a country as large as ours.

Commuter lines in States like Rhode Island, Connecticut, Massachusetts, Maryland, New York, Pennsylvania, and New Jersey all use Northeast corridor lines that are owned by Amtrak. They have to function; otherwise, the costs for commuting would increase substantially, or maybe they would not be able to function altogether.

Mr. President, I hope we will defeat this amendment. I think it is very short-sighted and neglects to recognize what the needs of this country are, at a time when we are straining with every mode of transportation, including aviation, including highways, and including rail. We are underinvested in transportation infrastructure and we have to continue to plow ahead, whether we like it or not, if we are to be a mobile society, operating with as much efficiency as we can.

Mr. President, I note Chairman HATFIELD is here on the floor, and I yield the floor.

Mr. HATFIELD. The Senator from Arizona indicated to me he would be willing to yield back his time.

Mr. LAUTENBERG. I am willing to yield back the time on this side.

The PRESIDING OFFICER. All time is yielded back.

Mr. HATFIELD. Mr. President, has the Senator from Arizona yielded back his time?

The PRESIDING OFFICER. Yes. All time is yielded back.

Mr. HATFIELD. I move to table the McCain amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 5132 offered by the Senator from Arizona.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Kansas [Mrs. FRAHM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—82

Abraham	Feingold	Lugar
Akaka	Feinstein	McConnell
Baucus	Ford	Mikulski
Bennett	Frist	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Gorton	Murkowski
Bond	Graham	Murray
Boxer	Grassley	Nunn
Bradley	Harkin	Pell
Breaux	Hatch	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Hollings	Robb
Byrd	Hutchison	Rockefeller
Campbell	Inouye	Roth
Chafee	Jeffords	Santorum
Coats	Johnston	Sarbanes
Cochran	Kassebaum	Simon
Cohen	Kempthorne	Simpson
Conrad	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
Daschle	Kohl	Thomas
DeWine	Lautenberg	Warner
Dodd	Leahy	Wellstone
Domenici	Levin	Wyden
Dorgan	Lieberman	
Exon	Lott	

NAYS—17

Ashcroft	Gregg	Nickles
Brown	Helms	Shelby
Coverdell	Inhofe	Smith
Faircloth	Kyl	Thompson
Gramm	Mack	Thurmond
Grams	McCain	

NOT VOTING—1

Frahm

The motion to lay on the table the amendment (No. 5132) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Will the Senate be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would just like to report to the Senate we have a few amendments yet, perhaps about 20, that we have to dispose of tonight. We will have rollcalls on some of them. There is no window. We are going to complete them. We had the window this afternoon for an hour and 10 minutes when Senator LAUTENBERG and I were ready to do business and nobody appeared. That was our window. So we will continue straight through now until we finish.

Mr. President, I would ask now that I may yield to Senator MCCAIN for 2 minutes and then the Senator from Ohio, [Mr. DEWINE], has an amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the majority leader for setting a date certain for us to bring up the important and compelling issues concerning aviation safety and strengthening airport security.

We know how important this issue is to the American people. I had intended earlier to bring up some of the provisions of that bill as an amendment on this appropriations bill, something I do not like to do. The majority leader has assured us he will bring this up on a date certain in September, and I believe that is a very important. I know my colleagues are in agreement with me as to how important it is to bring up these issues. We have to strengthen airport security. We have to improve aviation safety in America. It is an obligation we have to all of our citizens.

I hope in September, when we bring up this issue, we will be able to act on it quickly. I intend to work with my colleagues on both sides of the aisle to develop a set of amendments under the leadership of the distinguished chairman of the Commerce Committee, Senator PRESSLER, who has played a key and vital role in all of this legislation.

Finally, I thank the 17 brave souls who voted with me on the last amendment.

Mr. President, I yield the remainder of my time.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 5133

(Purpose: To provide funds and incentives for closures of rail-highway crossings)

Mr. DEWINE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. LUGAR, and Mr. BIDEN, proposes an amendment numbered 5133.

Mr. DEWINE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of title IV, add the following:

SEC. . (a) Section 120(c) of title 23, United States Code, is amended by inserting ''rail-highway crossing closure,'' after ''carpooling and vanpooling,''.

(b) Section 130 of such title is amended by adding at the end the following:

''(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade rail-way-highway crossings under the jurisdiction of such governments.

''(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

''(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

''(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

''(B) $7,500.

''(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.''.

Mr. DEWINE. Mr. President, this amendment is being offered by myself, Senator LUGAR, and Senator BIDEN, and it really is a fairly simple amendment.

First of all, it costs no money.

Second, it gives States more tools, more flexibility to deal with a very serious problem in this country, and that problem is that each year we lose over 500 people who are killed in collisions between automobiles and trains. In fact, the figure last year was 559 people—559 people died last year in auto-train accidents, 36 of them in my home State of Ohio.

In preparing this amendment, and having some understanding of the problem going back to my time as Lieutenant Governor in Ohio when I worked on this problem, I put together a meeting in my office where we brought together all the experts in this field. They sat down for 2, 2½ hours and discussed this. Then they got together again. One of the ideas they came up with is contained in this amendment.

Mr. President, my amendment is a simple one. It would make America's railroad crossings a lot safer—500 people are killed each year in these train-vehicle collisions. Fifty percent of these accidents occur at crossings that are already equipped with active warning devices—50 percent. So simply adding more warning devices, therefore, is not a complete solution to the problem.

Some of these railroad crossings are just simply too dangerous. They are life-threatening. They are not needed, and they ought to be closed. We all know though from our own experience that people do become accustomed to taking certain routes and communities get used to certain traffic patterns. That is why it is sometimes very difficult for localities to close these crossings, for local officials to make this decision, even when it is clear on safety grounds that a particular crossing simply needs to be closed.

Clearly, the local communities need some help, and that is the purpose of

this amendment. Again, this idea did not come from me. This idea came from the safety experts who have looked at this, both in government and outside of government.

Currently, the Federal Government pays 90 percent of the cost of closing a railroad highway grade crossing, but other grade crossing safety projects, such as traffic signs, guard rails and traffic lights, are eligible for 100 percent Federal funding.

My amendment will make grade crossing closure projects eligible for that same 100 percent Federal funding. This will help remove the current incentive against closure projects. Let me emphasize, this is a State decision that will be made by the State, and that is out of the same pot of money. No additional funds will be utilized. If the safest thing to do is to close a very dangerous railroad crossing, localities should have an incentive to do that.

Let me again point out this amendment does not involve new Federal money. The CBO says no additional contract authority would be necessary. The money for this amendment is already allocated for crossing safety purposes, for the very purpose we are talking about. All we are trying to do in this amendment, Senator LUGAR, Senator BIDEN and myself, is to deploy that money in the most rational and effective way. Again, that decision is being made by the local authorities.

The second part of my amendment provides up to $7,500—again, out of the same pot of money—to a local highway authority for each crossing closed. Mr. President, $7,500 is an incentive to that local community if the State decides that is the best way to spend this money.

Furthermore, the railroad itself that is operating the crossing under this amendment has to match the money. This means up to $15,000 for a local community to close a railroad crossing. In other words, it creates an incentive to get the job done.

Safety does not come about by accident. It comes about when concerned people exercise the necessary level of prudence and the necessary level of vigilance. I have been working with the railroads, with the Federal Railroad Administration and with the Federal Highway Administration on these issues for some time now, and I believe this amendment embodies a commonsense approach to this very real issue of railroad safety. Mr. President, we have worked with the Federal Railroad Administration to develop this amendment, and the amendment has been endorsed by the Association of American Railroads.

In conclusion, let me summarize again, this costs no additional Federal dollars. Every safety expert that we have consulted says this is the thing to do. It is the most cost-effective way to preserve lives. We can close these railroad crossings, frankly, at a fraction of the cost to install the gates and the flashers. They cost anywhere between $130,00 and $135,000, and it takes some time to get them installed.

This amendment will provide more flexibility to the States to deal with this hazard. It has the endorsement of all the safety experts, as well as Senator BIDEN, Senator LUGAR and myself. And, Mr. President, if we needed any other incentive to pass this amendment, let me just hold this chart up. This is a listing for the most immediate year available. This is 1995: ''Highway-Rail Grade Crossing Statistics by State.'' I did not have time to have this blown up, but I am going to read a couple of these, if I could. It has every State. If any Members want to see how many fatalities occurred in their home States, they can do that. South Carolina, just last year, 111 accidents, 61 injuries, 6 fatalities. Looking at the State of California, 191 accidents last year, 69 injuries, 28 fatalities. We go on and on and on.

This is a very simple amendment. It is no cost to taxpayers and gives more flexibility to States, to people who have to make the decisions to spend the finite dollars to try to save lives. I believe this amendment will save lives, and I urge its adoption.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I wonder if the Senator from Ohio will yield for a question?

Mr. DEWINE. I certainly will.

Mr. HATFIELD. As the Senator knows, we have a strict position, known here, that we do not accept legislation on appropriations unless it is cleared by the authorizing committee chairman and ranking member. We have accommodated Senators where they have cleared that with the authorizing committee, but this is not in our jurisdiction. I am asking the question as to whether or not the Senator has had clearance from the Environment and Public Works chairman and the ranking member.

Mr. DEWINE. We do not have any direct clearance. If I could finish my answer? The reality is, this is the only train that is moving. If we do not have the opportunity to put it in now, the Senator is well aware it is not going to happen for months and months and months. It is such a simple amendment. I have found no one who, on the substance, is opposed to it. I cannot find anyone opposed to it. That is why we are looking at this as the opportunity to, frankly, save some lives and give the local communities the flexibility they need. It is of such a noncontroversial nature, that is why I am here.

Mr. HATFIELD. I agree the amendment is very meritorious, but it does not comply with our rules. I will have to move to table this and reject it as such. I would prefer to have, maybe, the amendment temporarily set aside until you can confer with our two colleagues who are the authorizers. If they clear it, we will accept the amendment.

Mr. DEWINE. I will be more than happy to temporarily set aside the consideration of the amendment.

Mr. HATFIELD. I thank the Senator.

Has the Senator made the request to temporarily lay aside his amendment?

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, I was distracted for a moment. I would like to be recognized in my own right to make a few comments about the amendment being offered by the Senator from Ohio. I ask that I be added as a cosponsor.

What was the suggestion of the managers of the bill? What was the unanimous-consent request?

Mr. HATFIELD. The request was to temporarily lay aside the amendment until the Senator from Ohio conferred with the authorizing leadership, and then to turn to the next amendment to be offered once it is temporarily laid aside, which is the Exon-Dorgan amendment.

Mr. EXON. The Senator from Ohio has agreed to withdraw his amendment?

Mr. DEWINE. I have agreed to temporarily lay it aside with the understanding the amendment will continue to pend.

Mr. EXON. I simply ask the Senator from Ohio, I would like to be a cosponsor of the amendment.

I remind the Senate, and the managers of the bill, this Senator offered a five-point program last year with regard to grade crossings. Three of the five were accepted and are now part of the law. The two things that were not agreed to, basically on that side of the aisle, last year are now incorporated in the amendment offered by the Senator from Ohio.

So I congratulate him for his leadership in this area. I simply remind all we should have done this last year. I hope we can do it this year in some form. So I thank my friend from Ohio. I am very pleased to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. The request is to set the amendment aside. Is there objection?

Without objection, the Senator from Nebraska is added as a cosponsor.

The Senator from North Dakota.

AMENDMENT NO. 5134

(Purpose: To prohibit the Surface Transportation Board from increasing user fees)

Mr. DORGAN. Mr. President, I offer an amendment on behalf of myself, Senator CONRAD, Senator HARKIN, and Senator EXON. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. CONRAD, Mr. EXON, and Mr. HARKIN, proposes an amendment numbered 5134.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On line 12 on page 41 after the semicolon, insert the following: ''*Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with licensing and related service fees, pursuant to 49 CFR Part 1002, STB Ex Parte No. 542, for services in connection with rail maximum rate complaints,''.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, the amendment that I have offered on behalf of myself, Senator CONRAD and Senator EXON is an amendment that deals with the fees charged by the Surface Transportation Board for the filing of a complaint by a shipper, a farmer or a grain elevator that might feel is necessary to file against a railroad company that is overcharging.

We have largely deregulated the railroad companies in this country. We have abolished the Interstate Commerce Commission and established the Surface Transportation Board. The question is, Where does a farmer or a grain elevator or some other small shipper go when they feel that the railroad is overcharging them? They file a complaint, under the current circumstances, with the new Surface Transportation Board.

Previously, when a shipper was to file a complaint, they would be required to pay a $1,000 fee in order to file a complaint against a railroad company saying, ''This railroad company is overcharging. I am complaining and want a hearing and want some facts to be developed, and I want a judgment about my complaint.'' So they would file a complaint and pay a $1,000 fee.

The Surface Transportation Board issued a proposal, under the administration's directive to increase user fees.

The Surface Transportation Board proposed to increase the fees from $1,000 to $23,000, roughly, for those who file a complaint against a railroad company.

They are saying that if you are a family farmer or you are a small grain elevator or machinery and equipment dealer and you have a complaint against a big railroad company—and most of them are big—in order to file that complaint, instead of paying a $1,000 fee, we are going to increase it to a $23,000 fee.

Some of us happen to think that that is way out of line—not just out of line but way out of line—and we do not believe the Surface Transportation Board ought to do that.

I have talked to the Chair of the Surface Transportation Board, someone for whom I have great respect. I think she is doing a good job. She said, ''Well, we were told that we were going to have to find our money from fees, so we had to put out a schedule.''

My expectation is they will not come up with those kind of fees in their final determination. But what we want to make sure of today is, in an era of deregulation of railroads where you have very large significant concentrations of economic power, that that economic power is not wielded against small shippers in a punitive way.

We believe small shippers ought to be able to make a complaint against a predatory pricing practice on the part of a railroad company without having to fork over $23,000. All that means is a lot of small shippers are told, ''You don't have the ability to file a complaint anymore. There is no way for you to complain against a railroad because we are pricing you out of existence. You can't afford to complain.''

What this amendment that I have offered on behalf of myself and my colleagues does is it says:

. . . none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with licensing and related service fees pursuant to 49 CFR Part 102, STB Ex Parte No. 542, for services in connection with rail maximum rate complaints.

Very simply, we are saying you cannot increase the fees for small shippers who are going to make a complaint against the railway companies. You cannot increase them from $1,000 to $23,000, not from $1,000 to $13,000. You cannot increase them.

We happen to think in this age where we have deregulated the railroad companies, where we have a significant concentration of economic power that it is fundamentally unfair to small shippers, especially as I mentioned to farmers and grain elevators, to say to them, We have allowed them to concentrate economic power, and when they overcharge you, you are going to have to fork over $23,000 if you feel like you need to complain about it.

Some of us say it is fundamentally unfair. We will not stand for it. We want the Senate to be on record to say none of those funds will be used for those fees. There are other fees they can charge. They can increase them. I am not here complaining about that. That is a decision they can make, but at least with respect to these fees, with respect to small shippers who make complaints about these railways, I say let's freeze these fees and let's not price those folks out of the ability to make complaints against railway companies who overcharge.

Let me make a final point. I come from a part of the country that has had some experience with railroads. I come from North Dakota where a so-called ''prairie fire,'' which was a political fire, began in the early 1900's. The controversy was about banks and railroads and big grain millers taking advantage of our farmers. Big interests with large concentrations of economic power that were taking money from the pockets of our farmers.

That created a populist prairie fire out in my part of the country that said, ''We're not going to stand for it.'' Those folks in the early 1900's would not have stood for this, and we should not stand for it in 1996 either.

Mr. President, let me yield the floor and have the Senator from Nebraska speak on this.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I ask unanimous consent that the Senator from Iowa [Mr. HARKIN] be added as a cosponsor to the amendment just offered by my friend and colleague from North Dakota.

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

Mr. EXON. Mr. President, I thank my colleague from North Dakota for a very thoughtful amendment that is vitally important if you understand the peril, or the potential peril, maybe is a better word for it, that small shippers find themselves in today.

There probably has been no one in the U.S. Senate today who has spent more time and effort in committee and on the floor with regard to railroad matters generally, including grade crossing safety. I fought very hard for the Interstate Commerce Commission. When it was obvious that was not going to prevail for long, I was one of the leading proponents of the Surface Transportation Board that was created under the Department of Transportation.

I simply say, from experience and looking into the future, myself and others as original cosponsors have had firsthand experience with the situation that could affect particularly small carriers.

The most important work of the Surface Transportation Board is to protect consumers from unfair, unjust, and unreasonable rates or actions by the railroads. I mention specifically captive shippers. Captive shippers are those who are captive because they have no other way to move their products or their goods or their livestock or their grain.

So simply put, what this amendment does is to say that if you are a small shipper, you cannot be charged as originally suggested in a preliminary announcement of fees by the Surface Transportation Board.

The Senator from North Dakota touched on this, Mr. President. I emphasize it a little bit more. If somebody files a complaint against a railroad, the railroad has a whole stable of attorneys who are willing, ready, and able to act in their behalf.

Actually, unless we adopt an amendment like this, for all practicable purposes, if the fees are set too high, that small shipper, that captive shipper, that grain elevator, that small company out there could not afford to file a complaint even if he had full justification for doing so.

So I simply say that railroads need some supervision. There needs to be, especially for small and captive shippers, the right to appeal when they think they are being unfairly treated by the railroads. The Surface Transportation Board is the successor in this area to the Interstate Commerce Commission.

I think the Senate and the House should be very careful that when we talk about increasing fees, we do not allow the Surface Transportation Board arbitrarily to set fees so high that the small businessmen—captive shipper, grain elevator, farmer, call it what you will—would be discouraged from even making a legitimate complaint.

At a time when there is consolidation in the rail sector, rate oversight by the Surface Transportation Board is the best primary means to protect rural shippers, and urban shippers, as well, from a possible loss of competition for the captive shippers. It is time to stop the annual threat to the consumers of rail transportation.

The Surface Transportation Board is all that stands between small shippers and captive shippers and the big railroads. I applaud the Appropriations Committee for rejecting the user-fee-only proposition to finance the Surface Transportation Board. The Dorgan-Exon, and others, amendment assures that the rights of rural and urban shippers are not compromised by unfair, high user fees if they file a complaint with the Surface Transportation Board.

I thank my friend and colleague from North Dakota for offering this amendment. I urge its adoption. I thank the Chair and I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise in strong support of the amendment by my colleague from North Dakota, Senator DORGAN, and the distinguished Senator from Nebraska, Senator EXON. This amendment addresses a very serious concern that was first raised earlier this year when a fee schedule was proposed by the Surface Transportation Board.

These fees that were announced earlier this year by that agency indicate that sometimes people completely take leave of their senses here in Washington when they have responsibility over an administrative function. If there was ever an example of an agency going off a cliff with respect to a proposal, these fees by the Surface Transportation Board are a perfect example.

Under the proposed fee schedule from earlier this year, the minimum filing fee charged rail users complaining of unlawful railroad actions would have been increased from the current $1,000 to $23,000. Let's think about a small elevator in my home State of North Dakota. They have a grievance. Just to be able to file, they would have been expected to come up with $23,000. Where is the rationale for that? If you are going to ask people to pony up $23,000 just to file a complaint, there are not going be many complaints filed. That is for sure.

The unfortunate thing about this is people do not have an alternative. If they have not gone through the administrative process, they cannot go to the courts. And to go through the administrative process, they are told you have to come up with a $23,000 filing fee.

Let me just go through some of the other filing fees that the Surface Transportation Board proposed earlier this year. The fee for filing a formal rate complaint under the so-called stand-alone cost methodology, guidelines alleging unlawful rate practices by rail carriers, would have been increased from the current $1,000 to $233,000.

Mr. EXON. Would the Senator yield for a question?

Mr. CONRAD. I would be happy to.

Mr. EXON. With that fee schedule that you just outlined right from the Surface Transportation Board paper, how many complaints do you think small businessmen, small elevators, would file out of North Dakota?

Mr. CONRAD. The Senator asks a very good question. I think we could be quite assured that virtually no one would file, probably no one would file. I mean, who is going to pony up $23,000 for an unlawful railroad action case? Who could afford to pay, in the case of a formal rate complaint alleging unlawful rates under practices by rail carriers, an increase from $1,000 to—it makes me laugh every time I say it—an increase from $1,000 to $233,000?

The cost for seeking a regulatory exemption to construct connecting rail lines would have been increased from the current $3,000 to $41,700.

I am glad this amendment is being offered. Hopefully, it will send a message.

I do commend the Appropriations Committee for providing some funding for the Surface Transportation Board. That is an important provision in this transportation appropriations bill. The Dorgan amendment simply ensures that there is no possibility the Surface Transportation Board will even consider user fees on the scale of those which were discussed earlier this year.

Mr. EXON. If I might add a comment. It seems to me that if there is that much money out there to get this job done, we might seize on that as a means of balancing the Federal budget in 2 years. I thank my friend from North Dakota.

Mr. CONRAD. I thank the Senator from Nebraska. He makes a very good point. Unfortunately, earlier this year the Surface Transportation Board looked at the budget and the current fee schedule, and somehow believed the agency could become self-sufficient by just raising fees. Unfortunately, this proposed fee schedule did not recognize that agricultural shippers, with legitimate complaints that they need to get adjudicated, could be completely left out of the process because of the steep fees which were being proposed.

Nobody would be coming before the Surface Transportation Board, or virtually no one, because who could afford, just to have a complaint adjudicated, to pay $23,000, much less $233,000, or to deal with the question of construction of connecting rail lines, $41,000? I mean, these are not reasonable.

Hopefully, this amendment will pass and there will be no possibility of these particular fee increases taking place. I want to thank my colleague from North Dakota, Senator DORGAN, for offering this amendment with the Senator from Nebraska, Senator EXON. I am pleased to join them in this effort. I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I was just asked a series of questions by the manager of the bill and the ranking member. I thought maybe I could address those because I think there are some misunderstandings about this.

It is true that the Surface Transportation Board produced a schedule that said, where as we used to charge $1,000 as a fee in order to make complaint against a railroad for unfair pricing, if we are required to raise all of our funds from fees, we will now charge $23,100 instead of $1,000. If you are complaining about the coal rates, we will go from $1,000 to $233,000 as a filing fee and so on and so on.

The ranking member made the point to me just now, well, we have increased appropriations or actually produced appropriations of some $12 million in this bill for the Surface Transportation Board and, therefore, they will not have to raise all of this money from fees. It is absolutely correct.

That $12 million has been appropriated. They will not have to raise that from fees. They will have to raise several millions of dollars from fees. The question is, how will they get that several million dollars? There are a wide range of fees from which to choose. Will they decide, with respect to those who want to file a complaint against a railroad company for unfair pricing, that that fee should go from $1,000 to $2,000, $1,000 to $5,000, $1,000 to $15,000, $1,000 to $23,000? I do not have the foggiest idea.

My amendment says, it shall go from $1,000 to $1,000. The fee is now $1,000 and the fee will be $1,000 if you feel like you need to file a complaint against a railroad company for unfair pricing.

Mr. President, we do not have an Interstate Commerce Commission in America anymore. I never thought I would mourn its passing, and I am not sure I do now, because I used to think it was one of the few agencies in Washington, DC, that had died from the neck up. However, despite the fact the ICC, in my judgment, was relatively worthless as an agency, sat around with a giant ink pad and a giant rubber stamp, and whatever the railroads wanted, they stamped OK. There was a guy named ''OK Alan'' that was talked about down in a Southern State, the Governor of a Southern State, because he said OK to everything. It was the ''OK-ICC Commission.''

I never thought I would mourn its passage, but when we deregulated the

railroad industry and people said get rid of the ICC, there was a discussion that maybe there should be some referee deciding when and if there are predatory or unfair pricing practices by the railroads, that maybe the folks who are having their pockets picked by that have some opportunity to file a complaint.

So the Surface Transportation Board was created. As I mentioned, I have a fair amount of confidence in the chair of that board, and I do not believe they would increase rates, as they published, from $1,000 to $23,000. But I will make sure with my amendment that they do not with respect to complaints against the rails.

I am joined with the Senator from Nebraska and my colleague from North Dakota and others to say to those who need to file a complaint against the railroads, they ought to be able to file that complaint with a filing of $1,000, and it ought not to be doubled, tripled, or increased 23 times. This amendment says, ''Freeze it where it is.''

I yield the floor.

Mr. EXON. Mr. President, I ask unanimous consent the minority leader, the Senator from South Dakota [Mr. DASCHLE] be added as a cosponsor to the amendment.

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

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily lay aside the Dorgan amendment so we can clear the DeWine amendment that is being cleared by the authorizers.

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

AMENDMENT NO. 5133

Mr. HATFIELD. I ask unanimous consent that the DeWine amendment, which has now been cleared by the authorizers, both the chairman and the ranking member, now be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 5133) was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. HATFIELD. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5134, AS MODIFIED

(Purpose: To prohibit the Surface Transportation Board from increasing user fees)

Mr. DORGAN. Mr. President, I send a modification to my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 5134), as modified, is as follows:

On line 12 on page 41 after the semicolon, insert the following: ''*Provided further*, That none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with rail maximum rate complaint pursuant to 49 CFR Part 1002, STB Ex Parte No. 5424.

Mr. DORGAN. The modification was made necessary in order to reach an agreement with the authorizing committee. Both the majority and the minority have agreed with the amendment as it is modified, and I am told it will be acceptable, then, to the Senator from Oregon and the Senator from New Jersey.

Mr. HATFIELD. Mr. President, I urge adoption.

Mr. EXON. It would be the same cosponsors?

Mr. DORGAN. Mr. President, might I say that the modification is purely technical. The amendment is identical to the amendment I offered previously, but we rearranged the words because there needed to be a technical change.

The modification is offered with the same cosponsors.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from North Dakota.

The amendment (No. 5134), as modified, was agreed to.

Mr. LAUTENBERG. I move to reconsider the vote.

Mr. HATFIELD. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5135

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

At the appropriate place add the following:

''SEC. . (a) APPLICABLE LAWS.—Section 24301 of Title 49, United States Code, as amended by Section 504 of this Act, is amended by adding at the end thereof the following:

'''(q) POWER PURCHASES.—The sale of power to Amtrak for its own use, including operating its electric traction system, does not constitute a direct sale of electric energy to an ultimate consumer under section 212(h)(1) of the Federal Power Act.'

''(b) CONFORMING AMENDMENTS.—Section 212(h)(2)(A) of the Federal Power Act is amended by inserting 'Amtrak;' after 'a State or any political subdivision);'.''

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 5135.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

Mr. MURKOWSKI. Mr. President, this amendment was a consequence of discussions held in the Energy and Natural Resources Committee among the staff of the majority with regard to the dilemma surrounding Amtrak and the high cost of power that Amtrak is subjected to in the Northeast corridor where most of the rail line is electrified. As a consequence of the efforts to try and help Amtrak to reduce its costs, this amendment was suggested by Amtrak.

Mr. President, it is an extraordinary set of circumstances here when we consider that the potential cost of power wheeled in for the availability of Amtrak could be as low as 3 cents, yet Amtrak is currently paying in many cases 6 cents and, in extreme cases, up to 12 cents from a power-producing facility in New York State that is in bankruptcy. These are the result of State public utility commissions and the overall regulatory complexity associated with the jurisdiction of the Federal Energy Regulatory Commission as compared to State public utility commissions. These need to be examined.

What this amendment does, Mr. President, is to allow the FERC to order retail wheeling for Amtrak only, something which is currently prohibited under Federal law. It would exempt, therefore, Amtrak from the prohibition which prevents them from taking advantage of cheaper sources of power that would be transmitted from potential out-of-State power suppliers.

The purpose, again, of this amendment is simply to allow Amtrak to acquire electric power at a cheaper rate than it is currently paying. As we all know, Amtrak is not a private company but a quasi-governmental entity created by an act of Congress in 1970. Its stock is owned by the Federal Government. Congress mandated its mission and likewise imposes by Federal law a host of obligations and costs on Amtrak, costs that no regular private company is burdened with. Yet, each year Amtrak's losses are made up through a Federal subsidy.

In fiscal year 1996, Amtrak's Federal subsidy was $285 million, thus, this amendment would result in a savings to Amtrak that translates into about $20 million a year. That is a savings to the U.S. taxpayer that subsidizes Amtrak.

What we have done, Mr. President, in Congress is put Amtrak between the proverbial rock and a hard place. Congress has given Amtrak a mandate to decrease its reliance on Federal operating support. The House and Senate Amtrak authorization bills and the budget resolution proposed to end all operating support of Amtrak in the year 2001. What are we going to do with that? Are we going to adhere to that? Are we going to extend it and try and find ways to help Amtrak reduce its cost? The point is, we have not relieved Amtrak from its statutory obligation and, at the same time, we are taking away its Federal operating subsidy.

Mr. President, I offer this amendment not in the expectation that it is going to be adopted. I offer this amendment to point out the need to move the

electric power industry from its current highly regulated, highly inefficient situation into a fully competitive, deregulated marketplace so that Amtrak, along with industrial and residential consumers, can purchase electricity at the lowest possible price. That is what deregulation is all about.

How we get there from here is a very difficult and complex problem. As chairman of the Senate Committee on Energy and Natural Resources, I recognize it, and I have had some conversations, as late as this evening, with Senator JOHNSTON, who is concerned about the issue as well. And to the question of how we address it, of course, is an issue within the jurisdiction of our committee.

The Energy Committee has held three hearings this year on the issue of competitive change in the electric power industry. We intend to hold more. We want to assure everybody that we recognize that the electric industry in this country—a very, very important and significant industry—is not broke by any means. So it is not a question of fixing it in the sense of fixing what is not wrong with it. It is more an effort to try and recognize that by directing more attention to local and State control, with the assurance that we have the availability of wheeling coming in to address cost and efficient producers and somehow try and address that narrow area of what we are going to do to protect those that have stranded costs. That is the challenge before us.

We have an inequity associated with Amtrak. While there is no consensus as to the means for how to make the electric power industry competitive, there is a consensus as to the need for making it competitive.

So what we have to do is address the inconsistencies associated with the industry. We want to have competition, which will benefit consumers—residential consumers, commercial consumers, industrial consumers and, yes, Amtrak. This amendment is but a small piece of a much larger puzzle. The Amtrak issue, along with a host of other electric power issues, such as the privatization of the Federal Power Marketing Administration, will be the subject of our legislative interests in the 105th Congress.

Mr. President, while it is my expectation that we will undertake comprehensive electric deregulation legislation next year, it should not be taken to mean that we should not proceed this year with Senator D'AMATO's PUHCA reform legislation, of which I am a cosponsor. It has been ordered reported by the Banking Committee, and the Senate should take this legislation up at the earliest possible time.

Mr. President, I am going to withdraw the amendment as a consequence of the recognition that, clearly, this is not the time or the place to resolve the wheeling issue for Amtrak. But I hope there is now attention to the inequity associated with Amtrak, and a realization that we are forcing this entity to purchase power far beyond the competitive marketplace that exists, which puts an unfair and unrealistic burden and a responsibility right back with us in the realization that it is the taxpayers that are subsidizing this quasi-government entity, or its shortfall, when indeed there are opportunities out there for Amtrak to buy power at a competitive rate and reduce the Federal subsidy by as much as $20 million a year. And current savings can easily be identified as a consequence of prevailing rates that are in existence at this time. Unless anybody cares to talk on the amendment, or ask me questions, I am prepared to withdraw the amendment at this time. I thank my colleagues.

Mr. HATFIELD. There was a Senator who was planning to be here, but he is not able to be here. I yield to the Senator to withdraw the amendment.

Mr. MURKOWSKI. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATFIELD. Mr. President, I am checking on some other matters here. But I believe that it is now the Democratic side of the aisle that is going to offer an amendment. We are alternating back and forth.

Mr. LAUTENBERG. Mr. President, what we are attempting to do is to get to that finite list, and that is in the process now.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5136

(Purpose: To provide for loan guarantees under the Railroad Revitalization and Regulatory Reform Act of 1976)

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of Senator PRESSLER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. PRESSLER, for himself, Mr. WYDEN, Mr. EXON, Mr. HARKIN, and Mrs. BOXER, proposes an amendment numbered 5136.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, line 2, strike ''$4,158,000'' and insert ''$3,000,000''.

On page 5, line 17, strike ''$132,499,000'' and insert ''$129,5000,000''.

On page 26, line 8, strike ''1997.'' and insert ''1997, except for up to $75,000,000 in loan guarantee commitments during such fiscal year (and $4,158,000 is hereby made available for the cost of such loan guarantee commitments).''.

Mr. PRESSLER. Mr. President, my amendment is very simple and straight forward. It would provide funding for the section 511 railroad loan guarantee program to enable needed rail infrastructure and safety improvements. I am pleased to be joined in this bipartisan effort by Senators LOTT, SNOWE, EXON, and WYDEN.

Over the years, Congress has often recognized the importance of Federal funding assistance for rail infrastructure projects. Federal appropriations through such programs as the section 511 program and the Local Rail Freight Assistance [LRFA] Program have enabled the continuation of rail service for many communities that have been on the brink of losing service. I strongly support initiatives to promote rail infrastructure rehabilitation.

The Senate Committee on Commerce, Science, and Transportation, which I chair, has reported legislation to permanently authorize the LRFA Program. To date, this authorizing legislation, S. 1318, the Amtrak and Local Rail Revitalization Act, has not been considered by the full Senate. Because I recognize the concerns of some of my colleagues about funding certain expired programs, my amendment only proposes funding for the permanently authorized section 511 program. However, I will continue to support LRFA reauthorization and funding in future years.

Mr. President, I want to point out the House-passed Department of Transportation appropriations bill includes $58.86 million for title V—section 505—railroad loans. At first glance, I am pleased the House recognizes the importance of funding assistance for freight rail infrastructure. Yet, I am concerned because the entire amount has been earmarked for only one project in California. Many equally important projects would be shut out of the process by the House-passed bill. This clearly ignores the national need for rail rehabilitation on light density rail projects throughout our country. It also is important to note the House approved funding has been allocated to an expired Federal loan program.

My amendment would provide $4.158 million for section 511 loan guarantees. This would permit a loan level of up to $75 million for many legitimate rail projects across our Nation. Further, my amendment includes offsets for this funding from certain administrative functions. I believe basic infrastructure investment would be a better use of scarce Federal dollars.

Mr. President, Federal involvement, while limited, would advance track and bridge projects planned in Iowa, Maine, Nebraska, New Mexico, Oregon, and South Dakota, just to name a few. In turn, rail safety and economic opportunity for these and hundreds of other communities would be promoted. I urge my colleagues to support my amendment.

Mr. HATFIELD. Mr. President, this amendment offsets $4.1 million for the

Federal Rail Administration. There is a loan program where $4.1 million can, in effect, leverage $75 million in guaranteed loans. This is basically geared for some of the rail problems in the smaller areas, or the less populated areas.

It has been cleared on both sides. It is budget neutral. As I say, it has been offset for that transfer of moneys.

Mr. LAUTENBERG. Mr. President, will the manager yield for a moment?

Mr. HATFIELD. Yes.

Mr. LAUTENBERG. There seems to be a question about clearance on our side, if we can review that for a couple of minutes. I would be happy to then discuss it.

Mr. HATFIELD. I ask that we temporarily set aside Senator Pressler's amendment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, I now call up again the Pressler amendment and ask unanimous consent that Senators WYDEN, EXON, HARKIN, and BOXER be added as cosponsors.

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

Mr. HATFIELD. Mr. President, this amendment has been cleared on both sides of the aisle. Therefore, I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5136) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5137

Mr. HATFIELD. Mr. President, I send on behalf of Senator KEMPTHORNE an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. KEMPTHORNE, proposes an amendment numbered 5137.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 47 line 13 of H.R. 3675, strike ''$5,000,000'' and insert ''$15,000,000''.

Mr. HATFIELD. Mr. President, this is an amendment by Senator KEMPTHORNE that is budget neutral. It moves $5 million up to $15 million for national trail rehabilitation, which particularly suffered great damage in the Pacific Northwest during the floods of recent times. It has been cleared on both sides.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5137) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5138

(Purpose: To prohibit the issuance, implementation, or enforcement of certain regulations relating to fats, oils, and greases)

Mr. HATFIELD. Mr. President, I send an amendment on behalf of Senator PRESSLER to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. PRESSLER, for himself, Mr. HARKIN, Mr. GRASSLEY, Mr. LOTT, Mr. BOND, and Mr. LUGAR, proposes an amendment numbered 5138.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.

None of the funds made available in this Act may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55) or the amendments made by that Act does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act or the amendments made by that Act) differences in—

(1) physical, chemical, biological, and other relevant properties; and

(2) environmental effects.

Mr. PRESSLER. Mr. President, earlier this year Congress passed the Edible Oil Regulatory Reform Act. That measure which became Public Law 104–55 was long overdue.

The Edible Oil Regulatory Reform Act addresses how Federal agencies regulate the shipment of edible oils, as compared with toxic oils. They require that agencies make a distinction between these two kinds of oils. This is extremely important to U.S. agricultural exports. Without Public Law 104–55, farmers faced a potential loss in agricultural exports and diminished farm income.

The law is simple and very straightforward. Unfortunately, the Coast Guard continues to issue regulations that do not comply with Public Law 104–55. The Coast Guard has issued regulations that do not provide relief to the oilseed industry due to the differentiation between shipments of edible oilseeds and shipments of toxic oils, such as petroleum.

Mr. President, the kind of enforcement found in the Coast Guard regulations was never congressional intent. The amendment that I, and Senators HARKIN, GRASSLEY, LOTT, and BOND are offering today would prevent the Coast Guard from using funds to issue, implement, or enforce regulations or establish an interpretation or guideline that do not differentiate animal fats and vegetable oils from toxic oils. This amendment does not change the Oil Pollution Act of 1990 as it relates to toxic oils.

Without action, the Coast Guard regulations could inadvertently diminish U.S. agricultural exports. In addition, existing regulations could have a chilling effect on the development of new crops and new uses of crop production.

Farm exports are at all time highs. Future exports are expected to stay at record levels. The future for oilseeds is equally bright. However, current Coast Guard regulations could work against this progress. It has become clearly evident that existing regulations would seriously impact exports of U.S. agricultural commodities, especially vegetable oils and animal fats.

Unless we pass this amendment, U.S. animal fat and vegetable oil industries would be faced with lost export sales. Public Law 104–55 put common sense into Federal regulations regarding the shipment of animal fats and vegetable oils. The winners out of all this are our farmers and ranchers. Unfortunately, we have to pass this amendment to make sure that the Coast Guard abides by Federal law and congressional intent on this matter. I urge adoption of this amendment.

Mr. HATFIELD. Mr. President, this is an amendment, too, that has been cleared on both sides. It is an instruction, in effect, to the Coast Guard that as it continues its work on regulations of toxic materials, it make a differentiation between shipments of edible oilseeds and shipments of toxic oils, such as petroleum.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5138) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5139

Mr. HATFIELD. Mr. President, I send on behalf of Senators GORTON and BAUCUS an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. GORTON, for himself and Mr. BAUCUS, proposes an amendment numbered 5139.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

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

SEC. . (a) In cases where an emergency ocean condition causes erosion of a bank protecting a scenic highway or byway, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to halt the erosion and stabilize the bank if such action is necessary to protect the highway from imminent failure and is less expensive than highway relocation;

(b) In cases where an emergency condition causes inundation of a roadway or saturation of the subgrade with further erosion due to abnormal freeze/thaw cycles and damage caused by traffic, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to repair such roadway.

(c) Not more than $8 million in Federal Highway Administration Emergency Relief funds may be used for each of the conditions referenced in paragraphs (a) and (b).

Mr. GORTON. Mr. President, along the southwest coast of Washington State, Highway 105 runs adjacent to Willapa Bay from Raymond to Aberdeen and provides an alternative route to Highway 101. While this route serves as the only direct access for residents of the Tokeland Peninsula and the Shoalwater Indian Reservation, it also acts as a dike protecting several cranberry bogs, a vital local industry, from saltwater inundation.

Unfortunately, the embankment supporting Highway 105 has eroded away under the pressure of the unstable forces in Willapa Bay. Unless something is done, preliminary engineering studies indicate that under existing conditions, the road will be washed into Willapa Bay, sometime within the next 2 years. This timeline would obviously be moved up if any type of storm hits the Washington coast later this winter. Water, telecommunications, and power utilities located within the highway right-of-way would also be severed if the highway is destroyed.

If no action is taken to remedy this problem, the estimated loss of public facilities, cranberry bogs, jobs and economic impacts is $82 million, not including additional socioeconomic impacts. An additional $40 million from the Federal Highway Administration Emergency Relief funds would also be required to relocate a new Highway 105.

A more appropriate and financially efficient alternative, in my opinion, would be to correct this problem before it becomes a reality. While diagnosing the problem, preliminary engineering studies also indicated that the erosion could be slowed considerably by dredging a relief channel in Willapa Bay, which would alter the flow of water that is currently undercutting the highway embankment.

Officials from the Washington State Department of Transportation are currently working with representatives from the affected communities to resolve this matter, however, funding continues to be the major obstacle. This prevention project, including both engineering and actual construction costs, would cost $10 million—$8 million from the Federal Highway Administration and $2 million in State and local matching funds.

I am aware that Congress no longer earmarks money in the Federal Highway Administration (FHWA) account of the Transportation appropriations bill, and therefore, I believe that the only appropriate funding available is possibly the FHWA Emergency Relief (ER) fund. While I recognize that this fund is traditionally dedicated to repairing Federal highways once a disaster has occurred, it seems that common sense dictates using $8 million to prevent a washout rather than spending $40 million to replace the road in less than 2 years.

I have been working with officials from the Federal Highway Administration, and they are aware of the pending road failure. While they support participating in this prevention project, they believe that legislative authority must be given to allow ER funds to be used in this manner. For that reason, my amendment provides legislative language in this bill that authorizes the Federal Highway Administration to use up to $8 million in Emergency Relief funds in order to prevent complete loss of the existing Highway 105.

By allowing these funds to be used in this manner, I estimate that the Federal Government will save approximately $30 million in future highway relocation funds, while also protecting the fragile environment and economy of Pacific County in Washington State.

In closing, let me thank Chairman HATFIELD for his consideration of this matter. Let me also applaud the efforts of the officials in Pacific County, as well as other individuals in the Washington State who have worked so carefully to ensure that this potential disaster is averted.

Mr. HATFIELD. Mr. President, this provides for definition of emergency funding that can be used to relieve the situation in both Montana and Washington State. It has been cleared on both sides. It is budget neutral.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this is an amendment that, as the distinguished chairman has said, has been cleared by both sides. It is an important amendment to the State of Washington and, indeed, to Senator BAUCUS as well. It is a good amendment.

Mr. BAUCUS. Mr. President, essentially following up, I thank the managers for the amendment. There was a natural catastrophe in the State of Montana due to abnormal weather. This amendment helps that situation.

I thank the Senators.

Mr. LAUTENBERG. Mr. President, I have to reserve the right to object until we clear a matter here that, frankly, raises concerns. So I am sorry to say it, but we do have to take a couple of minutes to check this. Therefore, unless there is somebody else who we are going to go to, I would note the absence of a quorum.

Mr. HATFIELD. I apologize. I was told that it was cleared on both sides, I say to my comanager.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATFIELD. Mr. President, let me return to the Gorton-Baucus amendment we were discussing a little bit earlier. We now have the clearance on the Democratic side, so I urge the adoption of that amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 5139) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURNS. Mr. President, I have an inquiry of the committee chairman, the Senator from Oregon [Mr. HATFIELD].

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. BURNS. I thank the Chair. If the chairman will recall, the committee, at its meeting of July 16, included language in the Committee Report offered by the Senator from Washington [Mrs. MURRAY]. This language concerned significant costs incurred by the mid-Columbia hydroelectric projects associated with fish and wildlife mitigation due to water releases from upstream Federal facilities and how the impacts of such costs to the mid-Columbia projects could be offset. My question is this: Should no all upstream project owners incurring the same costs, from the same water releases, be treated the same as the mid-Columbia project owners? For example, the Montana Power Co. incurs the same costs at their Kerr project at Flathead Lake and Thompson Falls project on the Clark Fork River due to the large releases from the Federal Hungry Horse project. The Washington Water Power Co. incurs the same costs at their Noxon Rapids and Cabinet Gorge projects on the Clark Fork River due to these same releases from the federally owned Hungry Horse project. Does the committee also urge the BPA to enter into the same equitable energy exchange with the Montana Power Co. and the Washington Water Power Co.? Their problems with these Federal water releases are the same as those of the mid-Columbia project owners.

Mr. HATFIELD. I thank the Senator from Montana. My answer is that, ''yes'', all projects incurring the same impacts from the Federal water releases associated with fish and wildlife mitigation should be treated the same. That provision in the report urges BPA to enter into equitable energy exchange agreements. Moreover, such agreements should not increase costs for BPA.

Mr. BURNS. I thank the Senator from Oregon, my constituents will be very pleased. Let us hope that Bonneville will faithfully follow the committee's urging on this matter.

Mr. HATFIELD. Mr. President, I think we are in sight of the goal line on this bill. If Members have amendments yet pending or have registered in their respective Cloakrooms an intention to offer an amendment by the terms relevant or whatever else, we would like to have them come now because we are down to the last handful of amendments and then final passage.

I do not anticipate any votes on the remaining amendments. I do not think they are that controversial, but I am just making a judgment. We are inquiring as to the leadership's view about putting the final passage vote over until tomorrow to relieve other Senators who are not involved in the amendment process. As soon as we get that information, I will relay it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 5140

(Purpose: To provide funding for the Institute of Railroad Safety)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 5140.

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

SEC. . THE RAILROAD SAFETY INSTITUTE.

Of the money available to the Federal Rail Administration up to $500,000 shall be made available to establish and operate the Institute for Railroad Safety as authorized by the Swift Rail Development Act of 1994.

Mr. EXON. Mr. President, this is something that the Senate approved last year. It is a very important matter with regard to railroad safety. The matter has been cleared on both sides, I believe. I urge its adoption.

Mr. HATFIELD. Mr. President, I urge its adoption.

The amendment (No. 5140) was agreed to.

Mr. EXON. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. I thank the Chair and I thank the managers of the bill.

Mr. HATFIELD. Mr. President, I think we are down now to the last three or four amendments. I hope the Senators who have those amendments—I could enumerate the Senators by name, but I do not think I want to do that at this point—at least will have the courtesy to call the floor and tell us whether they are going to offer their amendments or not. Is that asking too much? Please, please, make it a little easier to complete our business here.

To the Senators who put a place hold on amendments to the respective cloakrooms, at least let us know whether you plan to do it or not. We have contacted some Senators. They say, ''Oh, I'm not going to offer that after all,'' but we have not been informed. I think everybody's mother taught them better manners. So much for my lecture. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMEMORATING THE 80TH BIRTHDAY OF DAVID BRODY

Mr. SIMPSON. Mr. President, just moments ago I left a reception for a friend, David Brody. I am very pleased to just rise briefly and commemorate the 80th birthday of one of the most remarkable men who it has been my privilege to know, Mr. David Brody.

He is perhaps best known to all of us in the Senate as the ''101st Senator,'' which was a characterization appropriately applied to him in 1989 in a Senate resolution which passed unanimously.

That resolution was passed on the occasion of David Brody's so-called ''retirement'' from the Anti-Defamation League of the B'Nai B'rith. As I have previously noted in other remarks, it was most carefully phrased so as to avoid any mention of the word ''retirement.''

There is nothing ''retiring'' about David Brody—nothing. He remains the essence and embodiment of energy, spirit, enthusiasm, and good will which he has always been.

It has been my personal pleasure on occasion to pay tribute to David Brody on the Senate floor, to participate in a retirement ceremony on his behalf several years ago, and most recently on March 11, 1993, on the occasion of the 50th anniversary of the wedding of Bea and David Brody. I have informed David that he and I have one thing in common for very certain above all others, and it is that we both ''severely overmarried.'' The marriage and partnership of Bea and David enriches our lives in so many ways, a monument to their boundless love to each other, and to the innumerable good works of each of them individually.

So on David's 80th birthday, I am certain he will have cause to reflect on his good fortune in spending evermore time and more than the 50 years of life wedded to that fine lady. And all of us will have cause to reflect upon our own good fortune in having David with us for now 80 years.

And our wish for him is that he may have many more years of life to savor. My wife Ann and I wish him Godspeed and all our love. I thank the Chair and I yield the floor.

HAPPY BIRTHDAY TO DAVID BRODY

Mr. GRASSLEY. Mr. President, the Senator from Wyoming, just a few minutes ago, addressed the celebration of the 80th birthday of a friend of the U.S. Senate, a friend of most every U.S. Senator, David Brody. There was a celebration of that on the Hill this evening.

It is most appropriate that Senators help David Brody celebrate his 80th birthday because he is so well known, he has been so active on the Hill, and he has been, in the truest sense of the word, a public-spirited person, a person who has been civic-minded about his responsibilities to Government. He has represented a lot of good causes, as he has interacted with Members of the U.S. Senate throughout his career on the Hill.

A few years ago, you could have read a newspaper article that stated it better than any of us could have. It was about how David Brody is respected. In that newspaper article he was referred to as the 101st Senator.

So I wish David Brody a happy birthday. I wish him and his wife well in the future. Happy birthday.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

The Senate continued with consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATFIELD. Mr. President, I have the following unanimous consent agreement that has been cleared with the two leaders, Republican Senator TRENT LOTT and Democratic leader TOM DASCHLE.

I ask unanimous consent that, during the Senate's consideration of the transportation appropriations bill, the following amendments be the only first-degree amendments in order, subject to second-degree amendments which must be relevant to the first-degree they propose to amend, with the exception of the antiterrorism amendments, on which there will be 1-hour notification of the two leaders prior to the offering of any amendment regarding terrorism, and they be subject to second-degree amendments which must deal with the subject of terrorism.

The amendments are follows: Two relevant amendments by Senator LOTT; one relevant amendment by Senator MCCAIN; COHEN-SNOWE, truck weight limitations; GRAMM, highways; LOTT, six amendments regarding terrorism; MCCONNELL, bridge amendment for Kentucky; HATFIELD, relevant amendment.

For the information of all Senators, any votes ordered this evening will be stacked in a sequence beginning immediately following passage of S. 1936, with the first vote and all remaining votes in the voting sequence limited to 10 minutes only, and those votes will be ordered on a case-by-case basis. In light of this agreement on behalf of the majority leader, there will be no further votes this evening.

Mr. President, I want to amend what I said. I forgot to read the Democratic list of amendments that will be relevant and in order.

A Baucus amendment on highway obligation; five antiterrorism amendments by Senator BIDEN; a Bradley amendment on rail safety/newborns; BYRD, two relevant amendments; DASCHLE, two relevant amendments; DODD, an FMLA2 amendment; DORGAN, runaway plants and a relevant amendment; LAUTENBERG, two relevant amendments; REID, one relevant amendment; WYDEN, one relevant amendment, and WELLSTONE, one relevant amendment.

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

Mr. HATFIELD. Mr. President, I believe we have run the limit of our activity for the evening. As I indicated, by a leadership agreement, there will be no further votes this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

MARINE CORPS GENERALS

Mr. GRASSLEY. Mr. President, I have just received a letter from the Commandant of the Marine Corps, Gen. C.C. Kruluk.

General Kruluk's letter concerns the Marine Corps' request for 12 additional general officers.

His letter responds to a letter which I sent to the House conferees on the fiscal year 1997 Defense authorization bill.

My letter urged the House conferees to hang tough and block the Senate proposal to give the Marine Corps 12 more generals.

The Senate approved the Marine Corps's request. But the House remains opposed to it.

So the request for 12 additional generals is a bone of contention in the conference.

Mr. President, I ask unanimous consent that my letter to the conferees and the Commandant's response to it be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 29, 1996.

Hon. CHARLES E. GRASSLEY:
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: I have been provided a copy of the letter you sent to House Conferees concerning the proposal in the Senate Authorization Bill that would give the Marine Corps twelve additional general officers. While this responds to the issues raised in your letter, it has been my desire to meet with you in person to discuss this issue. I understand our staffs have finally worked out a time to do so, and I look forward to meeting with you on Wednesday.

Those familiar with the Corps know that we pride ourselves in squeezing the most out of every dollar that you entrust to your Marine Corps. The also know that we don't ask for something unless it is truly needed.

The main thrust of your letter is that the number of general officers should be reduced consistent with force structure reductions. Reduction in end strength does not necessarily have a one-to-one correlation with command billet reduction. Permit me to explain. As you have correctly stated, the Marine Corps in 1988 had a total active duty end strength of approximately 198,000, with a general officer population of 70. Today, we have an end strength of 174,000, and a general officer population of 68. That said, please note that the 82nd Congress mandated in Title X that our Corps of Marines be ''so organized as to include not less than three combat divisions and three air wings,''—as it was in 1987, it is so organized today. This point is key: While the Marine Corps has reduced its end strength by 24,000 personnel, its three division, three wing structure has remained essentially unchanged. Those familiar with the military know that the requirement for general/flag officers is tied directly to the number of combat divisions and air wings—and that number has not been reduced. Of the 70 Marine general officers in 1987, 11 were assigned to joint/external billets. Today, 16 of the 68 Marine general officers are serving in joint/external billets. Today we have 52 general officers manning essentially the same structure that was manned by 59 general officers in 1988.

Throughout our history, we Marines have prided ourselves in doing more with less. In the past, we have compensated for our general officer shortfall by ''frocking'' officers selected for the next higher grade to fill that position without the pay. While that practice has its own drawbacks, it did provide us with the requisite number of general officers to fill critical shortfalls. Last year, the Senate set increasingly strict limits on the number of general officers that the Services may frock. And I understand their rationale—the practice of frocking simply makes deficiencies in Service grade/billet structure. These shortages are indeed better addressed with permanent fixes rather than the stopgap measures such as frocking. This restriction on frocking, however, has placed the Marine Corps in an untenable position. Losing six of our nine frocking authorizations means that we would now have 46 general officers manning essentially the same structure that was manned by 60 general officers in 1987. This makes it critical that we have additional general officer allotments.

In response to your remark that we are ''simply trying to keep up with the Joneses'' let me offer this: Other Service ratios of general officer to end strength range from one general/flag officer for 1,945 troops to one general/flag officer to 1,435 troops. Excluding the Marine Corps, the Service-wide nominal ratio of one general per 1,620 troops would give the Marine Corps a minimum of 104 general officers. The twelve additional officers that the SASC has provided would give us a total of only 80—hardly keeping up with the Joneses!

Finally, this is a matter of providing quality, experienced leadership for our Marines. We are the nation's force in readiness, standing by to go into harm's way to protect U.S. interests globally. Providing these brave Americans with an adequate number of commanders and representation in the joint arena is not just prudent—it is the right thing to do.

Senator Grassley, I am convinced that these additional general officer billets serve the best interest of our Services and our national defense. I am also convinced that the solution is not to bring the other Services down to our untenable position, but rather to grant us the minimal increase we need to properly perform those functions Congress has mandated and our nation expects. Our meeting on Wednesday afternoon should be productive—I am looking forward to an honest and open dialogue. Semper Fidelis!

Very respectfully,

C.C. KRULAK,
Commandant of the Marine Corps.

U.S. SENATE,
Washington, DC, July 24, 1996.

DEAR HOUSE CONFEREE: I am writing to encourage you to hang tough and do everything possible to block the Senate proposal that would give the Marine Corps 12 additional general officers.

The Senate argues that these additional Marine generals are needed to two reasons: (1) to fill vacant warfighting positions; and (2) to meet the requirements of the joint warfighting area mandated by the Goldwater-Nichols Act.

These arguments are nothing but a smoke screen for getting more generals to fill fat headquarters jobs.

In 1990, your Committee took a very straightforward, common sense approach to the question of how many general officers were really needed. Your Committee could see the handwriting on the wall. The military was beginning to downsize in earnest. As the force structure shrinks, your Committee said the number of general and flag officers should be reduced. New general officer active duty strength ceilings were established. The total number authorized had been set at 1,073 since October 1, 1980. The FY 1991 legislation reduced that number to 1,030 in 1991, including 68 for the Marine Corps. However, based on the projected 25% reduction in the force structure between 1991 and

1995, which in fact occurred, the number of general officers authorized to be on active duty was lowered to 858 by October 1, 1995, including 61 for the Marine Corps.

This is how your Committee explained the decision to cut the number of generals in 1990 (Report 101–665, page 268):

''The Committee believes that the general and flag officer authorized strengths should be reduced to a level consistent with the active force structure reductions expected by fiscal year 1995.''

The Senate Armed Services Committee report contained identical language (Report 101–384, page 159). But the Senate committee linked the need for fewer generals directly to a projected 25% reduction in the force structure. In addition, it provided a more detailed justification for the lower ceilings as follows:

''The committee believes that these ceilings should assist the military services in making critical decisions regarding the reduction, consolidation, and elimination of duplicative headquarters. The ceilings should also assist the military services in eliminating unnecessary layering in the staff patterns of general and flag officer positions.''

In reviewing your Committee's justification for lowering the general officer ceilings, there is no mention of the need to fill vacant warfighting positions—even though the Gulf War was looming on the horizon. And there was no mention of the need to fill joint billets mandated by Goldwater-Nichols.

Your Committee gave only one reason—the right reason—for reducing the number of general officers in 1990: The number of general officers should be reduced consistent with projected force structure reductions.

So what has changed since that legislation was adopted six years ago? Why has the Marine Corps fabricated a new rationale for more generals? Nothing has changed. DOD is continuing to downsize, and according to recent testimony by Secretary Perry, that process is expected to continue into the future (refer to page 254 of his Annual Report to Congress). Your guiding principle still applies: As the force structure shrinks, we need fewer general officers. It was valid then. It's still valid today.

So why is the Marine Corps trying to topsize when its downsizing? There is no reasonable explanation for giving the Marine Corps 12 extra generals. The extra 12 generals requested this year comes on top of an extra 7 Marine generals authorized just two years ago in special relief legislation.

In my mind, the issue boils down to one indefensible point: the Marine Corps is trying to keep up with the Joneses. This is a war over stars. The Marine Corps wants to have as many generals per capita as the other services. This is not the right way to resolve the problem. There is a better way. You should fix it in exactly the same way your Committee fixed it in 1990. You should fix it by giving each service the right number of generals—a number that matches the force structure.

I hope that reason prevails on this issue. At a minimum, I think the decision on the extra 12 Marine generals should be delayed until the Inspector General has conducted an independent review of all Department of Defense headquarters, commands, and general officer billets and determined exactly what is necessary based on real military requirements.

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, I would like to respond to General Krulak's letter.

This is the main point in his letter, and I quote General Krulak's own words:

The main thrust of your letter is that the number of general officers should be reduced consistent with force structure reductions.

This is General Krulak talking:

The reduction in end strength does not necessarily have a one-to-one correlation with command billet reduction.

He goes on to say:

This point is key: While the Marine Corps has reduced its end strength by 24,000 personnel, its three division, three wing structure has remained essentially unchanged. Those familiar with the military know that the requirement for general/flag officers is tied directly to the number of combat divisions and air wings—and that number has not been changed.

Mr. President, I would like to respond to General Krulak.

First, the suggestion that the number of generals should be reduced consistent with force structure reductions is not a rule dreamed up by the Senator from Iowa.

The rule was first put forward by the Senate Armed Services Committee years ago.

It has been expressed by the House Armed Services Committee.

It was the guiding principle used in formulating current law.

It is still in current law—section 526 of title 10, United States Code.

That law places a ceiling on the number of generals and admirals allowed on active duty.

This is the rule behind the law:

As the force structure shrinks, the number of generals and admirals should come down.

If the force structure expands, then the number of generals and admirals should go up.

That simple, commonsense logic has guided military planners since time began.

Second, General Krulak agrees that end strength has fallen.

However, he contends that the Marine Corps' combat force remains essentially unchanged.

Let's briefly review the facts.

In fiscal year 1987, Marine end strength was 199,525, including 70 generals.

Today, the fiscal year 1996, there are 172,434 marines, including 68 generals.

While end strength is down and two generals are gone, the Marine Corps still has three divisions and three airwings.

General Krulak is right about that. The force structure is intact.

Unfortunately, it's not whole. Some troops are missing.

The end strength is down by 27,091 Marines.

If the structure is still there, but some people are gone, that's a hollow force, isn't it?

Mr. President, is another hollow force creeping out of the Pentagon fog?

Mr. President, on July 17, I placed a Marine Corps briefing paper in the RECORD, page S7986.

That paper was entitled ''Making the Corps Fit To Fight.'' It was dated April 1996.

This is what it says:

Marine infantry battalions are at 57 percent of authorized requirements for platoon sergeants.

If that's true, then the Marine Corps structure is already getting hollow.

A Marine platoon can't function without a good sergeant.

Mr. President, do we need more generals to lead a hollow force?

Clearly, a hollow force doesn't demand more generals. Nor does a static force demand more generals.

Only a bigger force demands more generals, and that isn't in the cards right now.

Third, General Krulak introduces another argument to justify his request for more generals.

This one is designed to de-couple the issue from the force structure. This is how he tries to undo the logic.

He says he needs 12 more generals to fill joint billets mandated by the Goldwater-Nichols Act of 1986.

It's a distortion to suggest that Goldwater-Nichols mandates more generals when the force structure is shrinking.

Joint billets—just like service billets—should be squeezed as the force structure shrinks.

This is the message hammered home by Marine Gen. John Sheehan:

''Headquarters and defense agencies should not be growing as the force shrinks.''

That's General Sheehan, commander in chief of the U.S. Atlantic Command.

All the data points indicate that downsizing is continuing and will continue for the foreseeable future.

So the argument that more generals are needed to fill joint billets doesn't hold much water, either.

A few years back, the Marine Corps had another commandant. His name was Al Gray.

He was tough as nails. He was known as a mud marine.

He didn't look at the Marine Corps' needs like a bureaucrat would. He looked at it like a Marine—from the bottom up, starting with platoons and companies.

In a December 1987 interview with the Chicago Tribune, General Gray talked about his plans to fill his units with people from the bottom up. I quote:

'If the Marines fill their need for officers and troops before they get to the big headquarters in Washington,' he said with a grin, 'that might be a blessing in disguise.'

Mr. President, I ask unanimous consent that this interview be printed in the RECORD.

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

[From the Chicago Tribune, Dec. 13, 1987]

MARINES: MYTH VERSUS REALITY

MODERN CORPS IS BIG, COSTLY, HEAVY ON SUPPORTING CAST

(By David Evans)

WASHINGTON—The Marines have a new commandant, Gen. Alfred Gray, a veteran of

the Korean and Vietnam Wars. He's characterized by marines who know him as a self-taught thinker and a ''warrior's warrior.''

He inherits not one, but two Marine Corps. One is the corps of myth: small, cheap, and mostly fighters. A Marine Corps, if you will, designed to kick down the door of a defended coastline and put a lot of grunts on the beach in a hurry and looking for a fight.

Then there's the real Marine Corps: big, expensive, and with relatively few fighters but a big supporting cast. This real corps plans to land ashore where the enemy isn't.

Al Gray isn't very happy with this real corps.

''We're going to make some changes,'' he growls. ''It's time for a fresh, simple look.''

People are not his problem. Today's young marines are the highest quality ever, by any measure. They're enough to make a hard-boiled commander's eyes water with joy.

The real problems are deeper, and structural. They have to do with the rising cost of the Marines, a tail-wagging-the-dog support structure that pulls marines out of fighting units, and a new-found addiction to costly, exotic equipment.

Gray is already grousing about some of these problems.

''Americans expect their Marine Corps to put fully manned infantry battalions into the field,'' he said in a recent interview, ''not units missing 100 or more troops.''

That's an unusual admission from the man in charge of a corps of 20,000 officers and 180,000 enlisted marines. But over the years the corps bought equipment that took more people to maintain and repair, and it created more and larger headquarters units. These competing demands for manpower, in secondary support and headquarters activities, siphoned marines out of the fighting units.

The slogans remain—''Every marine is a rifleman''—and ringing speeches are still made about the infantryman as the corps' ultimate weapon. But in the real Marine Corps, the infantryman is steadily becoming an endangered species. Of the 180,000 enlisted marines, about 33,000 are officially designated as infantrymen.

Throw in the artillerymen, tank crews and combat engineers, and the total number of enlistees in the ''combat arms'' amounts to barely 51,000. Instead of closing with and destroying the enemy, the traditional role of marine fighting men, nearly three out of four enlisted marines are now doing something else; repairing equipment, hanging bombs on airplanes, driving trucks.

In this respect, the Marine Corps looks very much like the U.S. Army, where three out of four active-duty soldiers are in support functions, too.

Mark Cancian, a Marine Reserve major, sums up recent trends with this observation: If the corps' structure of 1962 were in place today, a structure that featured larger infantry battalions and less logistics support, ''there would be 17,000 more marines in Marine divisions—one entire division's worth.''

''Another insight,'' says Cancian, ''is to look at the number of 'trigger pullers' in the division.''

These are the marines who personally deliver fire on the enemy: the riflemen, artillery cannoneers, tank crews. Everybody else is helping to coordinate and support that fire, but the number of trigger pullers amounts to barely 7,500 in a division of 17,500 enlisted marines.

There are barely 22,500 ''trigger pullers'' in all three active divisions. Add a few hundred pilots flying close air support, say 500, and there are perhaps 23,000 marines in a corps of 200,000 whose primary duty is to personally fire on the enemy.

Most of these ''trigger pullers'' are found in the 27 infantry battalions that represent the cutting edge of the corps. Those battalions may be short the infantrymen they need, but they have plenty of headquarters over them: 29 regimental and higher level headquarters, in fact.

If the Marines have grown top-heavy with headquarters units, they've also become harder to move. Too heavy for easy deployment, despite Gen. Robert Barrow's warning as commandant in 1980 that the corps ''should be light enough to get there, and heavy enough to win.''

Artillery is an instructive example. The Marines ''heavied up''' their artillery from 105 mm. to 155 mm. howitzers, in part because the Army was shifting to heavier artillery, and in part because of the long range of Soviet guns. But the new howitzer has to be disconnected from the truck that pulls it before being loaded into the standard medium-size landing craft. And the truck doesn't have enough power to pull the gun through sand, so a forklift has to be waiting on the beach to pull the gun ashore.

Air units are more difficult to move, too. The Marines are replacing their aging F–4 fighters with new F–18s. According to the maintenance officer of a fighter group of 60 aircraft, the number of maintenance vans that must accompany the same number of F–18s went up 72 percent, from 150 vans to 260.

The Marines have become so heavy that the supplies for a full-up amphibious force of 50,000 marines fill about 6,800 containers, each as big as a small bus. Landed ashore, the containers blanket a huge area.

''About 22 acres of nothing but boxes,'' says a colonel, who asks: ''Can we afford a target that large?''

''Amphibious operations by their very nature require bulldozers and other heavy equipment,'' explains Lt. Col. Ken Estes, a staff officer at Marine headquarters.

All those support marines, the heavier equipment and the stacks of supplies cost more money. An E–3 lance corporal in an infantry squad costs $15,600 a year in pay and benefits; and E–6 staff sergeant clerking in a headquarters unit costs $22,800.

The new truck carries the same 5-ton load as the vintage model it replaces, but costs $31,000 more (in constant 1986 dollars.)

Heavier artillery shells for the new howitzer cost 160 percent more.

These are just a few examples of the thousand different ways the corps' appetite for money has ratcheted steadily upward.

The Marines are no longer the K mart of national defense; they are smack in the mainstream of an upscale defense establishment where costs are rounded to the nearest tenth of a billion dollars.

The corps' annual budget now hovers at $9 billion. Since the Navy buys airplanes for the Marines out of its ''blue dollar'' budget, the real cost of the corps runs closer to $13.7 billion a year, according to Pentagon budget experts.

Even the Marines may not realize how expensive they have become. In 1976 the total cost of equipping, paying and training each marine was about $37,000. That's in equivalent 1987 dollars. Since then, the per capital cost has rocketed to $68,000 for each marine—a stunning 83 percent increase. Part of that jump is the extra pay for more experienced marines, with the rest driven by the rising price of equipment and operations.

The cost is still less than the $104,000 the Army spends for every soldier, but the difference is narrowing, and fast.

If the taxpayers cannot afford the money-rich diet to which the Marines have grown accustomed, the Navy can't, either. Or at least it can't afford enough of the kind of highly specialized amphibious ships the Marines want.

The biggest new class of amphibious ships, for example, costs more than $1 billion and figures prominently in the planned expansion of the amphibious fleet from 62 to 76 vessels.

The Marines have rejected cheaper ships as a solution to the numbers problem. One design concept, known in the pentagon by the codeword LTAX, would have provided the same carrying capacity as the large amphibious ships now under construction, but at one-fourth their billion-dollar cost.

''LTAX didn't have the built-in survivability or creature comforts,'' admits a Pentagon naval expert, ''but it would have provided a way of complementing the limited number of true amphibious ships we can afford.''

If the Marines have erred by growing too heavy for easy deployment, they've also strayed from Gen. Barrow's timeless dictum by not being heavy enough in the right areas to win. In antitank combat, for example, the Marines' problem is more than serious—it is critical.

With the exception of the TOW missile, the Marines' infantry antitank weapons are not up to the job, according to a recent General Accounting Office report on antitank weapons. The warhead on the shoulder-launch AT–4 antitank rocket is too small for assured frontal kills against attacking Soviet tanks. Critics, including some marines, call the AT–4 ''the paint scratcher.''

Worse, the Marines probably are not buying enough TOWs. Their planned consumption rate in combat is one TOW missile per launcher every two days.

The Marines have had the Dragon medium-weight antitank missile for a decade, but its accuracy and punch are dismal. In combat, the GAO estimates the Dragon may hit the target only 8 out of 100 shots. Although the corps is upgrading the Dragon with a new warhead and sight, it will be years before the new weapons are in the hands of troops.

Moreover, the new warhead adds 2½ pounds to the missile's weight, which skeptics claim will reduce the Dragon's range. The first block of ''improved'' missiles may be less accurate, because the pulse rockets used for guidance corrections will be used up faster to counteract the added weight.

Maj. Gen. Ray Franklin, in charge of the Dragon improvement project, claims initial warhead tests are ''very impressive.'' He's hoping to field 15,000 new missiles for $60 million.

Other experts aren't so sure.

''They're getting super performance from prototype warheads,'' says an ammunition expert, ''and they're having nothing but problems trying to produce them in quantity.''

He believes the Dragon costs ''are going to go out of sight'' even if the production problems are solved, and Franklin won't get nearly what he hopes for the money.

If Marines on the ground aren't equipped to kill tanks, they'll need air support to do the job.

At enormous expense—$5 billion—the Marines have equipped five squadrons with British-designed AV–8B Harrier close air support jets. The Harrier doesn't have the right weapon for killing tanks, say a number of weapons experts familiar with its performance in live-fire tests.

The Harrier's 25 mm. cannon was tested extensively against tanks at Nellis Air Force Base in 1979. In 24 passes, the Harrier fired hundreds of shells, getting plenty of hits but not a single kill. Reportedly all but seven of the shells bounced off the tanks' armor. Test reports reveal the Air Force's 30 mm. cannon did much better, killing tanks in 60 percent of the firing passes.

Tom Amlie, a Pentagon weapons expert, says the Harrier's 25 mm. gun ''is too heavy for light work [shooting up trucks], and it's

too light for the heavy work of killing tanks.''

It may be suicidal for Harrier pilots to press their attacks to gun range, anyway. There isn't an ounce of armor on the Harrier, and its engine is wrapped in fuel tanks. A Naval Air Systems Command briefing reveals the Harrier is 10 times more vulnerable to ground fire, given a hit, than the Marines' F–18 fighter, and 20 times more vulnerable than the Navy's A–7 attack jet.

Instead of flying Harriers into the teeth of the thousands of automatic weapons found in a Soviet motorized rifle division, the preferred method is to employ so-called ''standoff'' weapons. These are missiles or bombs that can be guided to their targets from outside the range of enemy weapons.

''That's why they're ga-ga for laser-guided Maverick missiles,'' concludes E.C. Myers, former director of air warfare in the Pentagon.

The Maverick is tricky to use against tanks, however. Of 100 Harrier test runs against tank targets in 1985, the Center for Naval Analysis found the pilots were successful in finding, locking-on and firing only 6 percent of the time.

The Marines could use their F–18 fighters armed with Rockeye cluster bombs against tanks. Because the Rockeye spreads bomblets over a wide area, it cannot be employed close to front-line marines. Even so, it is not a very effective weapon. Defense Department munitions effectiveness manuals indicate that four Rockeyes have less than 50 percent chance of killing one tank.

The real Marine Corps, it seems, is ill-equipped, both on the ground and in the air, to defeat massed tank attacks. And this kind of attack is the Sunday punch of the Soviet army and Third World armies equipped with Soviet weapons.

''We're not pleased with what we have for air work against tanks,'' admits Maj. Gen. Charles Pitman, the assistant chief of Marine aviation. He hopes improved Mavericks will solve the problem.

Perhaps the biggest problem is whether the country can afford the Marines' ambitious plans for the future.

The Marines are touting a new landing concept.

''We have to come from over the horizon,'' says Gen. Gray, to avoid exposing the amphibious fleet to shore-based antiship missiles.

But new equipment is needed to carry troops and equipment the greater distance to the beach. One is a hovercraft called LCAC (for Landing Craft Air Cushion,) which can ''fly'' over underwater and beach obstacles.

The Marines also say they need a new kind of aircraft called the MV–22 tilt-rotor. The MV–22 will take off like a helicopter and fly like an airplane, tilting its engines to again land like a helicopter. The new tilt-rotor would be used land marines as far as 25 miles inland.

Freed of traditional beach landing restrictions, the Marines say they can threaten a much wider coastline. The enemy commander, accordingly, will be forced to choose between spreading his forces or leaving large areas undefended.

The Marines plan to exploit either choice by punching through a weak and overextended cordon defense, or by landing at undefended spots to quickly build up forces ashore, before the enemy can move and counterattack.

''If we're going to land where the enemy isn't,'' observes one colonel who's skeptical of the new concept, ''why bother staying way offshore, over the horizon? We have enough trouble landing at the right spot from 4,000 yards offshore.''

''For the actual landing,'' he says, ''we've moved the mother ships from 4,000 yards offshore to 25 miles. We've increased the distance more than 12 times, but the hovercraft is only 5 times faster. We're worse off.''

The speed advantage of the tilt rotor over current helicopters may be illusory, too. Three out of four tilt-rotor helicopters making the 50-mile trip from ship to inland landing zones will be toting loads that are too big and heavy to be carried inside. They'll be slung underneath, and some pilots say these ''external'' loads will reduce the tilt-rotor's speed further.

The experimental tilt-rotor now flying has never carried an external load.

Ultimately, the marines must use beaches accessible by conventional landing boats anyway. The new hovercraft and tilt-rotor aircraft will carry ashore only 12 percent of the troops, 6 percent of the vehicles and two-tenths of 1 percent of the ammunition and supplies. Everything else will have to be moved ashore in conventional landing craft, which will be restricted to the 17 percent of the world's coastlines where the water and beach conditions are suitable.

''The enemy will know the entry points on his own coastline that lead to meaningful objectives,'' says a former Defense Department official who questions the new landing concept. ''That's where he's going to defend, and that's the ground the marines will have to take.''

''We delude ourselves by retaining the 'assault' label,'' says Col. Gordon Batchellor, a highly regarded tactician, ''as we quietly build a scenario where movement, but no assault, occurs.''

This force structure, he maintains, ''will be useless when a true assault is called for.''

The new landing concept is expensive. Each air-cushioned hovercraft costs $20 million and can carry a single 70-ton tank ashore. For the same money, the Navy could buy four heavy ''utility'' size landing craft, called LCUs, each of which carries 175 tons.

A study by the House Armed Services Committee concluded the tilt-rotor aircraft will cost more than $35 million apiece; the CH–53E helicopter, which can carry twice the payload, costs $16 million. The extra speed and range being built into the tilt-rotor make up $15 billion of the total $25 billion cost of this program.

The Marines are buying into a number of hugely expensive and technically risky programs like the tilt-rotor. With these systems, they can range up and down enemy coastlines, jabbing here and there, but the Marines may well be giving up the capability to deliver the body blows of serious war fighting.

Gen. George Patton, no stranger to amphibious operations, once said: ''A sparrow can outmaneuver an eagle, but he is not feared. Speed and mobility not linked with fighting capacity are valueless. Wars are won by killing.''

Yet it seems the sparrow is the Marine Corps look for the future.

This situation may be perfect for Al Gray. After all, the warrior is the man of bold decision in the face of adversity, and Gray, as ''peacetime warrior,'' is facing monumental problems. His budget is a fiscal Mt. St. Helens, unable to contain the explosive pressures of bills now coming due for costly programs started years ago.

''I don't believe in watering down our requirements,'' he says, but he's also sending out strong signals that some requirements may be revised. ''We're going to look from the bottom up,'' he says, at the entire Marine Corps, ''starting with platoons and companies.''

Gray plans to fill the units with people from the bottom up, too. If the Marines fill their need for officers and troops before they get to their big headquarters in Washington, he grins, ''that might be a blessing in disguise.''

He wants to move with breath-taking speed, bringing all the infantry battalions up to full strength by next summer, adding a fourth rifle company to each battalion as well. Those two actions will put almost 6,000 infantrymen back into the cutting edge.

''We're going back to everybody being an infantryman, too,'' Gray promises. And he wants extra combat training for all marines, regardless of speciality. ''The way we used to do it,'' he adds.

What else can he do? A number of civilian experts and Marine officers concerned about the future of the corps suggest a few basic actions.

Eliminating unnecessary staffs is near the top of the list. More than half of them are not needed under the most demanding Pentagon plan for the Marine Corps, which calls for the simultaneous employment of an amphibious force and four brigades. Those commitments require only 13 of the 29 regimental and higher-level staffs the Marines now have, leaving 16 of them unemployed.

At one stroke, Gray could cut the headquarters overhead by 55 percent, saving millions of dollars in manpower costs that could be applied elsewhere.

With a quick trip to Europe, Gray can get the weapons that marine infantrymen need to kill tanks. European antitank weapons are generally heavier than their American equivalents, largely because they have bigger warheads. The West Europeans, who live much closer to those 50,000 Soviet tanks, build weapons to kill them.

The Marines don't have to wait years for an improved Dragon, which still exists largely as a ''paper'' design. The West German Panzerfaust III and the French Apilas, two shoulder-launched rockets now in production, are good for short-range work. For longer-range antitank engagements, the Milan missile, combat-proven in Chad, is available.

The Marines could buy 30 mm. gun pods to strap onto their close support aircraft.

''The gun is the only way to kill tanks in close,'' says Rep. Denny Smith (R., Ore.), who is prepared to help Gray get the pods. They're cheap at roughly $300,000 each.

For the price of half the Maverick missiles the Marines want to buy, they could buy 30 mm. gun pods for every jet aircraft in the corps. And they'd still have three times the 800 Mavericks they now possess.

Among the corps' friends and critics, there is a nearly universal belief that the Marines have lost focus. Instead of concentrating on the basics, says Smith, ''they're trying to capture hardware programs for a bigger budget share.''

A number of Pentagon officials, who prefer to remain anonymous, echo those sentiments, citing the ''over-the-horizon'' landing concept as little more than a technical scenario for justifying expensive new programs like the hovercraft and the tilt-rotor.

The concept that epitomizes what may be the most important problem Gray inherits: the pervasive failure to separate tactical needs from technical wants.

Tactically, the Marines needed a close air support aircraft. Technically, they lusted for the Harrier, a jet that could take off and land vertically. Now, they've got the most vulnerable close air support airplane in the world.

Tactically, the Marines needed lots of landing craft to get to the beach. Technically, they coveted the air-cushion hovercraft, which is quite literally a ''helicopter with the roof off.'' Now they've sacrificed the build-up rate ashore.

Gray appears to be sensitive to these problems. While he remains outwardly committed to the Harrier and the tilt-rotor program, he worries about the pervasive fascination at the staff level with ''programmatic forces'' instead of real ''fighting forces.''

However, Gray is also sending out mixed signals to the working level marines who have to translate his reformist zeal into detailed plans and budgets. For example, he wants to buy an assault gun, a form of light tank, which resurrects a weapon that failed miserably in World War II.

When the Marines start sorting out their must-have tactical needs from nice-to-have technical wants, they're likely to discover a lot they can do without.

They just might figure out a way to produce a Marine Corps the country can afford.

If Gray is successful in making the real, the heavy and expensive corps more like the lean, tough, deployable Marine Corps of myth, the Marines will be restored to what he calls ''real preparedness.''

''Anybody can have a bag full of numbers to look good,'' he says. ''We're going to make sure we have the right people and organizations for combat.

Mr. GRASSLEY. If General Krulak would look from the bottom up, instead of the top down, he would quickly realize that sergeants and lieutenants are needed more than generals.

Mr. President, I will be meeting with General Krulak in the near future to discuss this issue.

I hope we both come away from this meeting with a fresh perspective on what the Marine Corps really needs right now.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

DECISION BY THE FIRST CIRCUIT COURT OF APPEALS

Mr. BIDEN. Mr. President, I rise this evening to discuss a decision handed down by the First Circuit Court of Appeals, and I will be introducing a bill to correct what I think was a serious mistake the court made.

Mr. President, let me briefly discuss the court's decision. A few months ago, the First Circuit Court of Appeals made, in my view, a serious mistake—a very big mistake. It said that the term ''serious bodily injury,'' a phrase used in one of our Federal statutes, does not include the crime of rape.

Mr. President, let me tell you about this case. One night near midnight, a woman went to her car after work. While she was getting something out of the back seat of her car, a man came up behind her with a knife and forced her into the back seat of her own car. He drove her to a remote beach, ordered her to take off her clothes, made here squat down on her hands and knees, and he raped her. He raped her. After the rape, he drove off in her car, leaving her alone on the side of the road naked.

This man was convicted under the Federal carjacking statute. That statute provides for an enhanced sentence of up to 25 years if the convicted person inflicts serious—the term of art—serious bodily injury.

If he inflicts serious bodily injury in the course of the carjacking, the statute provides for an enhanced sentence, a longer sentence, of up to 25 years.

When this case got to the sentencing phase, after the defendant had been convicted of raping the woman in the manner that I just pointed out, the prosecutor asked the court to enhance the sentence, because under the statute if serious bodily injury occurred, then an additional 25 years was warranted. And the prosecutor reasoned, as I do, that rape constituted serious bodily injury.

The trial judge agreed with the prosecutor and gave the defendant the statutory 25-year maximum, finding that rape constituted serious bodily injury. But when the case went up to the First Circuit Court of Appeals, that court said no. It said, if you can believe it, that rape is not serious bodily injury.

Mr. President, I have spent the bulk of my professional career as a U.S. Senator and prior to that as a lawyer making the case that we do not take seriously enough in this country the crime of rape, and until we do we are not going to be the society we say we wish to be and we are not going to impact upon the injury inflicted on women in this society.

But the Circuit Court of Appeals ruled that rape does not constitute serious bodily injury under our statute. To support its ruling—and I am now quoting the opinion of the First Circuit Court of Appeals—the court said: ''There is no evidence of any cuts or bruises in her vaginal area.''

I apologize for being so graphic, but that is literally a quote from the court ruling. That, in my view, is absolutely outrageous.

Senator HATCH and I and Congressman CONYERS in the House are going to be offering a bill to set matters straight. Under the U.S. Criminal Code, serious bodily injury has several definitions. It includes a substantial risk of death, protracted and obvious disfigurement, protracted loss or impairment of a bodily part or mental faculty, and it also includes extreme physical pain. It takes no great leap of logic to see that a rape involves extreme physical pain. And I would go so far as to say that only a panel of male judges could fail to make that leap and even think, let alone rule, that rape does not involve extreme pain.

Rape is one of the most brutal and serious crimes any woman can experience. It is a violation of the first order, but it has all too often been treated like a second-class crime. According to a report I issued a few years ago, a robber is 30 percent more likely to be convicted than a rapist. A rape prosecution is more than twice as likely as murder prosecutions to be dismissed. A convicted rapist—and I want to get this straight—is 50 percent more likely to receive probation than a convicted robber. And you tell me that we take this crime we say is one of the most heinous crimes that can be committed by one human being on another seriously?

Look at those statistics. We treat robbery—robbery—more seriously than we do rape. No crime carries a perfect record of arrest, prosecution and incarceration, but the record for rape is especially wanting. The first circuit decision helped explain why, in my opinion. Too often our criminal justice system, as the phrase goes, just doesn't get it when it comes to crimes against women.

I acknowledge men can and have been raped as well, and a similar infliction of pain occurs, but the fact is well over 95 percent of the rapes are rapes of women.

If the first circuit decision stands, it would mean that a criminal would spend more time behind bars for breaking a man's arm than for raping a woman. If a carjacking occurred, and I was the man whose car was carjacked, and in the process of the carjacking my arm was severely broken, for that fellow who was convicted of raping the woman, had he broken my arm, there is no doubt the prosecution's request for an enhanced penalty of 25 years would have been upheld.

Think of that. We have a statute on the books that says you can enhance a penalty to 25 years for carjacking and inflicting serious bodily harm. Had it been a man with a broken arm, that guy would have been in jail for 25 years. But this was a woman who was raped. The court said, no, it does not meet the statutory requirement of serious bodily injury.

For 5 long years, Mr. President, I worked to pass a piece of legislation that I have cared about more than any other thing I have done in my entire Senate career and the thing of which I am most proud. That is the Violence Against Women Act. My staff and I wrote that from scratch. It took a long time to convince our colleagues and administrations, Democrat and Republican, that it was necessary. For 5 long years we worked to pass that law.

The act does a great many practical things. It funds more police and prosecutors specifically trained and devoted to combating rape and family violence. It trains police, prosecutors and judges in the ways of rape and family violence so that they can better understand, as, in my view, the first circuit did not understand, the nature of the problem and how to respond to the problem.

The violence against women legislation provides shelter for more than 60,000 battered women and their children. It provides extra lighting and emergency phones in subways, bus stops and parks because of the nature in which the work force has changed.

The woman sitting behind me who helped author that legislation is here at 9:30 at night. In my mother's generation, there were not many women who left work at 9:30 or 10:30 at night.

Today, there are millions and millions, like men, who do, and we recognize the need to protect them better than they have been by providing the most effective—the most effective—crime prevention tool there is: lighting. It provides for more rape crisis centers. It sets up a national hotline that battered women can call around the clock to get advice and counseling.

I am working on the ability for them when they call to also be able to get a lawyer who will handle their case pro bono—for free—and help guide them through the system. They were getting rape education efforts going with our young people so we can break the cycle of violence that begets violence.

I might note parenthetically, one of the reasons I wrote this legislation initially, the Violence Against Women Act, is that I came across an incredible study, a poll done in the State of Rhode Island, of, I think, seventh, eighth and ninth graders. I am not certain, to be honest. I think seventh, eighth and ninth graders.

It asks, in the poll conducted, the survey, ''If a man spends $10 on a woman, is he entitled to force sex on her if she refuses?'' An astounding 30-some percent of the young men answering the question said, ''Yes.'' But do you know what astounded me more? Mr. President, 25 percent of the young girls said ''yes'' as well. We have a cultural problem here that crosses lines of race, religion, ethnicity, and income. We just do not take seriously enough the battering of our women—our women, is the way our friends like to say it—of women in this country. This is especially true when it comes to victims who know their assailants. For too long we have been quick to call these private misfortunes rather than public disgraces.

The Violence Against Women Act also meant to do something else beyond the concrete measures that I mentioned. It also sent a clarion call across the land that crimes against women will no longer be treated as second-class crimes. For too long the victims of these crimes have been seen, not as innocent targets of brutality, but as participants who somehow bear some shame or even some responsibility for the violence inflicted upon them.

As I said, this is especially true when it comes to victims who know their assailants. For too long we have been quick to call theirs a private misfortune rather than a public disgrace. We viewed the crime as less than criminal, the abuser less than culpable, and the victim as less than worthy of justice.

In my own State of Delaware, until recently, if a man raped a woman he did not know, he was eligible, if he brutally did it, to be convicted of first-degree rape. But do you know what? We had a provision in our law, and many States had similar provisions, that said if the woman knew the man, if the woman was the social companion of the man, then he could only be tried for second-degree rape, the inference being that somehow she must have invited something because she knew him, she went out with him.

It seems to me we have to remain ever vigilant in our efforts to make our streets and our neighborhoods and our homes safer for all people, but in this case particularly for women. We need to make sure right now that no judge ever misreads the carjacking statute again and undermines the overwhelming purpose of my legislation in the first place, which was to change the psyche of this Nation about how we are to deal with the brutal act of rape. It is not a sex crime, it is an act of violence, a violent act.

Now, one of the most respected courts in the Nation has come down and said it does not constitute serious bodily injury. So, Mr. President, we need to make sure right now that no judge ever misreads the carjacking statute again. We need to tell them what we intend, what we always intended, that the words ''serious bodily injury'' mean rape, no ifs, ands, or buts. The legislation, a bill to be introduced by myself and Senator HATCH and others, does just that. It says, and I will read from one section:

> Section 2119(2) of title 18, United States Code, is amended by inserting '', including any conduct that, if the conduct occurred in the special maritime or territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title'' after ''(as defined in section 1365 of this title)''.

Translated into everyday English it means, serious bodily injury means rape. No judge will be able to, no matter how—I should not editorialize. No judge in the future, once we pass this legislation, will be able ever again to say that serious bodily injury does not include rape.

I thank Senator HATCH, and I would like to particularly thank Demetra Lambros, who is sitting behind me, a woman lawyer on my staff who worked with Representative CONYERS' staff to write this legislation, for the effort she has made and for calling this to my attention. I also thank Senator HATCH, who has always been supportive and very involved in this, and his staff, and Congressman CONYERS, the ranking member of the House Judiciary Committee.

I am confident if every Member—this is presumptuous for me to say, Mr. President—but as every Member of the Senate becomes aware of what this does, I cannot imagine there is anyone here or anyone in the House who will not support it.

I thank the Chair. I realize the hour is late. I thank the Chair for indulging me. Tomorrow, hopefully, we will be in a position to bring this legislation up and pass it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, for our distinguished majority leader, I make the following request. I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

MARITIME SECURITY PROGRAM

Mr. LOTT. Mr. President, I have always been a strong supporter of the U.S.-flag merchant marine, and America's maritime industry. That is why, last year I introduced the Maritime Security Act of 1995. This bill is the product of nearly a decade of bipartisan and bicameral effort. It will reform, streamline, and reduce Federal support for the U.S.-flag merchant marine, while at the same time revitalizing our U.S.-flag fleet.

The starting point for the Maritime Security Program is the simple and valid premise that America's merchant marine is a vital component of our military sealift capability.

Thus, in order to protect our military presence overseas, we must have a modern, efficient, and reliable sealift. On this point, the assessment of our Nation's top military leaders is unequivocal. Our military needs a U.S.-flag merchant marine to carry supplies to our troops overseas. We cannot, in fact, we must not, rely on foreign ships and foreign crews to deliver supplies into hostile areas.

Just recently I receive a letter from Adm. Thomas Moorer, the former Chairman of the Joint Chiefs of Staff, and Rear Adm. Robert Spiro, a former Under Secretary of the Army. They both enthusiastically endorsed the legislation. I have added this letter to a stack of letters sitting on my desk from many other distinguished military leaders who also have strongly backed the Maritime Security Act.

Not long ago, I also received endorsements of the Maritime Security Act from the Honorable John P. White, the current Deputy Secretary of Defense, and the Honorable John W. Douglass, the current Assistant Secretary of the Navy for Research, Development and Acquisition.

I also have received numerous letters from members of the Navy League of the United States.

Clearly, there is visible support from both the active and retired military community for the recognized value of this program.

The Maritime Security Act will ensure that our Nation will continue to have access to both a fleet of militarily useful U.S.-flag commercial vessels, and a cadre of trained and loyal U.S.-citizen crews. What's more, under this bill our military planners will gain access to the onshore logistical and intermodal capabilities of these U.S.-flag vessel operators. Instead of just getting a ship, our military gets access to port facilities worldwide, state-of-the-art computer tracking systems, intermodal loading and transfer equipment,

and so on. And our Nation get these benefits for less than half the cost of the current program.

This is both a fiscal and national security bargain.

Let me make this point clear. This is not a blanket handout to the maritime industry. To participate in the Maritime Security Program, each vessel must be approved by the Secretary of Defense. And participation is limited to vessels actively engaged in the international maritime trades.

Make no mistake about it—without it the American maritime flag will disappear from the high seas. The U.S.-flag merchant marine that has helped to sustain this country in peace and has served with bravery and honor in wartime will be gone.

I don't believe that any American wants that day to come.

Provisions of this bill have been considered and discussed in nearly 50 public hearings in either the House or the Senate. These hearings were full and open. All interested parties, both for and against this approach, have had notice and opportunity to make comments, criticisms and corrections. In 9 years, this inclusive process has insured the incorporation of all valid provisions into a balanced and responsible public policy which advances and revitalizes an integral segment of America's economy and culture. This inclusive process is reflected in the deep respect and support for this legislation across a wide political and social spectrum.

The House passed the bill in December on a voice vote, with overwhelming and loud bipartisan support. I have been told that the President intends to sign this bill promptly after its final passage here in the Senate.

Mr. President, the Senate has a responsibility to provide for the Nation's defense. And this bill represents the most cost-effective way to make sure that our military has the sealift capabilities it needs to protect our interests around the world. It marks a dramatic departure from our previous maritime programs. The entitlements are gone, and they have been replaced by a vigorous fiscal discipline and dynamic marketplace.

Mr. President, I urge all of my colleagues to stand with me in support of this legislation when it comes to the floor.

Mr. President, this is a bill we must pass before this Congress goes into recess for this fall's elections. It is my hope that the Senate will consider the Maritime Security Act on the floor in September.

FOREIGN OPERATIONS APPROPRIATIONS BILL

Mr. KYL. Mr. President, I am pleased and honored to offer an amendment to the Foreign Operations Appropriations bill for assistance to Ukraine. Ukraine's achievement this year in the areas of ethnic stability, human rights and constitutional reform are significant, and fully justify the substantial earmark of aid being proposed. My proposal will not change the total amount of the appropriation, but it will provide assurance that appropriated funds will be used in the interest of both the United States and Ukraine.

I believe that the best forms of foreign aid are those which strengthen the recipient from within and lead toward self sufficiency and, ultimately, independence from any assistance from the United States or other foreign sources.

In this spirit, I propose this earmark in the amount of $25 million for the purpose of helping to create a complete, modern system of commercial law in Ukraine, including not only substantive laws which are compatible with international standards but also training and equipping of an independent judiciary and legal profession, which as we know are the cornerstones of law-based economy.

Such a fundamental transformation—from a totalitarian command economy to a self-sustaining free market—cannot be achieved without substantial technical assistance. Until now, assistance for comprehensive commercial law reform has been provided to Ukraine largely through pro bono publico, through a commendable program of donated aid known as the Commercial Law Project for Ukraine. These private efforts, no matter how praiseworthy, are inadequate to bring about the fundamental reforms which are so urgently needed, the earmark which I propose would fill that need and bring the goal of economic self-sufficiency for Ukraine closer to a reality.

The philosopher John Locke wrote, ''Where law ends, tyranny begins.'' It is also true that, where law begins, tyranny ends. In this spirit, I propose an earmark for legal and commercial law restructuring in Ukraine.

I ask unanimous consent to have printed in the RECORD three letters in support of this amendment from Yuri Shcherbak, Ambassador of Ukraine, Orest A. Jejna, President of the Ukrainian American Bar Association, Askold Lozynskyj, President of the Ukrainian Congress Committee of America.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

EMBASSY OF UKRAINE,
Washington, DC, July 5, 1996.

Re foreign assistance appropriations for fiscal year 1997—sub-earmark for legal reform-commercial law restructuring.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: Thank you very much for your successful sponsorship of a foreign aid earmark for Ukraine in the Foreign Operations Subcommittee. Please call on me or my staff at any time if we can assist you in the coming weeks to win Congressional approval of the earmark.

I am writing at this time to indicate my support for the addition of a sub-earmark for legal reform and commercial law restructuring as recently proposed by the Ukrainian American Bar Association. I respectfully request that you support the addition of such a sub-earmark, which will help to assure that U.S. assistance will promote the establishment of the rule of law in Ukraine.

This sub-earmark would be especially encouraging for my country in respect to the adoption of the New Constitution of Ukraine and preparation of a great number of legislative acts following the Constitution.

Ukraine wants from the U.S. only that assistance which will make her self-sufficient and independent of all foreign aid. Proposals such as that by the Ukrainian American Bar Association help to bring the goal of self-sufficiency closer to realization.

Thank you once again for your support for our common cause of revitalization of Ukraine.

With warmest regards, I remain,

Respectfully,

YURI SHCHERBAK,
Ambassador of Ukraine to the USA.

UKRAINIAN AMERICAN BAR ASSOCIATION,
Phoenix, AZ, July 2, 1996.

Senator MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: Thank you for your sponsorship of an earmark of aid to Ukraine. Your courageous advocacy has promoted vital U.S. interests while bringing freedom to the people of Ukraine.

I want to add my voice to those who are requesting inclusion of an additional subearmark for legal reform and commercial law restructuring as necessary to support a decentralized, market-oriented economy. The funds granted to date by the U.S. government for comprehensive commercial law reform in Ukraine have been woefully inadequate to provide Ukraine with the necessary foundation for a functioning private sector.

I believe it is encumbent upon Congress to support assistance projects which will promote Ukraine's self-sufficiency and eventual independence from U.S. foreign aid. Commercial law reform and other fundamental legal reforms are among the most important priorities in achieving self-sufficiency for Ukraine.

If it is feasible at this juncture, I urge Congress to adopt an additional subearmark for legal reform in Ukraine as follows:

''$25,000,000.00 for legal restructuring necessary to support a decentralized market-oriented economic system, including the creation of all necessary substantive commercial law, all reforms necessary to establish an independent judiciary and bar, legal education for judges, attorneys and law students, and public education designed to promote understanding of a law-based economy.''

If you wish any additional information on the position of the Ukrainian American Bar Association, do not hesitate to contact me at (602) 254–3872. Thank you for your consideration of this subject of vital concern.

Respectfully,

OREST A. JEJNA,
President.

UKRAINIAN CONGRESS, COMMITTEE OF AMERICA,
New York, NY, June 11, 1996.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

Dear Senator McConnell: On behalf of the Ukrainian Congress Committee of America, Inc. (UCCA), the representative organization of the Ukrainian-American community, please allow me to once again thank you for your leadership in the passage of the $225

million earmark for Ukraine in FY 1996. The continuance of foreign aid to Central Europe and Ukraine are vital to the security of the United States and the entire world. More importantly, foreign assistance, which is properly distributed, will help insure the stability and security of Ukraine.

Since independence almost five years ago, Ukraine and its people have been striving for political, economic, and social reform. The issue at hand is that Ukraine, like many other developing countries, cannot accomplish these reforms alone. Only by the guidance and assistance of the United States can Ukraine endure this transition period.

It has come to the attention of the UCCA that during the upcoming deliberations in the Senate Sub-Committee for Foreign Operations, the opportunity to introduce another $225 million earmark for Ukraine will likely present itself, though issues remain as to how that earmark will be sub-marked. The UCCA strongly endorses the following programs as sub-earmarks for the next fiscal year.

A sub-earmark of $50 million for energy-sector restructuring, designed to alleviate Ukraine's critical need for energy resources and to improve efficiency of its large fossil-fuel and nuclear plants, therefore lessening the chances of another catastrophic nuclear accident of global proportions;

A sub-earmark of $50 million for the continued reform of the agricultural sector in Ukraine under the Food Systems Restructuring Program (FSRP) to be matched with private sector funding. Presently, the agricultural sector in Ukraine comprises nearly 60% of its GDP. For Ukraine to become economically self-sufficient, it must be provided the opportunity for greater efforts to enhance agricultural reform;

A sub-earmark of $45 million for the creation of a business incubator center that provides seed capital, as well as lending and equity investments to promote the growth of small- and medium-sized businesses in Ukraine.

A sub-earmark for $25 million for legal system restructuring, designed to reform the Ukrainian judiciary system and provide Ukraine with critically needed course materials for its law schools. Commercial law reform also remains vital in identifying the types of law and legal procedures which are necessary for the operation of a decentralized free market economic system, with special emphasis on contract enforcement mechanisms and the establishment of arbitration courts;

A sub-earmark of $20 million for business development programs targeting the privatization of large-scale enterprises, which would further stimulate the growth of the private sector in Ukraine;

A sub-earmark of $15 million for democracy-building programs that enable the development and expansion of efforts for further democratization in Ukraine;

A sub-earmark of $10 million for medication, hospital supplies, and training of physicians under a program to facilitate the treatment of cancers and other diseases related to the Chornobyl nuclear accident;

A sub-earmark of $5 million to promote the formation of independent broadcast and print media centers, essential elements of a democratic, law-based society; and

A sub-earmark of $4.5 million for FBI legal attaché offices, intended to respond to the increased threats of international terrorism and the troubling rise of corruption and organized crime in the former Soviet region which directly jeopardize U.S. interests at home and abroad.

Furthermore, business and university partnerships between Ukraine and U.S. should be developed to enhance a cooperation of business expertise and knowledge. These programs would provide training for sophisticated technology use and advance Ukraine in its commitment for economic reform. I urge that you consider the sub-earmarks proposed, which would guarantee Ukraine its fair share of the foreign aid directed to the NIS.

Again, thank you for your dedication to Ukraine's course of economic and political reform. If you have any questions, please feel free to contact Michael Sawkiw, Jr., Director of the Washington, D.C. office of the UCCA at (202) 547–0018 (tel) or (202) 543–5502 (fax).

Sincerely,

ASKOLD S. LOZYNSKYJ,
President.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, four years ago when I commenced these daily reports to the Senate I wanted to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In my first report on February 27, 1992, the Federal debt the previous day stood at $3,825,891,293,066.80, at the close of business. The Federal debt has, of course, shot further into the stratosphere since then. (At the close of business yesterday, Monday, July 29, an additional $1,356,563,675,813.41 had been added to the Federal debt since February 26, 1992.)

That means, Mr. President, that the exact Federal debt stood yesterday at $5,182,454,968,880.21, which on a per capita basis means that every man, woman, and child in America owes $19,527.65 as his or her share of the Federal debt.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, without amendment:

S. 531. An act to authorize a circuit judge who has taken part in an in banc hearing of a case to continue to participate in that case after taking senior status, and for other purposes.

S. 1757. An act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the act, and for other purposes.

S.J. Res. 20. A joint resolution granting the consent of Congress to the compact to provide for joint natural resource management and enforcement of laws and regulations pertaining to natural resources and boating at the Jennings Randolph Lake Project lying in Garrett County, Maryland and Mineral County, West Virginia, entered into between the States of West Virginia and Maryland.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3603) making appropriations for agriculture, rural development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SKEEN, Mr. MYERS of Indiana, Mr. WALSH, Mr. DICKEY, Mr. KINGSTON, Mr. RIGGS, Mr. NETHERCUTT, Mr. LIVINGSTON, Mr. DURBIN, Ms. KAPTUR, Mr. THORNTON, Mr. FAZIO, and Mr. OBEY as the managers of the conference on the part of the House.

At 5:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3907. An act to facilitate the 2002 Winter Olympic Games in the State of Utah at the Snowbasin Ski Area, to provide for the acquisition of lands within the Sterling Forest Reserve, and for other purposes.

At 6:32 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3540) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. CALLAHAN, Mr. PORTER, Mr. LIVINGSTON, Mr. LIGHTFOOT, Mr. WOLF, Mr. PACKARD, Mr. KNOLLENBERG, Mr. FORBES, Mr. BUNN, Mr. WILSON, Mr. YATES, Ms. PELOSI, Mr. TORRES, Mrs. LOWEY, and Mr. OBEY as the managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3610) making appropriations for the Department of Defense for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. YOUNG of Florida, Mr. MCDADE, Mr. LIVINGSTON, Mr. LEWIS of California, Mr. SKEEN, Mr. HOBSON, Mr. BONILLA, Mr. NETHERCUTT, Mr. ISTOOK, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. SABO, and Mr. OBEY as the managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3754)

making appropriations for the Legislative Branch for the fiscal year ending September 30, 1997, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. PACKARD, Mr. YOUNG of Florida, Mr. TAYLOR of North Carolina, Mr. MILLER of Florida, Mr. WICKER, Mr. LIVINGSTON, Mr. THORNTON, Mr. SERRANO, Mr. FAZIO, and Mr. OBEY as the managers of the conference on the part of the House.

MEASURES REFERRED

The following concurrent resolution, previously received from the House of Representatives for the concurrence of the Senate, was read and referred as indicated:

H. Con. Res. 198. Concurrent resolution, the use of the Capitol Grounds for the first annual Congressional Family Picnic; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1130. A bill to provide for the establishment of uniform accounting systems, standards, and reporting systems in the Federal Government, and for other purposes (Rept. No. 104–339).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1237. A bill to amend certain provisions of law relating to child pornography, and for other purposes.

S. 1556. A bill to prohibit economic espionage, to provide for the protection of United States proprietary economic information in interstate and foreign commerce, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with amendments:

S. 1887. A bill to make improvements in the operation and administration of the Federal courts, and for other purposes.

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1931. A bill to provide that the United States Post Office building that is to be located at 9 East Broad Street, Cookeville, Tennessee, shall be known and designated as the ''L. Clure Morton Post Office and Courthouse.''

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Treaty Doc. 104–2 Treaty With the United Kingdom of Mutual Legal Assistance In Criminal Matters (Exec. Rpt. 104–23):

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland on Mutual Legal Assistance in Criminal Matters, signed at Washington on January 6, 1994, together with a Related Exchange of Notes signed the same date. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

''Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.''

Treaty Doc. 104–01 Treaty with the Republic of Korea on Mutual Legal Assistance in Criminal Matters (Exec. Rept. 104–22):

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the United States of American and the Republic of Korea on Mutual Legal Assistance in Criminal Matters, signed at Washington on November 23, 1993, together with a Related Exchange of Notes signed on the same date. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

''Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.''

Treaty Doc. 104–21 Treaty with Austria on Mutual Legal Assistance in Criminal Matters (Exec. Rpt. 104–24):

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Austria on Mutual Legal Assistance in Criminal Matters, signed at Vienna on February 23, 1995. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

''Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.''

Treaty Doc. 104–20 Treaty with Hungary on Mutual Legal Assistance in Criminal Matters (Exec Rpt. 104–25)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Mutual Legal Assistance in Criminal matters, signed at Budapest on December 1, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

''Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.''

Treaty Doc. 104–18 Treaty with the Philippines on Mutual Legal Assistance in Criminal Matters (Exec Rpt. 104–26)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines on Mutual Legal Assistance in Criminal matters, signed at Manila on November 13, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

''Pursuant to the rights of the United States under this Treaty to deny requests which prejudice its essential public policy or interest, the United States shall deny a request for assistance when the Central Authority, after consultation with all appropriate intelligence, anti-narcotic, and foreign policy agencies, has specific information that a senior government official who will have access to information to be provided under this Treaty is engaged in a felony, including the facilitation of the production or distribution of illegal drugs.''

Treaty Doc. 104–5 Treaty with Hungary (Exec Rpt. 104–27)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Treaty Between the Government of the United States of America and the Government of the Republic of Hungary on Extradition, signed at Budapest on December 1, 1994. The Senate's advice and consent is subject to the following two provisos, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

Treaty Doc. 104–7 and 104–8 Extradition Treaty with Belgium and Supplementary Extradition Treaty with Belgium (Exec Rpt. 104–28)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Supplementary Treaty on Extradition Between the United States of America and the Kingdom of Belgium to Promote the Repression of Terrorism, signed at Brussels on April 27, 1987. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the United States of America and the Kingdom of Belgium signed at Brussels on April 27, 1987. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

Treaty Doc. 104–16 Extradition Treaty with the Philippines (Exec. Rpt. 104–29)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Republic of the Philippines, signed at Manila on November 13, 1994. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

Treaty Doc. 104–26 Extradition Treaty with Malaysia (Exec. Rpt. 104–30)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of Malaysia, and a Related Exchange of Notes signed at Kuala Lampur on August 3, 1995. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

Treaty Doc. 104–22 Extradition Treaty with Bolivia (Exec. Rept. 104–31)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Bolivia, signed at La Paz on June 27, 1995. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

Treaty Doc. 104–9 Extradition Treaty with Switzerland (Exec. Rept. 104–32)

TEXT OF THE COMMITTEE-RECOMMENDED RESOLUTION OF ADVICE AND CONSENT

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Extradition Treaty Between the Government of the United States of America and the Government of the Swiss Conferderation, signed at Washington on November 14, 1990. The Senate's advice and consent is subject to the following proviso, which shall not be included in the instrument of ratification to be signed by the President:

''Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.''

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COATS (for himself, Mr. STEVENS, Mr. NICKLES, Mr. ABRAHAM, Mr. DEWINE, Mr. COVERDELL, and Mr. FAIRCLOTH):

S. 2000. A bill to make certain laws applicable to the Executive Office of the President, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PELL:

S. 2001. A bill to amend the Job Training Partnership Act to improve the definition relating to eligible dislocated workers, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE:

S. 2002. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

By Mr. EXON:

S. 2003. A bill to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COATS (for himself, Mr. STEVENS, Mr. NICKLES, Mr. ABRAHAM, Mr. DEWINE, Mr. COVERDELL and Mr. FAIRCLOTH):

S. 2000. A bill to make certain laws applicable to the Executive Office of the President, and for other purposes; to the Committee on Governmental Affairs.

THE PRESIDENTIAL AND EXECUTIVE OFFICE ACCOUNTABILITY ACT

Mr. COATS. All Members of this body remember early in this Congress we introduced and passed into law the Congressional Accountability Act which applied the various civil rights and labor laws that are currently applicable to employers and employees throughout America's workplaces, and applied this same restrictions to Members of Congress.

For too long we had exempted ourselves from the laws and regulations that we had imposed on virtually every other business operation in America. There were only a couple of workplaces that were exempted: The Labor Standards Act, the Civil Rights Act of 1964, the Americans With Disability Act, and the other items that we discussed. Those institutions were the U.S. Congress and the executive branch, in particular, the White House. We remedied that, partially, for the Congress with the adoption of the Congressional Accountability Act.

Now, these 11 specific items apply to Members of Congress as well as to the private sector. I think what we are learning is that some of these laws are good, some of these laws are applicable to what we do, but some of them are overly burdensome and overly restrictive and therefore need to be examined. Because they apply to us as they apply to everyone else, we feel that burden, and perhaps we can be reasonable when we examine these to determine whether or not reforms are needed.

This act would apply these same provisions that now apply to Congress and virtually every other workplace in the country, to the White House. This legislation, which I send to the desk for referral, was originally cosponsored by Senator STEVENS, as well as other Members including Senators NICKLES, ABRAHAM, DEWINE, COVERDELL, and FAIRCLOTH.

Mr. President, today I send to the desk a bill designed to eliminate a dubious double standard that remains in the application of our civil rights and labor protection laws.

Last year, this Congress passed the Congressional Accountability Act, requiring Congress to live under the laws it passes—and oftentimes imposes—on the rest of the Nation. Now that the Congressional Accountability Act is

the law of the land, only one workplace in America remains exempt from our Nation's laws and regulations. In just one place of employment, workers do not enjoy the rights and protections afforded to all other Americans. That one place is the White House, and it's time for the White House to join the rest of the United States in living under the civil rights and labor laws governing the rest of the Nation.

For decades, Congress callously exempted itself from rules and regulations it was passing for the rest of the country. Many of us had supported the Congressional Accountability Act for years, but were thwarted in our efforts. Finally, when—for the first time in 40 years—Republicans gained control of Congress, we wasted little time and passed the Congressional Accountability Act into law.

I remain in strong support of the principle that Congress should not be exempt from the laws that apply to all other Americans, and because of the Congressional Accountability Act, Congress now is living under 11 different labor and civil rights laws from which it had previously exempted itself. I continue to believe that this is a simple issue of fundamentlal fairness. Congress should live under the laws it passes for everyone else. In doing so, lawmakers will learn first hand which laws work, and perhaps more often than not, which laws are overly intrusive and burdensome.

These lessons also would be appropriate for the White House, since under President Clinton the Federal Register of Government regulations now totals about 65,000 pages, the largest number in more than 15 years. Despite President Clinton's stated concerns for the working men and women of this country, the White House continues to exempt itself from the laws and regulations covering the rest of the country, including Congress and all private businesses.

For example, because of this privileged loophole, the White House does not have to abide by the minimum wage or the Family Medical Leave Act or the overtime requirements of the Fair Labor Standards Act or several of the other civil rights and labor laws that apply to all other Americans. I think America's labor leaders will agree with me when I say that employees of the White House should be protected by the same laws that the President approves for the rest of the country. Employees should have the same rights and protections regardless of where they work—whether the individual labors in the private sector, the Congress, and yes, even in the White House.

There are some in the White House who argue that this legislation is unnecessary because the White House voluntarily complies with the spirit of many of these laws. Mr. President, I argue that voluntary compliance is not good enough. How many private sector companies are allowed to voluntarily comply with the laws of the land? The answer is zero, and the White House should not be an exception.

The Congressional Accountability Act, and the proposed White House Accountability Act, give employees of these two branches of Government the same rights as any other citizen to go into a court of law and have their case heard by a jury of their peers. White House employees should not have to depend on the benevolence or arbitrary good will of a supervisor to ensure that they are not taken advantage of, sexually harassed, or otherwise dealt with in an inappropriate and possibly illegal manner. They deserve the right to be free from discrimination, the right to work in a safe and healthy work environment, the right not to be fired simply because of race, sex, disability, or age. White House workers deserve the same rights and protections that every other American enjoys in the private sector, and now in the U.S. Congress.

The White House Accountability Act also would be good policy for senior management and administrators. White House policy makers and their staffs would gain a first-hand understanding of the laws they propose and enact. Perhaps the White House will find, as many in Congress have been forced to learn, that some of the laws we pass are good, some do not go far enough and need to be strengthened, or—and this is too often the case—that many of the regulations imposed on the Nation by the Federal bureaucracy in Washington are onerous and in serious need of reform.

Writing in the Federalist Papers, James Madison instructed us that no branch of Government is above the law. Madison wrote, ''Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society.''

Because of the Congressional Accountability Act, Federal laws and regulations now apply from our Nation's assembly lines to our Nation's general assembly. When President Clinton was inaugurated, he called the White House, ''the people's house.'' It's time he backed up that statement by letting his workers in the White House enjoy the same civil rights and labor protections enjoyed by the rest of the people in whose house they serve.

By Mr. PELL:

S. 2001. A bill to amend the Job Training Partnership Act to improve the definition relating to eligible dislocated workers, and for other purposes; to the Committee on Labor and Human Resources.

THE FISHERMEN AS DISLOCATED WORKERS ACT

Mr. PELL. Mr. President, I am introducing legislation today that amends the Job Training Partnership Act [JTPA] to improve the definition of eligible dislocated workers. The legislation defines ''dislocated worker'' as any employee who ''has become unemployed as a result of a Federal action that limits the use of, or restricts access to, a marine natural resource.''

This language is directed at fishermen. In Rhode Island, as well as many other coastal States, customarily the crew members of fishing boats are not paid but are given a share of the day's catch. Unfortunately, this means they are neither employees of the boat nor self-employed.

Fishing has always been a difficult occupation. But now, with a declining supply, Government efforts to restore the population of various species of fish by limiting or closing access to fishing grounds, and the need to close large portions of our coastal waters after oil spills and other environmental disasters, fishermen are leaving port less and, when they do, catching less.

Some months ago, I received a letter from a Rhode Island fisherman who realized that fishing would no longer be able to support the demands of his growing family. He had, therefore, selected a new occupation—he wants to be a cabinetmaker—and on his own, he had located and been accepted into a training program. His only problem? Financial assistance.

Because he is technically not unemployed, the present system is of no help to him. My legislation would correct that unfortunate inequity.

I originally offered and had accepted a similar version of this legislation in the Labor and Human Resources Committee as an amendment to S. 143, the Workforce Development Act. Regrettably, the House-Senate work force development conference committee has only just finished its work under a cloud of partisanship and disagreement and I very much doubt any further action will take place during this Congress.

I do not believe the commercial fishermen in Galilee, RI, should suffer because of the failure of a conference committee in Washington, DC. I have, therefore, drafted this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION.

Section 301(a)(1) of the Job Training Partnership Act (29 U.S.C. 1651(a)(1)) is amended—

(1) in subparagraph (C), by striking ''; or'' and inserting a semicolon;

(2) in subparagraph (D), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(E) have become unemployed as a result of a Federal action that limits the use of, or restricts access to, a marine natural resource.''.

By Ms. SNOWE:

S. 2002. A bill to amend title 18, United States Code, to prohibit taking a child hostage in order to evade arrest; to the Committee on the Judiciary.

CRIME LEGISLATION

● Ms. SNOWE. Mr. President, over the past few years, America has witnessed an unfortunate trend involving standoffs between the U.S. Government and parties who reject its authority to enforce the laws of this land—specifically, the incidents in Waco, TX; Ruby Ridge, ID; and Garfield County, MT. Thankfully, the most recent episode involving the Freemen did not escalate to violence or bloodshed. Regrettably, this does not hold true for Waco or Ruby Ridge, where there was a tragic loss of life to civilians and Government agents alike.

Each of these situations jeopardized children's lives—innocent children who had no choice in the role they played in these standoffs. In Waco, 25 young children under the age of 15 died in the blaze that spread throughout the compound. These deaths occurred despite the repeated efforts by Federal agents to encourage Branch Davidians leaders to allow children to leave the compound.

At Ruby Ridge, a 14-year-old died after being caught in gunfire. And during the Freemen standoff, Americans across the Nation held their breath—praying that violence would not erupt. Once again, the lives of children were placed in jeopardy. But thankfully, this time, the children—and adults—emerged unharmed.

As we have seen, tragedy can occur in these very tense situations. Above all else, we need to ensure that children are kept out of these situations in the future. People who arm themselves after failing to comply with warrants or because they seek to avoid arrest must realize that, whether or not it is intended, children are implicated in these standoffs. We cannot allow this to continue any longer. We cannot allow another child's life to be endangered in this manner.

Today, I am introducing a bill which seeks to protect children from harm in these standoff situations. My bill would make it a crime to detain a child when two conditions are met: if a person is trying to evade arrest or avoid complying with a warrant, and that person uses force, or threatens to use force, against a Federal agent. Any person convicted of violating this act would be imprisoned for 10–25 years. If a child is injured, the penalty would be increased to 20–35 years. If a child is killed, the penalty would be life imprisonment.

No law can ever assure that children will be kept free from harm. But this legislation will help assure that children do not become inadvertent, innocent pawns when violent situations arise. It will provide a deterrent to involving a child in any standoff—and severe penalties for those who ignore the law.

Tense standoffs between Federal law enforcement officers and hostile fugitives are no place for children. This bill will help encourage the removal of innocent children from such dangerous situations. As a nation, we should not tolerate the use of children as pawns or human shields when people choose to evade the laws of this land. I hope my colleagues support this important piece of legislation.●

By Mr. EXON:

S. 2003. A bill to amend the Armored Car Industry Reciprocity Act of 1993 to clarify certain requirements and to improve the flow of interstate commerce; to the Committee on Commerce, Science, and Transportation.

THE ARMORED CAR INDUSTRY RECIPROCITY IMPROVEMENT ACT

Mr. EXON. Mr. President, I introduce legislation known as the Armored Car Industry Reciprocity Improvement Act. This legislation is a companion measure to H.R. 3431 which has unanimously passed in the House of Representatives. It is my hope that this bill which makes a slight modification to its companion can be taken up and swiftly passed this year to safely expand the benefits of the Armored Car Reciprocity Act of 1993 which I introduced in the U.S. Senate. The 1993 law which had support from law enforcement, public safety and armored car industry advocates replaced a patch work of State laws with a common sense, pro-safety, pro-interstate commerce approach to weapons registration, background checks and training for armored car crew members.

The amendments to the 1993 law build on what was learned since 1993 and will make the reciprocal benefits of the law available to more States. The net result will be better screened, better qualified and better trained armored car crews.

The armored car is one of the most overlooked instrumentalities of interstate commerce. Without the ability to safely and securely move currency, securities, food stamps, gold and other valuables, interstate commerce would be impossible.

I am pleased to introduce this legislation which I encourage the U.S. Senate to overwhelmingly endorse. It is a tribute to the success of the 1993 law.

ADDITIONAL COSPONSORS

S. 968

At the request of Mr. MCCONNELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 968, a bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1832

At the request of Ms. MIKULSKI, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 1832, a bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies, subject to a reduction of 50 percent if the recipient dies during the first 15 days of such month, and for other purposes.

SENATE JOINT RESOLUTION 52

At the request of Mr. KYL, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of Senate Joint Resolution 52, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of victims of crimes.

SENATE JOINT RESOLUTION 57

At the request of Mr. ASHCROFT, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 57, a joint resolution requiring the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in addition to static economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law.

AMENDMENT NO. 5119

At the request of Mr. MACK the names of the Senator from Kentucky [Mr. FORD], and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of amendment No. 5119 proposed to H.R. 3754, a bill making appropriations for the legislative branch for the fiscal year ending September 30, 1997, and for other purposes.

AMENDMENTS SUBMITTED

THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1997

DOMENICI AMENDMENT NO. 5121

Mr. DOMENICI proposed an amendment to amendment No. 5094 proposed by Mr. MCCAIN to the bill (S. 1959) making appropriations for energy and water development for the fiscal year ending September 30, 1997, and for other purposes; as follows:

On line three of amendment number 5094, strike ''Act'' and insert in lieu thereof the following: ''Act. The Department of Energy shall report monthly to the Committees on

Appropriations of the House and Senate on the Department of Energy's adherence to the recommendations included in the accompanying report.''

DOMENICI AMENDMENT NO. 5122

Mr. DOMENICI (for himself) proposed an amendment to the bill, S. 1959, supra; as follows:

On page 22, line 17, following ''$92,629,000'' insert the following: '': *Provided further*, That in addition to any other payments which it is required to make under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, the Department of Energy shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee who is covered under subchapter III of chapter 83 or chapter 84 of title 5 to whom a voluntary separation incentive has been paid under this paragraph''.

THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1997

HATFIELD AMENDMENTS NOS. 5123–5125

Mr. HATFIELD proposed three amendments to the bill (H.R. 3675) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1997, and for other purposes; as follows:

AMENDMENT NO. 5123

Strike section 346 and insert the following:

SEC. 346. DEPARTMENT OF TRANSPORTATION VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term ''agency'' means the following agencies of the Department of Transportation:

(A) the United States Coast Guard;

(B) the Research and Special Programs Administration;

(C) the St. Lawrence Seaway Development Corporation;

(D) the Office of the Secretary;

(E) the Federal Railroad Administration; and

(F) any other agency of the Department with respect to employees of such agency in positions targeted for reduction under the National Performance Review;

(2) the term ''employee'' means an employee (as defined by section 2105 of title 5, United States Code) who is employed by the agency serving under an appointment without time limitation, and has been currently employed for a continuous period of at least 3 years, but does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the agency;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under the applicable retirement system referred to in subparagraph (A);

(C) an employee who is in receipt of a specific notice of involuntary separation for misconduct or unacceptable performance;

(D) an employee who, upon completing an additional period of service as referred to in section 3(b)(2)(B)(ii) of the Federal Workforce Restructuring Act of 1994 (5 U.S.C. 5597 note), would qualify for a voluntary separation incentive payment under section 3 of such Act;

(E) an employee who has previously received any voluntary separation incentive payment by the Federal Government under this section or any other authority and has not repaid such payment;

(F) an employee covered by statutory reemployment rights who is on transfer to another organization; or

(G) any employee who, during the twenty four month period preceding the date of separation, has received a recruitment or relocation bonus under section 5753 of title 5, United States Code, or who, within the twelve month period preceding the date of separation, received a retention allowance under section 5754 of title 5, United States Code.

(b) AGENCY STRATEGIC PLAN.—

(1) IN GENERAL.—The head of an agency, prior to obligating any resources for voluntary separation incentive payments, shall submit to the House and Senate Committees on Appropriations and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a strategic plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

(2) CONTENTS.—The agency's plan shall include—

(A) the positions and functions to be reduced or eliminated, identified by organizational unit, geographic location, occupational category and grade level;

(B) the number and amounts of voluntary separation incentive payments to be offered; and

(C) a description of how the agency will operate without the eliminated positions and functions.

(c) AUTHORITY TO PROVIDE VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—

(1) IN GENERAL.—A voluntary separation incentive payment under this section may be paid by an agency to any employee only to the extent necessary to eliminate the positions and functions identified by the strategic plan.

(2) AMOUNT AND TREATMENT OF PAYMENTS.—A voluntary separation incentive payment—

(A) shall be paid in a lump sum after the employee's separation;

(B) shall be paid from appropriations or funds available for the payment of the basic pay of the employees;

(C) shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(ii) an amount determined by an agency head not to exceed $25,000 in fiscal year 1997, $20,000 in fiscal year 1998, $15,000 in fiscal year 1999, or $10,000 in fiscal year 2000;

(D) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(E) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(3) LIMITATION.—No amount shall be payable under this section based on any separation occurring before the date of the enactment of this Act, or after September 30, 2000.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any other payments which it is required to make under subchapter III of chapter 83 of title 5, United States Code, an agency shall remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund an amount equal to 15 percent of the final basic pay of each employee of the agency who is covered under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, to whom a voluntary separation incentive has been paid under this section.

(2) DEFINITION.—For the purpose of paragraph (1), the term ''final basic pay'', with respect to an employee, means the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee's final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who has received a voluntary separation incentive payment under this section and accepts any employment for compensation with the Government of the United States, or who works for any agency of the United States Government through a personal services contract, within 5 years after the date of the separation on which the payment is based shall be required to pay, prior to the individual's first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

(f) REDUCTION OF AGENCY EMPLOYMENT LEVELS.—

(1) IN GENERAL.—The total number of funded employee positions in an agency shall be reduced by one position for each vacancy created by the separation of any employee who has received, or is due to receive, a voluntary separation incentive payment under this section. For the purposes of this subsection, positions shall be counted on a full-time-equivalent basis.

(2) ENFORCEMENT.—The President, through the Office of Management and Budget, shall monitor each agency and take any action necessary to ensure that the requirements of this subsection are met.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1996.

AMENDMENT NO. 5124

On page 63 of the bill, line 24, strike ''Arkansas'' and insert ''Alaska''.

AMENDMENT NO. 5125

On page 60 of the bill, line 21, strike ''5307'' and insert ''5311''.

LAUTENBERG AMENDMENT NO. 5126

Mr. LAUTENBERG proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 5, line 17, strike ''132,500,000'' and insert ''132,499,000.''

On page 14, line 22, strike ''187,000,000'' and insert ''188,490,000.''

On page 38, line 5, strike ''200,000,000'' and insert ''198,510,000.''

KOHL AMENDMENT NO. 5127

Mr. HATFIELD (for Mr. KOHL) proposed an amendment to the bill, H.R. 3675, supra; as follows:

SEC.—. It is the sense of the Senate that Congress should actively consider legislation to establish the Saint Lawrence Seaway Development Corporation as a performance-based organization on a pilot basis beginning in fiscal year 1998.

BOND AMENDMENT NO. 5128

Mr. HATFIELD (for Mr. BOND) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . FEDERAL AVIATION ADMINISTRATION PROCUREMENT.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Administrator of the Federal Aviation Administration should promote and encourage the use of full and open competition as the preferred method of procurement for the Federal Aviation Administration.

(b) INDEPENDENT ASSESSMENT.—Not later than December 31, 1997, the Administrator of the Federal Aviation Administration shall—

(1) take such action as may be necessary to provide for an independent assessment of the acquisition management system of the Federal Aviation Administration that includes a review of any efforts of the Administrator in promoting and encouraging the use of full and open competition as the preferred method of procurement with respect to any contract that involves an amount greater than $50,000,000; and

(2) submit to the Congress a report on the findings of that independent assessment.

(c) FULL AND OPEN COMPETITION DEFINED.—For purposes of this section, the term ''full and open competition'' has the meaning provided that term in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).

KERREY AND EXON AMENDMENT NO. 5129

Mr. HATFIELD (Mr. KERREY, for himself and Mr. EXON) proposed an amendment to the bill, H.R. 3675, supra; as follows:

49 U.S.C. App. 2311 is amended by adding the following new subsection:

(d) NEBRASKA.—In addition to vehicles which the State of Nebraska may continue to allow to be operated under paragraphs (1)(A) and (1)(B) of this section, the State of Nebraska may allow longer combination vehicles that were not in actual operation on June 1, 1991 to be operated within its boundaries to transport sugar beets from the field where such sugar beets are harvested to storage, market, factory or stockpile or from stockpile to storage, market or factory. This provision shall expire on September 30, 1997.

LEVIN AMENDMENT NO. 5130

Mr. HATFIELD (for Mr. LEVIN) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the end of title IV, add the following:

SEC. 4 . HIGHWAY SAFETY IMPROVEMENT PROJECT, MICHIGAN.

Of the amount appropriated for the highway safety improvement project, Michigan, under the matter under the heading ''SURFACE TRANSPORTATION PROJECTS'' under the heading ''FEDERAL HIGHWAY ADMINISTRATION'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 108 Stat. 2478), for the purposes of right-of-way acquisition for Baldwin Road, and engineering, right-of-way acquisition, and construction between Walton Boulevard and Dixie Highway, $2,000,000 shall be made available for construction of Baldwin Road.

DORGAN AMENDMENT NO. 5131

Mr. DORGAN proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 2, line 6 after ''$53,376,000,'' insert the following: ''of which such sums as necessary shall be used to investigate anticompetitive practices in air transportation, enforce Section 41712 of Title 49, and report to Congress by the end of the fiscal year on its progress to address anticompetitive practices, and''.

MCCAIN AMENDMENT NO. 5132

Mr. MCCAIN proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 25, strike lines 9 through 14, provided that the $200,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes.

On page 29, line 6, strike ''$592,000,000'' and insert ''$120,000,00, provided that the $130,000,000 thus saved be made available to the Secretary for high priority rail, aviation and highway safety purposes.''

DEWINE (AND OTHERS) AMENDMENT NO. 5133

Mr. DEWINE (for himself, Mr. LUGAR, Mr. BIDEN, and Mr. EXON) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the end of title IV, add the following:

SEC. . (a) Section 120(c) of title 23, United States Code, is amended by inserting ''rail-highway crossing closure,'' after ''carpooling and vanpooling,''.

(b) Section 130 of such title is amended by adding at the end the following:

''(i) INCENTIVE PAYMENTS FOR AT-GRADE CROSSING CLOSURES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section and subject to paragraphs (2) and (3), a State may, from sums available to the State under this section, make incentive payments to local governments in the State upon the permanent closure by such governments of public at-grade rail-highway crossings under the jurisdiction of such governments.

''(2) INCENTIVE PAYMENTS BY RAILROADS.—A State may not make an incentive payment under paragraph (1) to a local government with respect to the closure of a crossing unless the railroad owning the tracks on which the crossing is located makes an incentive payment to the government with respect to the closure.

''(3) AMOUNT OF STATE PAYMENT.—The amount of the incentive payment payable to a local government by a State under paragraph (1) with respect to a crossing may not exceed the lesser of—

''(A) the amount of the incentive payment paid to the government with respect to the crossing by the railroad concerned under paragraph (2); or

''(B) $7,500.

''(4) USE OF STATE PAYMENTS.—A local government receiving an incentive payment from a State under paragraph (1) shall use the amount of the incentive payment for transportation safety improvements.''.

DORGAN (AND OTHERS) AMENDMENT NO. 5134

Mr. DORGAN (for himself, Mr. CONRAD, Mr. EXON, Mr. HARKIN, Mr. PRESSLER, and Mr. DASCHLE) proposed an amendment to the bill, H.R. 3675, supra; as follows:

On line 12 on page 41 after the semicolon, insert the following: ''*Provided further,* That none of the funds appropriated in this Act or otherwise made available may be used to increase fees for services in connection with licensing and related service fees, pursuant to 49 CFR Part 1002, STB Ex Parte No. 542, for services in connection with rail maximum rate complaints,''.

MURKOWSKI AMENDMENT NO. 5135

Mr. MURKOWSKI proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the appropriate place add the following:

''SEC. . (a) APPLICABLE LAWS.—Section 24301 of Title 49, United States Code, as amended by Section 504 of this Act, is amended by adding at the end thereof the following:

''(q) POWER PURCHASES.—The sale of power to Amtrak for its own use, including operating its electric traction system, does not constitute a direct sale of electric energy to an ultimate consumer under section 212(h)(1) of the Federal Power Act.''

''(b) CONFORMING AMENDMENTS.—Section 212(h)(2)(A) of the Federal Power Act is amended by inserting ''Amtrak;'' after ''a State or any political subdivision);''.''

PRESSLER (AND OTHERS) AMENDMENT NO. 5136

Mr. HATFIELD (for Mr. PRESSLER, for himself, Mr. WYDEN, Mr. EXON, Mr. HARKIN, and Mrs. BOXER) proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 3, line 2, strike ''$4,158,000'' and insert ''$3,000,000''.

On page 5, line 17, strike ''$132,499,000'' and insert ''$129,500,000''.

On page 26, line 8, strike ''1997'' and insert ''1997, except for up to $75,000,000 in loan guarantee commitments during such fiscal year (and $4,158,000 is hereby made available for the cost of such loan guarantee commitments.).''

KEMPTHORNE AMENDMENT NO. 5137

Mr. HATFIELD (for Mr. KEMPTHORNE) proposed an amendment to the bill, H.R. 3675, supra; as follows:

On page 47, of H.R. 3675: line 13, strike ''$5,000,000'' and insert ''$15,000,000''.

PRESSLER (AND OTHERS) AMENDMENT NO. 5138

Mr. HATFIELD (for Mr. PRESSLER, for himself, Mr. HARKIN, Mr. GRASSLEY, Mr. LOTT, Mr. BOND, and Mr. LUGAR) proposed an amendment to the bill, H.R. 3675, supra; as follows:

At the appropriate place, insert the following new section:

SEC. . LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.

None of the funds made available in this Act may be used by the Coast Guard to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55) or the amendments made by that Act that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act or the amendments made by that Act) differences in—

(1) physical, chemical, biological, and other relevant properties; and

(2) environmental effects.

GORTON (AND OTHERS) AMENDMENT NO. 5139

Mr. HATFIELD (for Mr. GORTON, for himself, Mr. BAUCUS, and Mr. BURNS)

proposed an amendment to the bill, H.R. 3675, supra; as follows:

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

SEC. . (a) In cases where an emergency ocean condition causes erosion of a bank protecting a scenic highway or byway, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to halt the erosion and stabilize the bank if such action is necessary to protect the highway from imminent failure and is less expensive than highway relocation.

(b) In cases where an emergency condition causes inundation of a roadway or saturation of the subgrade with further erosion due to abnormal freeze/thaw cycles and damage caused by traffic, FY 1996 or FY 1997 Federal Highway Administration Emergency Relief funds can be used to repair such roadway.

(c) Not more than $8 million in Federal Highway Administration Emergency Relief funds may be used for each of the conditions referenced in paragraphs (a) and (b).

EXON AMENDMENT NO. 5140

Mr. EXON proposed an amendment to the bill, H.R. 3675, supra; as follows:

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

SEC. . THE RAILROAD SAFETY INSTITUTE.

Of the money available to the Federal Rail Administration up to $500,000 shall be made available to establish and operate the Institute for Railroad Safety as authorized by the Swift Rail Development Act of 1994.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Tuesday, July 30, 1996, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a markup on S. 1983, a bill to amend the Native American Graves Protection and Repatriation Act to provide for native Hawaiian organizations, and for other purposes.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on S. 1035, the Access to Medical Treatment Act., during the session of the Senate on Tuesday, July 30, 1996, at 9:30 a.m.

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

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, July 30 at 9:30 a.m. to hold a hearing to discuss suicide among the elderly.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERATION, AND PROPERTY RIGHTS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Constitution, Federalism, and Property Rights be authorized to meet during the session of the Senate on Tuesday, July 30, 1996, at 2 p.m., to hold an executive business meeting.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 30, 1996, for purposes of conducting a subcommittee hearing which is scheduled to begin at 10:30 a.m. The purpose of this oversight hearing is to receive testimony on the conditions that have made the national forests of the Southwest susceptible to catastrophic fires and disease.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. DOMENICI. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on International Trade and the Caucus on International Narcotics Control to conduct a hearing on Tuesday, July 30, 1996, beginning at 9 a.m. in room SD–215.

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

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. DOMENICI. Mr. President, the Finance Committee requests unanimous consent for the Subcommittee on International Trade and the Caucus on International Narcotics Control to conduct a hearing on Tuesday, July 30, 1996, beginning at 10 a.m. in room SD–215.

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

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 30, 1996, at 3 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

TRIBUTE TO DR. WILLIAM WHEELER, NEW HAMPSHIRE'S SUPERINTENDENT OF THE YEAR

● Mr. SMITH. Mr. President, I rise today to pay tribute to Dr. William Wheeler for receiving New Hampshire's Superintendent of the Year Award. William has served his schools with pride and dedication, always putting the best interests of New Hampshire's children first. As a former teacher and school board chairman myself, I am proud to congratulate him for receiving this prestigious award.

William received his doctorate in education from the University of Wyoming and has been a teacher, high school principal, and assistant superintendent of schools. He is currently superintendent of school in School Administrative Unit No. 38, which serves the Monadnock Regional, Hinsdale, and Winchester Schools District. In addition, he also serves as president of the New Hampshire Schools Administrators Association. William's colleagues have always been impressed with his focus and commitment to the communities he serves.

William was selected as New Hampshire's Superintendent of the Year for his leadership, communication skills, professionalism, and community involvement. He is a leader and an educator tireless in his commitment to children and community. William's efforts on behalf of New Hampshire public school children have been praised by many including the New Hampshire School Boards Association, the director of the New Hampshire School Administrator's Association, New Hampshire's Education Commissioner, and the vice president of the New Hampshire Business and Industry Association.

Our Nation's children are our future and one of our greatest treasures. Our educators have been entrusted with the care and development of these young minds and are the guardians of this treasure. As superintendent, William has done an excellent job coordinating the schools in his care. His outstanding performance is reflected in the quality of the schools in his district and the respect and admiration he has earned from fellow educators. I commend William Wheeler for a career of distinction in the field of education. New Hampshire is fortunate to have such a talented and dedicated educator devoted to our children.●

SELMA JEAN COHEN

● Ms. MIKULSKI. Mr. President, I would like to call to the attention of my colleagues the life of Selma Jean Cohen, a native Marylander who dedicated her life to caring for ill and handicapped children and adults. Mrs. Cohen passed away on July 2 at the age of 75.

Mrs. Cohen was born Selma Jean Lattin and graduated from Forest Park High School in 1930. She married Leonard Cohen in 1942, and had two sons. While raising her children, Selma Cohen was very active in her community. She was the PTA president at Louisa May Alcott Elementary School, as well as the Cub Scout den mother and president of her synagogue sisterhood.

After raising her children, Selma Cohen served as the Maryland State Health Department Director of Nursing Home Bed Registry for 25 years, finding

nursing home beds for seniors and the ill across Maryland. Mrs. Cohen was instrumental in bringing nursing home quality and safety concerns to the attention of authorities. She also volunteered her time at the Levindale Hebrew Geriatric Center and Hospital.

As a volunteer manager at the Baltimore Ronald McDonald House for 10 years, Selma Cohen worked with families who had children in the hospital for serious illnesses. She also volunteered at Mount Washington Pediatric Hospital. Mrs. Cohen is remembered for the tremendous joy and fulfillment she derived from working with children and the way she cared for them as though they were her own.

Despite her long battle with cancer, Mrs. Cohen never lost her cheerful outlook, her sense of humor or her great zest for life. In fact, two days before her death, she was asking how her favorite team, the Baltimore Orioles, was doing.

I know my colleagues join me in paying tribute to Mrs. Cohen's many years of service to our community. Mrs. Cohen was a great mother, a great wife, a great advocate for seniors and children and a great Marylander.●

TRIBUTE TO OLYMPIAN JENNY THOMPSON

● Mr. SMITH. Mr. President, I rise today to pay tribute to Jenny Thompson of Dover, NH, for three gold medal performances at the 1996 summer Olympic games in Atlanta. Jenny's outstanding performances in women's swimming relay events are a tremendous achievement. She has made the Granite State very proud of her Olympic success.

Jenny swam the anchor leg in the women's 400 and 800 meter freestyle relays, setting American and Olympic records in both races. In addition, she swan in the qualifying round of the 400-meter medley relay to launch the team to gold in the final. With her three outstanding performances, Jenny proved herself a team player, giving so much of herself to the team's quest for a gold medal. The U.S. swimming team brought home its sixth straight relay gold medal, winning all of the relays that have been contested.

Jenny is a graduate of Dover High School where she swam and ran cross country track. She subsequently attended Stanford University, graduating in 1995, and began working with her current coach in California. In the 1992 Olympic games in Barcelona, Jenny won two gold medals and one silver medal. She has held American and world records in the 100 meter freestyle and an American record in the 100-yard freestyle. She was named the U.S. swimmer of the year after winning five national titles, eight NCAA titles, and six Pan-Pacific titles and is also a 12-time U.S. national champion. In 1995, she won the 100-meter freestyle and 100-meter butterfly at the world championships despite breaking her arm. At the young age of 23, Jenny now ties skater Bonnie Blair as the American woman with the highest number of Olympic gold medals.

The Olympic games are the crowning achievement of an athlete's career—the best meet the best from around the world. Years of training culminate in just a few weeks of competition in which dreams are fulfilled, records are broken, and champions are made. Jenny is one such champion with her three gold medals and two Olympic records. Dover will welcome their hometown girl as she returns on August 10 with a celebration and, appropriately, the dedication of a swimming pool in her name.

Jenny has proven herself an athlete and a winner. She has the admiration and pride of the New Hampshire seacoast and we are indeed proud of her. It is with pride that I congratulate the women's relay teams and our shining New Hampshire star, Jenny Thompson.●

CONGRATULATING MAC VAN HORN

● Mr. BUMPERS. Mr. President, on August 27, 1996, the Industrial Developers of Arkansas will honor Mac Van Horn as their Developer of the Year.

Mac Van Horn has been the backbone of industrial development for the past 25 years in Russellville, AR. Owner of a local construction firm involved in residential and commercial development, Mac began work as a cheerleader for development in the early 1970's. He began to attend seminars, visited Arkansas Industrial Development Commission project managers, and others and learned all the things that were important to industrial recruitment.

He was such a good student of industrial recruitment techniques that two Arkansas Governors placed him on the Arkansas Industrial Development Commission where he served faithfully for 15 years.

In the past 5 years, Mac and others on the Russellville Industrial Contact Team have recruited five new companies to the Arkansas River Valley. Fasco Industries, Inc., Alumax Foils, Inc., Bardcor Corp., CarMar Freezers, and Amarillo Gear Company have all chosen to locate in Russellville.

Mac combines his knowledge of industrial development recruitment and home cooking since he invites prospective company officials into his home when they visit to lure industry to Pope County.

Mac plans to retire soon from these endeavors. His leadership, years of experience and expertise, and his skills as a negotiator will be missed on the Russellville Industrial Contact Team.

This award is most deserved and I want to join in congratulating Mac Van Horn for his tireless service to the community he loves.●

TRIBUTE TO ROBERT SILVA FOR RECEIVING NEW HAMPSHIRE'S OUTSTANDING SERVICE AWARD IN EDUCATION

● Mr. SMITH. Mr. President, I rise today to pay tribute to Robert Silva for receiving New Hampshire's Outstanding Service Award in Education. William has served Concord school children for almost 30 years with pride and dedication, always putting the best interests of the children first. As a former teacher and school board chairman myself, I am proud to congratulate him for receiving this prestigious award.

Robert received his Bachelors and Masters degrees from the University of New Hampshire and has worked in Concord since 1967. He has been a teacher, athletic director, assistant principal, and principal. In addition, he served as the Director of Adult Education at the New Hampshire State Prison for 2 years. Robert is currently Assistant Superintendent in Concord, a position he has held since 1984.

Robert is also very involved in his community, where his record of service to schools and the community is outstanding. He has served on the Concord Recreation Committee, the Christa McAuliffe Fund Committee, and the Community Election Forum Committee. In addition he has served on the Board of Directors of the Concord DARE Association and chaired United Way fundraising for the schools.

Robert's dedication and commitment to service won him this prestigious award. He is also a leader who has shown his devotion to community development. He is a highly respected individual who is trusted and admired by all who know and work with him. His colleagues have always been impressed with his hard work and warm hearted nature. To those who work with him, Robert is also reliable and down to earth.

Our educators have been entrusted with one of our Nation's greatest treasures, our children. They, as the guardians of this treasure, care for and ensure the development of these young minds. Throughout his career in education, Robert has done an excellent job looking out for the welfare of those in his care. His outstanding performance is reflected in the respect and admiration he has earned from his colleagues. New Hampshire is fortunate to have such a talented educator and administrator. I commend Robert Silva for his outstanding career in the field of education.●

PUBLIC HOUSING REFORM AND EMPOWERMENT ACT OF 1996

Mr. GRASSLEY. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1260, a bill to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility

for these programs from the Federal Government to States and localities, and of other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1260) entitled ''An Act to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes'', do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''United States Housing Act of 1996''.

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

Sec. 1. Short title and table of contents.
Sec. 2. Declaration of policy to renew American neighborhoods.

TITLE I—GENERAL PROVISIONS

Sec. 101. Statement of purpose.
Sec. 102. Definitions.
Sec. 103. Organization of local housing and management authorities.
Sec. 104. Determination of adjusted income and median income.
Sec. 105. Occupancy limitations based on illegal drug activity and alcohol abuse.
Sec. 106. Community work and family self-sufficiency requirement.
Sec. 107. Local housing management plans.
Sec. 108. Review of plans.
Sec. 109. Reporting requirements.
Sec. 110. Pet ownership.
Sec. 111. Administrative grievance procedure.
Sec. 112. Headquarters reserve fund.
Sec. 113. Labor standards.
Sec. 114. Nondiscrimination.
Sec. 115. Prohibition on use of funds.
Sec. 116. Inapplicability to Indian housing.
Sec. 117. Effective date and regulations.

TITLE II—PUBLIC HOUSING

Subtitle A—Block Grants

Sec. 201. Block grant contracts.
Sec. 202. Block grant authority, amount, and eligibility.
Sec. 203. Eligible and required activities.
Sec. 204. Determination of grant allocation.
Sec. 205. Sanctions for improper use of amounts.

Subtitle B—Admissions and Occupancy Requirements

Sec. 221. Low-income housing requirement.
Sec. 222. Family eligibility.
Sec. 223. Preferences for occupancy.
Sec. 224. Admission procedures.
Sec. 225. Family rental payment.
Sec. 226. Lease requirements.
Sec. 227. Designated housing for elderly and disabled families.

Subtitle C—Management

Sec. 231. Management procedures.
Sec. 232. Housing quality requirements.
Sec. 233. Employment of residents.
Sec. 234. Resident councils and resident management corporations.
Sec. 235. Management by resident management corporation.
Sec. 236. Transfer of management of certain housing to independent manager at request of residents.
Sec. 237. Resident opportunity program.

Subtitle D—Homeownership

Sec. 251. Resident homeownership programs.

Subtitle E—Disposition, Demolition, and Revitalization of Developments

Sec. 261. Requirements for demolition and disposition of developments.
Sec. 262. Demolition, site revitalization, replacement housing, and choice-based assistance grants for developments.
Sec. 263. Voluntary voucher system for public housing.

Subtitle F—General Provisions

Sec. 271. Conversion to block grant assistance.
Sec. 272. Payment of non-Federal share.
Sec. 273. Definitions.
Sec. 274. Authorization of appropriations for block grants.
Sec. 275. Authorization of appropriations for operation safe home.

TITLE III—CHOICE-BASED RENTAL HOUSING AND HOMEOWNERSHIP ASSISTANCE FOR LOW-INCOME FAMILIES

Subtitle A—Allocation

Sec. 301. Authority to provide housing assistance amounts.
Sec. 302. Contracts with LHMA's.
Sec. 303. Eligibility of LHMA's for assistance amounts.
Sec. 304. Allocation of amounts.
Sec. 305. Administrative fees.
Sec. 306. Authorizations of appropriations.
Sec. 307. Conversion of section 8 assistance.

Subtitle B—Choice-Based Housing Assistance for Eligible Families

Sec. 321. Eligible families and preferences for assistance.
Sec. 322. Resident contribution.
Sec. 323. Rental indicators.
Sec. 324. Lease terms.
Sec. 325. Termination of tenancy.
Sec. 326. Eligible owners.
Sec. 327. Selection of dwelling units.
Sec. 328. Eligible dwelling units.
Sec. 329. Homeownership option.
Sec. 330. Assistance for rental of manufactured homes.

Subtitle C—Payment of Housing Assistance on Behalf of Assisted Families

Sec. 351. Housing assistance payments contracts.
Sec. 352. Amount of monthly assistance payment.
Sec. 353. Payment standards.
Sec. 354. Reasonable rents.
Sec. 355. Prohibition of assistance for vacant rental units.

Subtitle D—General and Miscellaneous Provisions

Sec. 371. Definitions.
Sec. 372. Rental assistance fraud recoveries.
Sec. 373. Study regarding geographic concentration of assisted families.

TITLE IV—ACCREDITATION AND OVERSIGHT OF LOCAL HOUSING AND MANAGEMENT AUTHORITIES

Subtitle A—Housing Foundation and Accreditation Board

Sec. 401. Establishment.
Sec. 402. Membership.
Sec. 403. Functions.
Sec. 404. Initial establishment of standards and procedures for LHMA compliance.
Sec. 405. Powers.
Sec. 406. Fees.
Sec. 407. Reports.
Sec. 408. GAO Audit.

Subtitle B—Accreditation and Oversight Standards and Procedures

Sec. 431. Establishment of performance benchmarks and accreditation procedures.
Sec. 432. Financial and performance audit.
Sec. 433. Accreditation.
Sec. 434. Classification by performance category.
Sec. 435. Performance agreements for authorities at risk of becoming troubled.
Sec. 436. Performance agreements and CDBG sanctions for troubled LHMA's.
Sec. 437. Option to demand conveyance of title to or possession of public housing.
Sec. 438. Removal of ineffective LHMA's.
Sec. 439. Mandatory takeover of chronically troubled PHA's.
Sec. 440. Treatment of troubled PHA's.
Sec. 441. Maintenance of and access to records.
Sec. 442. Annual reports regarding troubled LHMA's.
Sec. 443. Applicability to resident management corporations.

TITLE V—REPEALS AND CONFORMING AMENDMENTS

Sec. 501. Repeals.
Sec. 502. Conforming and technical provisions.
Sec. 503. Amendments to Public and Assisted Housing Drug Elimination Act of 1990.
Sec. 504. Treatment of certain projects.
Sec. 505. Amendments relating to community development assistance.
Sec. 506. Authority to transfer surplus real property for housing use.
Sec. 507. Rural housing assistance.
Sec. 508. Treatment of occupancy standards.
Sec. 509. Implementation of plan.
Sec. 510. Income eligibility for HOME and CDBG programs.
Sec. 511. Amendments relating to section 236 program.
Sec. 512. Prospective application of gold clauses.
Sec. 513. Moving to work demonstration for the 21st century.
Sec. 514. Occupancy screening and evictions from federally assisted housing.
Sec. 515. Use of American products.
Sec. 516. Limitation on extent of use of loan guarantees for housing purposes.
Sec. 517. Consultation with affected areas in settlement of litigation.

TITLE VI—NATIONAL COMMISSION ON HOUSING ASSISTANCE PROGRAMS COST

Sec. 601. Establishment.
Sec. 602. Membership.
Sec. 603. Organization.
Sec. 604. Functions.
Sec. 605. Powers.
Sec. 606. Funding.
Sec. 607. Sunset.

TITLE VII—NATIVE AMERICAN HOUSING ASSISTANCE

Sec. 701. Short title.
Sec. 702. Congressional findings.
Sec. 703. Administration through Office of Native American Programs.
Sec. 704. Definitions.

Subtitle A—Block Grants and Grant Requirements

Sec. 711. Block grants.
Sec. 712. Local housing plans.
Sec. 713. Review of plans.
Sec. 714. Treatment of program income and labor standards.
Sec. 715. Environmental review.
Sec. 716. Regulations.
Sec. 717. Effective date.
Sec. 718. Authorization of appropriations.

Subtitle B—Affordable Housing Activities

Sec. 721. National objectives and eligible families.
Sec. 722. Eligible affordable housing activities.
Sec. 723. Required affordable housing activities.
Sec. 724. Types of investments.
Sec. 725. Low-income requirement and income targeting.
Sec. 726. Certification of compliance with subsidy layering requirements.
Sec. 727. Lease requirements and tenant selection.
Sec. 728. Repayment.
Sec. 729. Continued use of amounts for affordable housing.

Subtitle C—Allocation of Grant Amounts

Sec. 741. Annual allocation.
Sec. 742. Allocation formula.

Subtitle D—Compliance, Audits, and Reports
Sec. 751. Remedies for noncompliance.
Sec. 752. Replacement of recipient.
Sec. 753. Monitoring of compliance.
Sec. 754. Performance reports.
Sec. 755. Review and audit by Secretary.
Sec. 756. GAO audits.
Sec. 757. Reports to Congress.
Subtitle E—Termination of Assistance for Indian Tribes under Incorporated Programs
Sec. 761. Termination of Indian public housing assistance under United States Housing Act of 1937.
Sec. 762. Termination of new commitments for rental assistance.
Sec. 763. Termination of youthbuild program assistance.
Sec. 764. Termination of HOME program assistance.
Sec. 765. Termination of housing assistance for the homeless.
Sec. 766. Savings provision.
Sec. 767. Effective date.
Subtitle F—Loan Guarantees for Affordable Housing Activities
Sec. 771. Authority and requirements.
Sec. 772. Security and repayment.
Sec. 773. Payment of interest.
Sec. 774. Treasury borrowing.
Sec. 775. Training and information.
Sec. 776. Limitations on amount of guarantees.
Sec. 777. Effective date.
Subtitle G—Other Housing Assistance for Native Americans
Sec. 781. Loan guarantees for Indian housing.
Sec. 782. 50-year leasehold interest in trust or restricted lands for housing purposes.
Sec. 783. Training and technical assistance.
Sec. 784. Effective date.
TITLE VIII—NATIONAL MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CONSENSUS COMMITTEE
Sec. 801. Short title; reference.
Sec. 802. Statement of purpose.
Sec. 803. Definitions.
Sec. 804. Federal manufactured home construction and safety standards.
Sec. 805. Abolishment of National Manufactured Home Advisory Council.
Sec. 806. Public information.
Sec. 807. Inspection fees.
Sec. 808. Elimination of annual report requirement.
Sec. 809. Effective date.

SEC. 2. DECLARATION OF POLICY TO RENEW AMERICAN NEIGHBORHOODS.

The Congress hereby declares that—

(1) the Federal Government has a responsibility to promote the general welfare of the Nation—

(A) by using Federal resources to aid families and individuals seeking affordable homes that are safe, clean, and healthy and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(3) the Federal Government should act where there is a serious need that private citizens or groups cannot or are not addressing responsibly;

(4) housing is a fundamental and necessary component of bringing true opportunity to people and communities in need, but providing physical structures to house low-income families will not by itself pull generations up from poverty;

(5) it is a goal of our Nation that all citizens have decent and affordable housing; and

(6) our Nation should promote the goal of providing decent and affordable housing for all citizens through the efforts and encouragement of Federal, State, and local governments, and by promoting and protecting the independent and collective actions of private citizens, organizations, and the private sector to develop housing and strengthen their own neighborhoods.

TITLE I—GENERAL PROVISIONS

SEC. 101. STATEMENT OF PURPOSE.

The purpose of this Act is to promote safe, clean, and healthy housing that is affordable to low-income families, and thereby contribute to the supply of affordable housing, by—

(1) deregulating and decontrolling public housing agencies, which in this Act are referred to as ''local housing and management authorities'', and thereby enable them to perform as property and asset managers;

(2) providing for more flexible use of Federal assistance to local housing and management authorities, allowing the authorities to leverage and combine assistance amounts with amounts obtained from other sources;

(3) facilitating mixed income communities;

(4) increasing accountability and rewarding effective management of local housing and management authorities;

(5) creating incentives and economic opportunities for residents of dwelling units assisted by local housing and management authorities to work, become self-sufficient, and transition out of public housing and federally assisted dwelling units;

(6) recreating the existing rental assistance voucher program so that the use of vouchers and relationships between landlords and tenants under the program operate in a manner that more closely resembles the private housing market; and

(7) remedying troubled local housing and management authorities and replacing or revitalizing severely distressed public housing developments.

SEC. 102. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) DISABLED FAMILY.—The term ''disabled family'' means a family whose head (or his or her spouse), or whose sole member, is a person with disabilities. Such term includes 2 or more persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

(2) DRUG-RELATED CRIMINAL ACTIVITY.—The term ''drug-related criminal activity'' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

(3) ELDERLY FAMILIES AND NEAR ELDERLY FAMILIES.—The terms ''elderly family'' and ''near-elderly family'' mean a family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include 2 or more elderly persons or near-elderly persons living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

(4) ELDERLY PERSON.—The term ''elderly person'' means a person who is at least 62 years of age.

(5) FAMILY.—The term ''family'' includes a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person.

(6) INCOME.—The term ''income'' means, with respect to a family, income from all sources of each member of the household, as determined in accordance with criteria prescribed by the applicable local housing and management authority and the Secretary, except that the following amounts shall be excluded:

(A) Any amounts not actually received by the family.

(B) Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act.

(7) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The term ''local housing and management authority'' is defined in section 103.

(8) LOCAL HOUSING MANAGEMENT PLAN.—The term ''local housing management plan'' means, with respect to any fiscal year, the plan under section 107 of a local housing and management authority for such fiscal year.

(9) LOW-INCOME FAMILY.—The term ''low-income family'' means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the authority's findings that such variations are necessary because of unusually high or low family incomes.

(10) LOW-INCOME HOUSING.—The term ''low-income housing'' means dwellings that comply with the requirements—

(A) under subtitle B of title II for assistance under such title for the dwellings; or

(B) under title III for rental assistance payments under such title for the dwellings.

(11) NEAR-ELDERLY PERSON.—The term ''near-elderly person'' means a person who is at least 55 years of age.

(12) PERSON WITH DISABILITIES.—The term ''person with disabilities'' means a person who—

(A) has a disability as defined in section 223 of the Social Security Act; or

(B) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities, for purposes of eligibility for public housing under title II of this Act, solely on the basis of any drug or alcohol dependence. The Secretary shall consult with other appropriate Federal agencies to implement the preceding sentence.

(13) PUBLIC HOUSING.—The term ''public housing'' means housing, and all necessary appurtenances thereto, that—

(A) is low-income housing or low-income dwelling units in mixed income housing (as provided in section 221(c)(2)); and

(B)(i) is subject to an annual block grant contract under title II; or

(ii) was subject to an annual block grant contract under title II (or an annual contributions contract under the United States Housing Act of 1937) which is not in effect, but for which occupancy is limited in accordance with the requirements under section 222(a).

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(15) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.

(16) VERY LOW-INCOME FAMILY.—The term ''very low-income family'' means a low-income family whose income does not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the authority's findings that such variations are necessary because of unusually high or low family incomes.

SEC. 103. ORGANIZATION OF LOCAL HOUSING AND MANAGEMENT AUTHORITIES.

(a) REQUIREMENTS.—For purposes of this Act, the terms ''local housing and management authority'' and ''authority'' mean any entity that—

(1) is—

(A) a public housing agency that was authorized under the United States Housing Act of 1937 to engage in or assist in the development or operation of low-income housing;

(B) authorized under this Act to engage in or assist in the development or operation of low-income housing by any State, county, municipality, or other governmental body or public entity;

(C) an entity authorized by State law to administer choice-based housing assistance under title III; or

(D) an entity selected by the Secretary, pursuant to subtitle B of title IV, to manage housing; and

(2) complies with the requirements under subsection (b).

The term does not include any entity that is Indian housing authority for purposes of the United States Housing Act of 1937 (as in effect before the enactment of this Act) or a tribally designated housing entity, as such term is defined in section 704.

(b) GOVERNANCE.—

(1) BOARD OF DIRECTORS.—Each local housing and management authority shall have a board of directors or other form of governance as prescribed in State or local law. No person may be barred from serving on such board or body because of such person's residency in a public housing development or status as an assisted family under title III.

(2) RESIDENT MEMBERSHIP.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in localities in which a local housing and management authority is governed by a board of directors or other similar body, the board or body shall include not less than 1 member who is an elected public housing resident member (as such term is defined in paragraph (5)). If the board includes 2 or more resident members, at least 1 such member shall be a member of an assisted family under title III.

(B) EXCEPTIONS.—The requirement in subparagraph (A) with respect to elected public housing resident members and resident members shall not apply to—

(i) any State or local governing body that serves as a local housing and management authority for purposes of this Act and whose responsibilities include substantial activities other than acting as the local housing and management authority, except that such requirement shall apply to any advisory committee or organization that is established by such governing body and whose responsibilities relate only to the governing body's functions as a local housing and management authority for purposes of this Act;

(ii) any local housing and management authority that owns or operates less than 250 public housing dwelling units (including any authority that does not own or operate public housing);

(iii) any local housing and management authority in a State in which State law specifically precludes public housing residents or assisted families from serving on the board of directors or other similar body of an authority; or

(iv) any local housing and management authority in a State that requires the members of the board of directors or other similar body of a local housing and management authority to be salaried and to serve on a full-time basis.

(3) FULL PARTICIPATION.—No local housing and management authority may limit or restrict the capacity or offices in which a member of such board or body may serve on such board or body solely because of the member's status as a resident member.

(4) CONFLICTS OF INTEREST.—The Secretary shall establish guidelines to prevent conflicts of interest on the part of members of the board or directors or governing body of a local housing and management authority.

(5) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) ELECTED PUBLIC HOUSING RESIDENT MEMBER.—The term ''elected public housing resident member'' means, with respect to the local housing and management authority involved, an individual who is a resident member of the board of directors (or other similar governing body of the authority) by reason of election to such position pursuant to an election—

(i) in which eligibility for candidacy in such election is limited to individuals who—

(I) maintain their principal residence in a dwelling unit of public housing administered or assisted by the authority; and

(II) have not been convicted of a felony and do not reside in a household that includes an individual convicted of a felony;

(ii) in which only residents of dwelling units of public housing administered by the authority may vote; and

(iii) that is conducted in accordance with standards and procedures for such election, which shall be established by the Secretary.

(B) RESIDENT MEMBER.—The term ''resident member'' means a member of the board of directors or other similar governing body of a local housing and management authority who is a resident of a public housing dwelling unit owned, administered, or assisted by the authority or is a member of an assisted family (as such term is defined in section 371) assisted by the authority.

(c) ESTABLISHMENT OF POLICIES.—Any rules, regulations, policies, standards, and procedures necessary to implement policies required under section 107 to be included in the local housing management plan for a local housing and management authority shall be approved by the board of directors or similar governing body of the authority and shall be publicly available for review upon request.

SEC. 104. DETERMINATION OF ADJUSTED INCOME AND MEDIAN INCOME.

(a) ADJUSTED INCOME.—For purposes of this Act, the term ''adjusted income'' means, with respect to a family, the difference between the income of the members of the family residing in a dwelling unit or the persons on a lease and the amount of any income exclusions for the family under subsections (b) and (c), as determined by the local housing and management authority.

(b) MANDATORY EXCLUSIONS FROM INCOME.—In determining adjusted income, a local housing and management authority shall exclude from the annual income of a family the following amounts:

(1) ELDERLY AND DISABLED FAMILIES.—$400 for any elderly or disabled family.

(2) MEDICAL EXPENSES.—The amount by which 3 percent of the annual family income is exceeded by the sum of—

(A) unreimbursed medical expenses of any elderly family;

(B) unreimbursed medical expenses of any nonelderly family, except that this subparagraph shall apply only to the extent approved in appropriation Acts; and

(C) unreimbursed reasonable attendant care and auxiliary apparatus expenses for each handicapped member of the family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed.

(3) CHILD CARE EXPENSES.—Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education.

(4) MINORS, STUDENTS, AND PERSONS WITH DISABILITIES.—$480 for each member of the family residing in the household (other than the head of the household or his or her spouse) who is under 18 years of age or is attending school or vocational training on a full-time basis, or who is 18 years of age or older and is a person with disabilities.

(5) CHILD SUPPORT PAYMENTS.—Any payment made by a member of the family for the support and maintenance of any child who does not reside in the household, except that the amount excluded under this paragraph may not exceed $480 for each child for whom such payment is made.

(c) PERMISSIVE EXCLUSIONS FROM INCOME.—In determining adjusted income, a local housing and management authority may, in the discretion of the authority, establish exclusions from the annual income of a family. Such exclusions may include the following amounts:

(1) EXCESSIVE TRAVEL EXPENSES.—Excessive travel expenses in an amount not to exceed $25 per family per week, for employment- or education-related travel.

(2) EARNED INCOME.—An amount of any earned income of the family, established at the discretion of the local housing and management authority, which may be based on—

(A) all earned income of the family,

(B) the amount earned by particular members of the family;

(C) the amount earned by families having certain characteristics; or

(D) the amount earned by families or members during certain periods or from certain sources.

(3) OTHERS.—Such other amounts for other purposes, as the local housing and management authority may establish.

(d) MEDIAN INCOME.—In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester and Rockland Counties, in the State of New York, as if each such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester or Rockland Counties, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester and Rockland Counties.

SEC. 105. OCCUPANCY LIMITATIONS BASED ON ILLEGAL DRUG ACTIVITY AND ALCOHOL ABUSE.

(a) INELIGIBILITY BECAUSE OF EVICTION FOR DRUG-RELATED CRIMINAL ACTIVITY.—Any tenant evicted from housing assisted under title II or title III by reason of drug-related criminal activity (as such term is defined in section 102) shall not be eligible for any housing assistance under title II or title III during the 3-year period beginning on the date of such eviction, unless the evicted tenant successfully completes a rehabilitation program approved by the local housing and management authority (which shall include a waiver of this subsection if the circumstances leading to eviction no longer exist).

(b) INELIGIBILITY OF ILLEGAL DRUG USERS AND ALCOHOL ABUSERS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a local housing and management authority shall establish standards for occupancy in public housing dwelling units and housing assistance under title II—

(A) that prohibit occupancy in any public housing dwelling unit by, and housing assistance under title II for, any person—

(i) who the local housing and management authority determines is illegally using a controlled substance; or

(ii) if the local housing and management authority determines that it has reasonable cause to believe that such person's illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol, may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project; and

(B) that allow the local housing and management authority to terminate the tenancy in any public housing unit of, and the housing assistance under title II for, any person—

(i) who the local housing and management authority determines is illegally using a controlled substance; or

(ii) whose illegal use of a controlled substance, or whose abuse of alcohol, is determined by the local housing and management authority to interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents of the project.

(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny occupancy or assistance to any person based on a pattern of use of a controlled substance or a pattern of abuse of alcohol, a local housing and management authority may consider whether such person—

(A) has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable);

(B) has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable); or

(C) is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

(c) OTHER SCREENING.—A local housing and management authority may deny occupancy as provided in section 642 of the Housing and Community Development Act of 1992.

(d) LIMITATION ON ADMISSION OF PERSONS CONVICTED OF DRUG-RELATED OFFENSES.—Notwithstanding any other provision of law, each local housing and management authority shall prohibit admission and occupancy to public housing dwelling units by, and assistance under title III to, any person who, after the date of the enactment of this Act, has been convicted of illegal possession with intent to sell any controlled substance (as such term is defined in the Controlled Substances Act). This subsection may not be construed to require the termination of tenancy or eviction of any member of a household residing in public housing, or the termination of assistance of any member of an assisted family, who is not a person described in the preceding sentence.

SEC. 106. COMMUNITY WORK AND FAMILY SELF-SUFFICIENCY REQUIREMENT.

(a) REQUIREMENT.—Except as provided in subsection (c), each local housing and management authority shall require, as a condition of occupancy of a public housing dwelling unit by a family and of providing housing assistance under title III on behalf of a family, that each adult

member of the family shall contribute not less than 8 hours of work per month within the community in which the family resides. The requirement under this subsection shall be incorporated in the terms of the tenant self-sufficiency contract under subsection (b).

(b) TENANT SELF-SUFFICIENCY CONTRACT.—

(1) REQUIREMENT.—Except as provided in subsection (c), each local housing and management authority shall require, as a condition of occupancy of a public housing dwelling unit by a family and of providing housing assistance under title III on behalf of a family, that each adult member of the family who has custody of, or is responsible for, a minor living in his or her care shall enter into a legally enforceable self-sufficiency contract under this section with the authority.

(2) CONTRACT TERMS.—The terms of a self-sufficiency contract under this subsection shall be established pursuant to consultation between the authority and the family and shall include a plan for the resident's or family's residency in housing assisted under this Act that provides—

(A) a date specific by which the resident or family will graduate from or terminate tenancy in such housing;

(B) specific interim and final performance targets and deadlines relating to self-sufficiency, which may relate to education, school participation, substance and alcohol abuse counseling, mental health support, jobs and skills training, and any other factors the authority considers appropriate; and

(C) any resources, services, and assistance relating to self-sufficiency to be made available to the resident or family.

(3) INCORPORATION INTO LEASE.—A self-sufficiency contract under this subsection shall be incorporated by reference into a lease under section 226 or 324, as applicable, and the terms of such contract shall be terms of the lease for which violation may result in—

(A) termination of tenancy, pursuant to section 226(4) or 325(a)(1), as applicable; or

(B) withholding of assistance under this Act.

The contract shall provide that the local housing and management authority or the resident who is a party to the contract may enforce the contract through an administrative grievance procedure under section 111.

(4) PARTNERSHIPS FOR SELF-SUFFICIENCY ACTIVITIES.—A local housing and management authority may enter into such agreements and form such partnerships as may be necessary, with State and local agencies, nonprofit organizations, academic institutions, and other entities who have experience or expertise in providing services, activities, training, and other assistance designed to facilitate low- and very-low income families achieving self-sufficiency.

(5) CHANGED CIRCUMSTANCES.—A self-sufficiency contract under this subsection shall provide for modification in writing and that the local housing and management authority may for good cause or changed circumstances waive conditions under the contract.

(6) MODEL CONTRACTS.—The Secretary shall, in consultation with organizations and groups representing resident councils and residents of housing assisted under this Act, develop a model self-sufficiency contract for use under this subsection. The Secretary shall provide local housing and management authorities with technical assistance and advice regarding such contracts.

(c) EXEMPTIONS.—A local housing and management authority shall provide for the exemption, from the applicability of the requirements under subsections (a) and (b)(1), of each individual who is—

(1) an elderly person and unable, as determined in accordance with guidelines established by the Secretary, to comply with the requirement;

(2) a person with disabilities and unable (as so determined) to comply with the requirement;

(3) working, attending school or vocational training, or otherwise complying with work requirements applicable under other public assistance programs, and unable (as so determined) to comply with the requirement; or

(4) otherwise physically impaired, as certified by a doctor, and is therefore unable to comply with the requirement.

SEC. 107. LOCAL HOUSING MANAGEMENT PLANS.

(a) IN GENERAL.—In accordance with this section, the Secretary shall provide for each local housing and management authority to submit to the Secretary a local housing management plan under this section for each fiscal year that describes the mission of the local housing and management authority and the goals, objectives, and policies of the authority to meet the housing needs of low-income families in the jurisdiction of the authority.

(b) PROCEDURES.—The Secretary shall establish requirements and procedures for submission and review of plans and for the contents of such plans. Such procedures shall provide for local housing and management authorities to, at the option of the authority, submit plans under this section together with, or as part of, the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the relevant jurisdiction and for concomitant review of such plans.

(c) CONTENTS.—A local housing management plan under this section for a local housing and management authority shall contain the following information relating to the upcoming fiscal year for which the assistance under this Act is to be made available:

(1) FINANCIAL RESOURCES.—An operating budget for the authority that includes—

(A) a description of the financial resources available to the authority;

(B) the uses to which such resources will be committed, including eligible and required activities under section 203 to be assisted, housing assistance to be provided under title III, and administrative, management, maintenance, and capital improvement activities to be carried out; and

(C) an estimate of the market rent value of each public housing development of the authority.

(2) POPULATION SERVED.—A statement of the policies of the authority governing eligibility, admissions, and occupancy of families with respect to public housing dwelling units and housing assistance under title III, including—

(A) the requirements for eligibility for such units and assistance and the method by which eligibility will be determined and verified;

(B) the requirements for selection and admissions of eligible families for such units and assistance, including any preferences established under section 223 or 321(e) and the criteria for selection under section 222(b) and (c);

(C) the procedures for assignment of families admitted to dwelling units owned, operated, or assisted by the authority;

(D) any standards and requirements for occupancy of public housing dwelling units and units assisted under title III, including conditions for continued occupancy, termination of tenancy, eviction, and termination of housing assistance under section 321(g);

(E) the criteria under subsection (f) of section 321 for providing and denying housing assistance under title III to families moving into the jurisdiction of the authority;

(F) the fair housing policy of the authority; and

(G) the procedures for outreach efforts (including efforts that are planned and that have been executed) to homeless families and to entities providing assistance to homeless families, in the jurisdiction of the authority.

(3) RENT DETERMINATION.—A statement of the policies of the authority governing rents charged for public housing dwelling units and rental contributions of assisted families under title III, including—

(A) the methods by which such rents are determined under section 225 and such contributions are determined under section 322;

(B) an analysis of how such methods affect—

(i) the ability of the authority to provide housing assistance for families having a broad range of incomes;

(ii) the affordability of housing for families having incomes that do not exceed 30 percent of the median family income for the area; and

(iii) the availability of other financial resources to the authority.

(4) QUALITY STANDARDS FOR MAINTENANCE AND MANAGEMENT.—A statement of the standards and policies of the authority governing maintenance and management of housing owned and operated by the authority, and management of the local housing and management authority, including—

(A) housing quality standards in effect pursuant to sections 232 and 328 and any certifications required under such sections;

(B) routine and preventative maintenance policies for public housing;

(C) emergency and disaster plans for public housing;

(D) rent collection and security policies for public housing;

(E) priorities and improvements for management of public housing; and

(F) priorities and improvements for management of the authority, including improvement of electronic information systems to facilitate managerial capacity and efficiency.

(5) GRIEVANCE PROCEDURE.—A statement of the grievance procedures of the authority under section 111.

(6) CAPITAL IMPROVEMENTS.—With respect to public housing developments owned or operated by the authority, a plan describing—

(A) the capital improvements necessary to ensure long-term physical and social viability of the developments; and

(B) the priorities of the authority for capital improvements based on analysis of available financial resources, consultation with residents, and health and safety considerations.

(7) DEMOLITION AND DISPOSITION.—With respect to public housing developments owned or operated by the authority—

(A) a description of any such housing to be demolished or disposed of under subtitle E of title II;

(B) a timetable for such demolition or disposition; and

(C) any information required under section 261(h) with respect to such demolition or disposition.

(8) DESIGNATION OF HOUSING FOR ELDERLY AND DISABLED FAMILIES.—With respect to public housing developments owned or operated by the authority, a description of any developments (or portions thereof) that the authority has designated or will designate for occupancy by elderly and disabled families in accordance with section 227 and any information required under section 227(d) for such designated developments.

(9) CONVERSION OF PUBLIC HOUSING.—With respect to public housing owned or operated by the authority, a description of any building or buildings that the authority is required under section 203(b) to convert to housing assistance under title III, an analysis of such buildings showing that the buildings meet the requirements under such section for such conversion, and a statement of the amount of grant amounts under title II to be used for rental assistance under title III.

(10) HOMEOWNERSHIP ACTIVITIES.—A description of any homeownership programs of the authority under subtitle D of title II or section 329 for the authority and the requirements and assistance available under such programs.

(11) COORDINATION WITH WELFARE AND OTHER APPROPRIATE AGENCIES.—A description of how the authority will coordinate with State welfare agencies and other appropriate Federal, State, or local government agencies or nongovernment agencies or entities to ensure that public housing residents and assisted families will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency.

(12) SAFETY AND CRIME PREVENTION.—A description of the policies established by the authority that increase or maintain the safety of public housing residents, facilitate the authority undertaking crime prevention measures (such as community policing, where appropriate), allow resident input and involvement, and allow for creative methods to increase public housing resident safety by coordinating crime prevention efforts between the authority and Federal, State, and local law enforcement officials. Furthermore, to assure the safety of public housing residents, the requirements will include use of trespass laws by the authority to keep evicted tenants or criminals out of public housing property.

(13) POLICIES FOR LOSS OF HOUSING ASSISTANCE.—A description of policies of the authority requiring the loss of housing assistance and tenancy under titles II and III, pursuant to sections 222(e) and 321(g).

(d) 5-YEAR PLAN.—Each local housing management plan under this section for a local housing and management authority shall contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

(1) STATEMENT OF MISSION.—A statement of the mission of the authority for serving the needs of low-income families in the jurisdiction of authority during such period.

(2) GOALS AND OBJECTIVES.—A statement of the goals and objectives of the authority that will enable the authority to serve the needs identified pursuant to paragraph (1) during such period.

(3) CAPITAL IMPROVEMENT OVERVIEW.—If the authority will provide capital improvements for public housing developments during such period, an overview of such improvements, the rationale for such improvements, and an analysis of how such improvements will enable the authority to meet its goals, objectives, and mission.

(e) CITIZEN PARTICIPATION.—

(1) IN GENERAL.—Before submitting a plan under this section or an amendment under section 108(f) to a plan, a local housing and management authority shall make the plan or amendment publicly available in a manner that affords affected public housing residents and assisted families under title III, citizens, public agencies, entities providing assistance and services for homeless families, and other interested parties an opportunity, for a period not shorter than 60 days and ending at a time that reasonably provides for compliance with the requirements of paragraph (2), to examine its content and to submit comments to the authority.

(2) CONSIDERATION OF COMMENTS.—A local housing and management authority shall consider any comments or views provided pursuant to paragraph (1) in preparing a final plan or amendment for submission to the Secretary. A summary of such comments or views shall be attached to the plan, amendment, or report submitted. The submitted plan, amendment, or report shall be made publicly available upon submission.

(f) LOCAL REVIEW.—Before submitting a plan under this section to the Secretary, the local housing and management authority shall submit the plan to any local elected official or officials responsible for appointing the members of the board of directors (or other similar governing body) of the local housing and management authority for review and approval.

(g) PLANS FOR SMALL LHMA'S AND LHMA'S ADMINISTERING ONLY RENTAL ASSISTANCE.—The Secretary shall establish requirements for submission of plans under this section and the information to be included in such plans applicable to housing and management authorities that own or operate less than 250 public housing dwelling units and shall establish requirements for such submission and information applicable to authorities that only administer housing assistance under title III (and do not own or operate public housing). Such requirements shall waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such agencies.

SEC. 108. REVIEW OF PLANS.

(a) REVIEW AND NOTICE.—

(1) REVIEW.—The Secretary shall conduct a limited review of each local housing management plan submitted to the Secretary to ensure that the plan is complete and complies with the requirements of section 107. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

(2) NOTICE.—The Secretary shall notify each local housing and management authority submitting a plan whether the plan complies with such requirements not later than 75 days after receiving the plan. If the Secretary does not notify the local housing and management authority, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this Act, to have been determined to comply with the requirements under section 107 and the authority shall be considered to have been notified of compliance upon the expiration of such 75-day period.

(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 107, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 107.

(c) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under section 107 only if—

(1) the plan is incomplete in significant matters required under such section;

(2) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan;

(3) the Secretary determines that the plan does not comply with Federal law or violates the purposes of this Act because it fails to provide housing that will be viable on a long-term basis at a reasonable cost;

(4) the plan plainly fails to adequately identify the needs of low-income families for housing assistance in the jurisdiction of the authority;

(5) the plan plainly fails to adequately identify the capital improvement needs for public housing developments in the jurisdiction of the authority;

(6) the activities identified in the plan are plainly inappropriate to address the needs identified in the plan; or

(7) the plan is inconsistent with the requirements of this Act.

(d) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this title, a local housing and management authority shall be considered to have submitted a plan under this section if the authority has submitted to the Secretary a comprehensive plan under section 14(e) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) or under the comprehensive improvement assistance program under such section 14, and the Secretary has approved such plan, before January 1, 1994. The Secretary shall provide specific procedures and requirements for such authorities to amend such plans by submitting only such additional information as is necessary to comply with the requirements of section 107.

(e) ACTIONS TO CHANGE PLAN.—A local housing and management authority that has submitted a plan under section 107 may change actions or policies described in the plan before submission and review of the plan of the authority for the next fiscal year only if—

(1) in the case of costly or nonroutine changes, the authority submits to the Secretary an amendment to the plan under subsection (f) which is reviewed in accordance with such subsection; or

(2) in the case of inexpensive or routine changes, the authority describes such changes in such local housing management plan for the next fiscal year.

(f) AMENDMENTS TO PLAN.—

(1) IN GENERAL.—During the annual or 5-year period covered by the plan for a local housing and management authority, the authority may submit to the Secretary any amendments to the plan.

(2) REVIEW.—The Secretary shall conduct a limited review of each proposed amendment submitted under this subsection to determine whether the plan, as amended by the amendment, complies with the requirements of section 107 and notify each local housing and management authority submitting the amendment whether the plan, as amended, complies with such requirements not later than 30 days after receiving the amendment. If the Secretary determines that a plan, as amended, does not comply with the requirements under section 107, such notice shall indicate the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 107. If the Secretary does not notify the local housing and management authority as required under this paragraph, the plan, as amended, shall be considered, for purposes of this section, to comply with the requirements under section 107.

(3) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan, as amended by a proposed amendment, does not comply with the requirements under section 107 only if—

(A) the plan, as amended, would be subject to a determination of noncompliance in accordance with the provisions of subsection (c); or

(B) the Secretary determines that—

(i) the proposed amendment is plainly inconsistent with the activities specified in the plan; or

(ii) there is evidence that challenges, in a substantial manner, any information contained in the amendment; or

(3) the Secretary determines that the plan, as amended, violates the purposes of this Act because it fails to provide housing that will be viable on a long-term basis at a reasonable cost;

(4) AMENDMENTS TO EXTEND TIME OF PERFORMANCE.—Notwithstanding any other provision of this subsection, the Secretary may not determine that any amendment to the plan of a local housing and management authority that extends the time for performance of activities assisted with amounts provided under this title fails to comply with the requirements under section 107 if the Secretary has not provided the amount of assistance set forth in the plan or has not provided the assistance in a timely manner.

SEC. 109. REPORTING REQUIREMENTS.

(a) PERFORMANCE AND EVALUATION REPORT.—Each local housing and management authority shall annually submit to the Accreditation Board established under section 401, on a date determined by such Board, a performance and evaluation report concerning the use of funds made available under this Act. The report of the local housing and management authority shall include an assessment by the authority of the relationship of such use of funds made available under this Act, as well as the use of other funds, to the needs identified in the local housing management plan and to the purposes of this Act. The local housing and management authority shall certify that the report was available for review and comment by affected tenants prior to its submission to the Board.

(b) REVIEW OF LHMA'S.—The Accreditation Board established under section 401 shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each local housing and management authority receiving assistance under this section—

(1) has carried out its activities under this Act in a timely manner and in accordance with its local housing management plan;

(2) has a continuing capacity to carry out its local housing management plan in a timely manner; and

(3) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Board.

(c) RECORDS.—Each local housing and management authority shall collect, maintain, and submit to the Accreditation Board established under section 401 such data and other program records as the Board may require, in such form and in accordance with such schedule as the Board may establish.

SEC. 110. PET OWNERSHIP.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), a resident of a public housing dwelling unit or an assisted dwelling unit (as such term is defined in section 371) may own common household pets or have common household pets present in the dwelling unit of such resident to the extent allowed by the local housing and management authority or the owner of the assisted dwelling unit, respectively.

(b) FEDERALLY ASSISTED RENTAL HOUSING FOR THE ELDERLY OR DISABLED.—Pet ownership in housing assisted under this Act that is federally assisted rental housing for the elderly or handicapped (as such term is defined in section 227 of the Housing and Urban-Rural Recovery Act of 1983) shall be governed by the provisions of section 227 of such Act.

(c) ELDERLY FAMILIES IN PUBLIC AND ASSISTED HOUSING.—Responsible ownership of common household pets shall not be denied any elderly or disabled family who resides in a dwelling unit in public housing or an assisted dwelling unit (as such term is defined in section 371), subject to the reasonable requirements of the local housing and management authority or the owner of the assisted dwelling unit, as applicable. This subsection shall not apply to units in public housing or assisted dwelling units that are located in federally assisted rental housing for the elderly or handicapped referred to in subsection (b).

SEC. 111. ADMINISTRATIVE GRIEVANCE PROCEDURE.

(a) REQUIREMENTS.—Each local housing and management authority receiving assistance under this Act shall establish and implement an administrative grievance procedure under which residents of public housing will—

(1) be advised of the specific grounds of any proposed adverse local housing and management authority action;

(2) have an opportunity for a hearing before an impartial party (including appropriate employees of the local housing and management authority) upon timely request within a reasonable period of time;

(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

(4) be entitled to be represented by another person of their choice at any hearing;

(5) be entitled to ask questions of witnesses and have others make statements on their behalf; and

(6) be entitled to receive a written decision by the local housing and management authority on the proposed action.

(b) EXCLUSION FROM ADMINISTRATIVE PROCEDURE OF GRIEVANCES CONCERNING EVICTIONS FROM PUBLIC HOUSING.—A local housing and management authority shall exclude from its procedure established under subsection (a) any grievance concerning an eviction from or termination of tenancy in public housing in any State which requires that, prior to eviction, a resident be provided a hearing in court which the Secretary determines provides the basic elements of due process.

(c) INAPPLICABILITY TO CHOICE-BASED RENTAL HOUSING ASSISTANCE.—This section may not be construed to require any local housing and management authority to establish or implement an administrative grievance procedure with respect to assisted families under title III.

SEC. 112. HEADQUARTERS RESERVE FUND.

(a) ANNUAL RESERVATION OF AMOUNTS.—Notwithstanding any other provision of law, the Secretary may retain not more than 3 percent of the amounts appropriated to carry out title II for any fiscal year for use in accordance with this section.

(b) USE OF AMOUNTS.—Any amounts that are retained under subsection (a) or appropriated or otherwise made available for use under this section shall be available for subsequent allocation to specific areas and communities, and may only be used for the Department of Housing and Urban Development and—

(1) unforeseen housing needs resulting from natural and other disasters;

(2) housing needs resulting from emergencies, as certified by the Secretary, other than such disasters;

(3) housing needs related to a settlement of litigation, including settlement of fair housing litigation;

(4) providing technical assistance, training, and electronic information systems for the Department of Housing and Urban Development, local housing and management authorities, residents, resident councils, and resident management corporations to improve management of such authorities, except that the provision of assistance under this paragraph may not involve expenditure of amounts retained under subsection (a) for travel;

(5)(A) providing technical assistance, directly or indirectly, for local housing and management authorities, residents, resident councils, resident management corporations, and nonprofit and other entities in connection with implementation of a homeownership program under section 251, except that grants under this paragraph may not exceed $100,000; and (B) establishing a public housing homeownership program data base; and

(6) needs related to the Secretary's actions regarding troubled local housing and management authorities under this Act.

Housing needs under this subsection may be met through the provision of assistance in accordance with title II or title III, or both.

SEC. 113. LABOR STANDARDS.

(a) IN GENERAL.—Any contract for grants, sale, or lease pursuant to this Act relating to public housing shall contain the following provisions:

(1) OPERATION.—A provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all contractors and persons employed in the operation of the low-income housing development involved.

(2) PRODUCTION.—A provision that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the production of the development involved.

The Secretary shall require certification as to compliance with the provisions of this section before making any payment under such contract.

(b) EXCEPTIONS.—Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for grants, sale, or lease pursuant to this Act relating to public housing, shall not apply to any of the following individuals:

(1) VOLUNTEERS.—Any individual who—

(A) performs services for which the individual volunteered;

(B)(i) does not receive compensation for such services; or

(ii) is paid expenses, reasonable benefits, or a nominal fee for such services; and

(C) is not otherwise employed at any time in the construction work.

(2) RESIDENTS EMPLOYED BY LHMA.—Any resident of a public housing development who (A) is an employee of the local housing and management authority for the development, (B) performs services in connection with the operation

of a low-income housing project owned or managed by such authority, and (C) is not a member of a bargaining unit represented by a union that has a collective bargaining agreement with the local housing and management authority.

(3) RESIDENTS IN TRAINING PROGRAMS.—Any individuals participating in a job training program or other program designed to promote economic self-sufficiency.

(c) DEFINITION.—For purposes of this section, the terms ''operation'' and ''production'' have the meanings given the term in section 273.

SEC. 114. NONDISCRIMINATION.

(a) IN GENERAL.—No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with amounts made available under this Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

(b) CIVIL RIGHTS COMPLIANCE.—Each local housing and management authority that receives grant amounts under this Act shall use such amounts and carry out its local housing management plan approved under section 108 in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans With Disabilities Act of 1990, and shall affirmatively further fair housing.

SEC. 115. PROHIBITION ON USE OF FUNDS.

None of the funds made available to the Department of Housing and Urban Development to carry out this Act, which are obligated to State or local governments, local housing and management authorities, housing finance agencies, or other public or quasi-public housing agencies, shall be used to indemnify contractors or subcontractors of the government or agency against costs associated with judgments of infringement of intellectual property rights.

SEC. 116. INAPPLICABILITY TO INDIAN HOUSING.

Except as specifically provided by law, the provisions of this title, and titles II, III, and IV shall not apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority or to housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996.

SEC. 117. EFFECTIVE DATE AND REGULATIONS.

(a) EFFECTIVE DATE.—The provisions of this Act and the amendments made by this Act shall take effect and shall apply on the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability on another date certain.

(b) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this Act.

(c) RULE OF CONSTRUCTION.—Any failure by the Secretary to issue any regulations authorized under subsection (b) shall not affect the effectiveness of any provision of this Act or any amendment made by this Act.

TITLE II—PUBLIC HOUSING

Subtitle A—Block Grants

SEC. 201. BLOCK GRANT CONTRACTS.

(a) IN GENERAL.—The Secretary shall enter into contracts with local housing and management authorities under which—

(1) the Secretary agrees to make a block grant under this title, in the amount provided under section 202(c), for assistance for low-income housing to the local housing and management authority for each fiscal year covered by the contract; and

(2) the authority agrees—

(A) to provide safe, clean, and healthy housing that is affordable to low-income families and services for families in such housing;

(B) to operate, or provide for the operation, of such housing in a financially sound manner;

(C) to use the block grant amounts in accordance with this title and the local housing management plan for the authority that complies with the requirements of section 107;

(D) to involve residents of housing assisted with block grant amounts in functions and decisions relating to management and the quality of life in such housing;

(E) that the management of the public housing of the authority shall be subject to actions authorized under subtitle B of title IV;

(F) that the Secretary may take actions under section 205 with respect to improper use of grant amounts provided under the contract; and

(G) to otherwise comply with the requirements under this title.

(b) MODIFICATION.—Contracts and agreements between the Secretary and a local housing and management authority may not be amended in a manner which would—

(1) impair the rights of—

(A) leaseholders for units assisted pursuant to a contract or agreement; or

(B) the holders of any outstanding obligations of the local housing and management authority involved for which annual contributions have been pledged; or

(2) provide for payment of block grant amounts under this title in an amount exceeding the allocation for the authority determined under section 204.

Any rule of law contrary to this subsection shall be deemed inapplicable.

(c) CONDITIONS ON RENEWAL.—Each block grant contract under this section shall provide, as a condition of renewal of the contract with the local housing and management authority, that the authority's accreditation be renewed by the Housing Foundation and Accreditation Board pursuant to review under section 433 by such Board.

SEC. 202. GRANT AUTHORITY, AMOUNT, AND ELIGIBILITY.

(a) AUTHORITY.—The Secretary shall make block grants under this title to eligible local housing and management authorities in accordance with block grant contracts under section 201.

(b) PERFORMANCE FUNDS.—

(1) IN GENERAL.—The Secretary shall establish 2 funds for the provision of grants to eligible local housing and management authorities under this title, as follows:

(A) CAPITAL FUND.—A capital fund to provide capital and management improvements to public housing developments.

(B) OPERATING FUND.—An operating fund for public housing operations.

(2) FLEXIBILITY OF FUNDING.—A local housing and management authority may use up to 10 percent of the amounts from a grant under this title that are allocated and provided from the capital fund for activities that are eligible under section 203(a)(2) to be funded with amounts from the operating fund.

(c) AMOUNT OF GRANTS.—The amount of the grant under this title for a local housing and management authority for a fiscal year shall be the amount of the allocation for the authority determined under section 204, except as otherwise provided in this title and subtitle B of title IV.

(d) ELIGIBILITY.—A local housing and management authority shall be an eligible local housing and management authority with respect to a fiscal year for purposes of this title only if—

(1) the Secretary has entered into a block grant contract with the authority;

(2) the authority has submitted a local housing management plan to the Secretary for such fiscal year;

(3) the plan has been determined to comply with the requirements under section 107 and the Secretary has not notified the authority that the plan fails to comply with such requirements;

(4) the authority is accredited under section 433 by the Housing Foundation and Accreditation Board;

(5) the authority is exempt from local taxes, as provided under subsection (e), or receives a contribution, as provided under such subsection;

(6) no member of the board of directors or other governing body of the authority, or the executive director, has been convicted of a felony;

(7) the authority has entered into an agreement providing for local cooperation in accordance with subsection (f); and

(8) the authority has not been disqualified for a grant pursuant to section 205(a) or subtitle B of title IV.

(e) PAYMENTS IN LIEU OF STATE AND LOCAL TAXATION OF PUBLIC HOUSING DEVELOPMENTS.—

(1) EXEMPTION FROM TAXATION.—A local housing and management authority may receive a block grant under this title only if—

(A)(i) the developments of the authority (exclusive of any portions not assisted with amounts provided under this title) are exempt from all real and personal property taxes levied or imposed by the State, city, county, or other political subdivision; and

(ii) the local housing and management authority makes payments in lieu of taxes to such taxing authority equal to 10 percent of the sum, for units charged in the developments of the authority, of the difference between the gross rent and the utility cost, or such lesser amount as is—

(I) prescribed by State law;

(II) agreed to by the local governing body in its agreement under subsection (e) for local cooperation with the local housing and management authority or under a waiver by the local governing body; or

(III) due to failure of a local public body or bodies other than the local housing and management authority to perform any obligation under such agreement; or

(B) the authority complies with the requirements under subparagraph (A) with respect to public housing developments (including public housing units in mixed-income developments), but the authority agrees that the units other than public housing units in any mixed-income developments (as such term is defined in section 221(c)(2)) shall be subject to any otherwise applicable real property taxes imposed by the State, city, county or other political subdivision.

(2) EFFECT OF FAILURE TO EXEMPT FROM TAXATION.—Notwithstanding paragraph (1), a local housing and management authority that does not comply with the requirements under such paragraph may receive a block grant under this title, but only if the State, city, county, or other political subdivision in which the development is situated contributes, in the form of cash or tax remission, the amount by which the taxes paid with respect to the development exceed 10 percent of the gross rent and utility cost charged in the development.

(f) LOCAL COOPERATION.—In recognition that there should be local determination of the need for low-income housing to meet needs not being adequately met by private enterprise, the Secretary may not make any grant under this title to a local housing and management authority unless the governing body of the locality involved has entered into an agreement with the authority providing for the local cooperation required by the Secretary pursuant to this title.

(g) EXCEPTION.—Notwithstanding subsection (a), the Secretary may make a grant under this title for a local housing and management authority that is not an eligible local housing and management authority but only for the period necessary to secure, in accordance with this title, an alternative local housing and management authority for the public housing of the ineligible authority.

SEC. 203. ELIGIBLE AND REQUIRED ACTIVITIES.

(a) ELIGIBLE ACTIVITIES.—Except as provided in subsection (b) and in section 202(b)(2), grant

amounts allocated and provided from the capital fund and grant amounts allocated and provided from the operating fund may be used only for the following activities:

(1) CAPITAL FUND ACTIVITIES.—Grant amounts from the capital fund may be used for—

(A) the production and modernization of public housing developments, including the redesign, reconstruction, and reconfiguration of public housing sites and buildings and the production of mixed-income developments;

(B) vacancy reduction;

(C) addressing deferred maintenance needs and the replacement of dwelling equipment;

(D) planned code compliance;

(E) management improvements;

(F) demolition and replacement under section 261;

(G) tenant relocation;

(H) capital expenditures to facilitate programs to improve the economic empowerment and self-sufficiency of public housing tenants; and

(I) capital expenditures to improve the security and safety of residents.

(2) OPERATING FUND ACTIVITIES.—Grant amounts from the operating fund may be used for—

(A) procedures and systems to maintain and ensure the efficient management and operation of public housing units;

(B) activities to ensure a program of routine preventative maintenance;

(C) anti-crime and anti-drug activities, including the costs of providing adequate security for public housing tenants;

(D) activities related to the provision of services, including service coordinators for elderly persons or persons with disabilities;

(E) activities to provide for management and participation in the management of public housing by public housing tenants;

(F) the costs associated with the operation and management of mixed-income developments;

(G) the costs of insurance;

(H) the energy costs associated with public housing units, with an emphasis on energy conservation;

(I) the costs of administering a public housing work program under section 106, including the costs of any related insurance needs; and

(J) activities in connection with a homeownership program for public housing residents under subtitle D, including providing financing or assistance for purchasing housing, or the provision of financial assistance to resident management corporations or resident councils to obtain training, technical assistance, and educational assistance to promote homeownership opportunities.

(b) REQUIRED CONVERSION OF ASSISTANCE FOR PUBLIC HOUSING TO RENTAL HOUSING ASSISTANCE.—

(1) REQUIREMENT.—A local housing and management authority that receives grant amounts under this title shall provide assistance in the form of rental housing assistance under title III, or appropriate site revitalization or other appropriate capital improvements approved by the Secretary, in lieu of assisting the operation and modernization of any building or buildings of public housing, if the authority provides sufficient evidence to the Secretary that the building or buildings—

(A) are on the same or contiguous sites;

(B) consist of more than 300 dwelling units;

(C) have a vacancy rate of at least 10 percent for dwelling units not in funded, on-schedule modernization programs;

(D) are identified as distressed housing for which the local housing and management authority cannot assure the long-term viability as public housing through reasonable revitalization, density reduction, or achievement of a broader range of household income; and

(E) have an estimate cost of continued operation and modernization as public housing that exceeds the cost of providing choice-based rental assistance under title III for all families in occupancy, based on appropriate indicators of cost (such as the percentage of the total development cost required for modernization).

Local housing and management agencies shall identify properties that meet the definition of subparagraphs (A) through (E).

(2) USE OF OTHER AMOUNTS.—In addition to grant amounts under this title attributable (pursuant to the formulas under section 204) to the building or buildings identified under paragraph (1), the Secretary may use amounts provided in appropriation Acts for choice-based housing assistance under title III for families residing in such building or buildings or for appropriate site revitalization or other appropriate capital improvements approved by the Secretary.

(3) ENFORCEMENT.—The Secretary shall take appropriate action to ensure conversion of any building or buildings identified under paragraph (1) and any other appropriate action under this subsection, if the local housing and management authority fails to take appropriate action under this subsection.

(4) FAILURE OF LHMA'S TO COMPLY WITH CONVERSION REQUIREMENT.—If the Secretary determines that—

(A) a local housing and management authority has failed under paragraph (1) to identify a building or buildings in a timely manner,

(B) a local housing and management authority has failed to identify one or more buildings which the Secretary determines should have been identified under paragraph (1), or

(C) one or more of the buildings identified by the local housing and management authority pursuant to paragraph (1) should not, in the determination of the Secretary, have been identified under that paragraph,

the Secretary may identify a building or buildings for conversion and take other appropriate action pursuant to this subsection.

(5) CESSATION OF UNNECESSARY SPENDING.—Notwithstanding any other provision of law, if, in the determination of the Secretary, a building or buildings meets or is likely to meet the criteria set forth in paragraph (1), the Secretary may direct the local housing and management authority to cease additional spending in connection with such building or buildings, except to the extent that additional spending is necessary to ensure safe, clean, and healthy housing until the Secretary determines or approves an appropriate course of action with respect to such building or buildings under this subsection.

(6) USE OF BUDGET AUTHORITY.—Notwithstanding any other provision of law, if a building or buildings are identified pursuant to paragraph (1), the Secretary may authorize or direct the transfer, to the choice-based or tenant-based assistance program of such authority or to appropriate site revitalization or other capital improvements approved by the Secretary, of—

(A) in the case of an authority receiving assistance under the comprehensive improvement assistance program, any amounts obligated by the Secretary for the modernization of such building or buildings pursuant to section 14 of the United States Housing Act of 1937, as in effect immediately before the date of enactment of this Act;

(B) in the case of an authority receiving public housing modernization assistance by formula pursuant to such section 14, any amounts provided to the authority which are attributable pursuant to the formula for allocating such assistance to such building or buildings;

(C) in the case of an authority receiving assistance for the major reconstruction of obsolete projects, any amounts obligated by the Secretary for the major reconstruction of such building or buildings pursuant to section 5(j)(2) of the United States Housing Act of 1937, as in effect immediately before the date of enactment of this Act; and

(D) in the case of an authority receiving assistance pursuant to the formulas under section 204, any amounts provided to the authority which are attributable pursuant to the formulas for allocating such assistance to such building or buildings.

(c) EXTENSION OF DEADLINES.—The Secretary may, for a local housing and management authority, extend any deadline established pursuant to this section or a local housing management plan for up to an additional 5 years if the Secretary makes a determination that the deadline is impracticable.

(d) COMPLIANCE WITH PLAN.—The local housing management plan submitted by a local housing and management authority (including any amendments to the plan), unless determined under section 108 not to comply with the requirements under section 107, shall be binding upon the Secretary and the local housing and management authority and the authority shall use any grant amounts provided under this title for eligible activities under subsection (a) in accordance with the plan. This subsection may not be construed to preclude changes or amendments to the plan, as authorized under section 108(e) or any actions authorized by this Act to be taken without regard to a local housing management plan.

SEC. 204. DETERMINATION OF GRANT ALLOCATION.

(a) IN GENERAL.—For each fiscal year, after reserving amounts under section 112 from the aggregate amount made available for the fiscal year for carrying out this title, the Secretary shall allocate any remaining amounts among eligible local housing and management authorities in accordance with this section, so that the sum of all of the allocations for all eligible authorities is equal to such remaining amount.

(b) ALLOCATION AMOUNT.—The Secretary shall determine the amount of the allocation for each eligible local housing and management authority, which shall be—

(1) for any fiscal year beginning after the enactment of a law containing the formulas described in paragraphs (1) and (2) of subsection (c), the amount determined under such formulas; or

(2) for any fiscal year beginning before the expiration of such period, the sum of—

(A) the operating allocation determined under subsection (d)(1) for the authority; and

(B) the capital improvement allocation determined under subsection (d)(2) for the authority.

(c) PERMANENT ALLOCATION FORMULAS FOR CAPITAL AND OPERATING FUNDS.—

(1) ESTABLISHMENT OF CAPITAL FUND FORMULA.—The formula under this paragraph shall provide for allocating assistance under the capital fund for a fiscal year. The formula may take into account such factors as—

(A) the number of public housing dwelling units owned or operated by the local housing and management authority, the characteristics and locations of the developments, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the local housing and management authority to carry out rehabilitation and modernization activities, and reconstruction, production, and demolition activities related to public housing dwelling units owned or operated by the local housing and management authority, including backlog and projected future needs of the authority;

(C) the cost of constructing and rehabilitating property in the area; and

(D) the need of the local housing and management authority to carry out activities that provide a safe and secure environment in public housing units owned or operated by the local housing and management authority.

(2) ESTABLISHMENT OF OPERATING FUND FORMULA.—The formula under this paragraph shall provide for allocating assistance under the operating fund for a fiscal year. The formula may take into account such factors as—

(A) standards for the costs of operating and reasonable projections of income, taking into account the characteristics and locations of the

public housing developments and characteristics of the families served and to be served (including the incomes of the families), or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed public housing development;

(B) the number of public housing dwelling units owned or operated by the local housing and management authority; and

(C) the need of the local housing and management authority to carry out anti-crime and anti-drug activities, including providing adequate security for public housing residents.

(3) DEVELOPMENT UNDER NEGOTIATED RULEMAKING PROCEDURE.—The formulas under this subsection shall be developed according to procedures for issuance of regulations under the negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code, except that the formulas shall not be contained in a regulation.

(4) REPORT.—Not later than the expiration of the 18-month period beginning upon the enactment of this Act, the Secretary shall submit a report to the Congress containing the proposed formulas established pursuant to paragraph (3) that meets the requirements of this subsection.

(d) INTERIM ALLOCATION REQUIREMENTS.—

(1) OPERATING ALLOCATION.—

(A) APPLICABILITY TO 50 PERCENT OF APPROPRIATED AMOUNTS.—Of any amounts available for allocation under this subsection for a fiscal year, 50 percent shall be used only to provide amounts for operating allocations under this paragraph for eligible local housing and management authorities.

(B) DETERMINATION.—The operating allocation under this subsection for a local housing and management authority for a fiscal year shall be an amount determined by applying, to the amount to be allocated under this paragraph, the formula used for determining the distribution of operating subsidies for fiscal year 1995 to public housing agencies (as modified under subparagraph (C)) under section 9 of the United States Housing Act of 1937, as in effect before the enactment of this Act.

(C) TREATMENT OF CHRONICALLY VACANT UNITS.—The Secretary shall revise the formula referred to in subparagraph (B) so that the formula does not provide any amounts, other than utility costs and other necessary costs (such as costs necessary for the protection of persons and property), attributable to any dwelling unit of a local housing and management authority that has been vacant continuously for 6 or more months. A unit shall not be considered vacant for purposes of this paragraph if the unit is unoccupied because of rehabilitation or renovation that is on-schedule.

(D) INCREASES IN INCOME.—The Secretary may revise the formula referred to in subparagraph (B) to provide an incentive to encourage local housing and management authorities to increase nonrental income and to increase rental income attributable to their units by encouraging occupancy by families with a broad range of incomes, including families whose incomes have increased while in occupancy and newly admitted families. Any such incentive shall provide that the local housing and management authority shall derive the full benefit of an increase in nonrental income, and such increase shall not directly result in a decrease in amounts provided to the authority under this title.

(2) CAPITAL IMPROVEMENT ALLOCATION.—

(A) APPLICABILITY TO 50 PERCENT OF APPROPRIATED AMOUNTS.—Of any amounts available for allocation under this subsection for a fiscal year, 50 percent shall be used only to provide amounts for capital improvement allocations under this paragraph for eligible local housing and management authorities.

(B) DETERMINATION.—The capital improvement allocation under this subsection for an eligible local housing and management authority for a fiscal year shall be determined by applying, to the amount to be allocated under this paragraph, the formula used for determining the distribution of modernization assistance for fiscal year 1995 to public housing agencies under section 14 of the United States Housing Act of 1937, as in effect before the enactment of this Act, except that Secretary shall establish a method for taking into consideration allocation of amounts under the comprehensive improvement assistance program.

(e) ELIGIBILITY OF UNITS ACQUIRED FROM PROCEEDS OF SALES UNDER DEMOLITION OR DISPOSITION PLAN.—If a local housing and management authority uses proceeds from the sale of units under a homeownership program in accordance with section 251 to acquire additional units to be sold to low-income families, the additional units shall be counted as public housing for purposes of determining the amount of the allocation to the authority under this section until sale by the authority, but in any case no longer than 5 years.

SEC. 205. SANCTIONS FOR IMPROPER USE OF AMOUNTS.

(a) IN GENERAL.—In addition to any other actions authorized under this title, if the Secretary finds pursuant to an annual financial and performance audit under section 432 that a local housing and management authority receiving grant amounts under this title has failed to comply substantially with any provision of this title, the Secretary may—

(1) terminate payments under this title to the authority;

(2) withhold from the authority amounts from the total allocation for the authority pursuant to section 204;

(3) reduce the amount of future grant payments under this title to the authority by an amount equal to the amount of such payments that were not expended in accordance with this title;

(4) limit the availability of grant amounts provided to the authority under this title to programs, projects, or activities not affected by such failure to comply;

(5) withhold from the authority amounts allocated for the authority under title III; or

(6) order other corrective action with respect to the authority.

(b) TERMINATION OF COMPLIANCE ACTION.—If the Secretary takes action under subsection (a) with respect to a local housing and management authority, the Secretary shall—

(1) in the case of action under subsection (a)(1), resume payments of grant amounts under this title to the authority in the full amount of the total allocation under section 204 for the authority at the time that the Secretary first determines that the authority will comply with the provisions of this title;

(2) in the case of action under paragraph (2), (5), or (6) of subsection (a), make withheld amounts available as the Secretary considers appropriate to ensure that the authority complies with the provisions of this title; or

(3) in the case of action under subsection (a)(4), release such restrictions at the time that the Secretary first determines that the authority will comply with the provisions of this title.

Subtitle B—Admissions and Occupancy Requirements

SEC. 221. LOW-INCOME HOUSING REQUIREMENT.

(a) PRODUCTION ASSISTANCE.—Any public housing produced using amounts provided under a grant under this title or under the United States Housing Act of 1937 shall be operated as public housing for the 40-year period beginning upon such production.

(b) OPERATING ASSISTANCE.—No portion of any public housing development operated with amounts from a grant under this title or operating assistance provided under the United States Housing Act of 1937 may be disposed of before the expiration of the 10-year period beginning upon the conclusion of the fiscal year for which the grant or such assistance was provided, except as provided in this Act.

(c) CAPITAL IMPROVEMENTS ASSISTANCE.—Amounts may be used for eligible activities under section 203(a)(2) only for the following housing developments:

(1) LOW-INCOME DEVELOPMENTS.—Amounts may be used for a low-income housing development that—

(A) is owned by local housing and management authorities;

(B) is operated as low-income rental housing and produced or operated with assistance provided under a grant under this title; and

(C) is consistent with the purposes of this title.

Any development, or portion thereof, referred to in this paragraph for which activities under section 203(a)(2) are conducted using amounts from a grant under this title shall be maintained and used as public housing for the 20-year period beginning upon the receipt of such grant. Any public housing development, or portion thereof, that received the benefit of a grant pursuant to section 14 of the United States Housing Act of 1937 shall be maintained and used as public housing for the 20-year period beginning upon receipt of such amounts.

(2) MIXED INCOME DEVELOPMENTS.—Amounts may be used for mixed-income developments, which shall be a housing development that—

(A) contains dwelling units that are available for occupancy by families other than low-income families;

(B) contains a number of dwelling units—

(i) which units are made available (by master contract or individual lease) for occupancy only by low- and very low-income families identified by the local housing and management authority;

(ii) which number is not less than a reasonable number of units, including related amenities, taking into account the amount of the assistance provided by the authority compared to the total investment (including costs of operation) in the development;

(iii) which units are subject to the statutory and regulatory requirements of the public housing program, except that the Secretary may grant appropriate waivers to such statutory and regulatory requirements if reductions in funding or other changes to the program make continued application of such requirements impracticable;

(iv) which units are specially designated as dwelling units under this subparagraph, except the equivalent units in the development may be substituted for designated units during the period the units are subject to the requirements of the public housing program; and

(v) which units shall be eligible for assistance under this title; and

(C) is owned by the local housing and management authority, an affiliate controlled by it, or another appropriate entity.

Notwithstanding any other provision of this title, to facilitate the establishment of socioeconomically mixed communities, a local housing and management authority that uses grant amounts under this title for a mixed income development under this paragraph may, to the extent that income from such a development reduces the amount of grant amounts used for operating or other costs relating to public housing, use such resulting savings to rent privately developed dwelling units in the neighborhood of the mixed income development. Such units shall be made available for occupancy only by low-income families eligible for residency in public housing.

SEC. 222. FAMILY ELIGIBILITY.

(a) IN GENERAL.—Dwelling units in public housing may be rented only to families who are low-income families at the time of their initial occupancy of such units.

(b) INCOME MIX WITHIN DEVELOPMENTS.—A local housing and management authority may establish and utilize income-mix criteria for the selection of residents for dwelling units in public housing developments that limit admission to a

development by selecting applicants having incomes appropriate so that the mix of incomes of families occupying the development is proportional to the income mix in the eligible population of the jurisdiction of the authority, as adjusted to take into consideration the severity of housing need. Any criteria established under this subsection shall be subject to the provisions of subsection (c).

(c) INCOME MIX.—

(1) LHMA INCOME MIX.—Of the public housing dwelling units of a local housing and management authority made available for occupancy after the date of the enactment of this Act not less than 35 percent shall be occupied by low-income families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary, may for purposes of this subsection, establish income ceilings higher or lower than 30 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(2) PROHIBITION OF CONCENTRATION OF LOW-INCOME FAMILIES.—A local housing and management authority may not comply with the requirements under paragraph (1) by concentrating very low-income families (or other families with relatively low incomes) in public housing dwelling units in certain public housing developments or certain buildings within developments. The Secretary may review the income and occupancy characteristics of the public housing developments, and the buildings of such developments, of local housing and management authorities to ensure compliance with the provisions of this paragraph.

(d) WAIVER OF ELIGIBILITY REQUIREMENTS FOR OCCUPANCY BY POLICE OFFICERS.—

(1) AUTHORITY AND WAIVER.—To provide occupancy in public housing dwelling units to police officers and other law enforcement or security personnel (who are not otherwise eligible for residence in public housing) and to increase security for other public housing residents in developments where crime has been a problem, a local housing and management authority may, with respect to such units and subject to paragraph (2)—

(A) waive—

(i) the provisions of subsection (a) of this section and section 225(a);

(ii) the applicability of—

(I) any preferences for occupancy established under section 223;

(II) the minimum rental amount established pursuant to section 225(b) and any maximum monthly rental amount established pursuant to such section;

(III) any criteria relating to project income mix established under subsection (b);

(IV) the income mix requirements under subsection (c); and

(V) any other occupancy limitations or requirements; and

(B) establish special rent requirements and other terms and conditions of occupancy.

(2) CONDITIONS OF WAIVER.—A local housing and management authority may take the actions authorized in paragraph (1) only if authority determines that such actions will increase security in the public housing developments involved and will not result in a significant reduction of units available for residence by low-income families.

(e) LOSS OF ASSISTANCE FOR TERMINATION OF TENANCY.—A local housing and management authority shall, consistent with policies described in the local housing management plan of the authority, establish policies providing that a family residing in a public housing dwelling unit whose tenancy is terminated for serious violations of the terms or conditions of the lease shall—

(1) lose any right to continued occupancy in public housing under this title; and

(2) immediately become ineligible for admission to public housing under this title or for housing assistance under title III—

(A) in the case of a termination due to drug-related criminal activity, for a period of not less than 3 years from the date of the termination; or

(B) for other terminations, for a reasonable period of time as determined period of time as determined by the local housing and management authority.

SEC. 223. PREFERENCES FOR OCCUPANCY.

(a) AUTHORITY TO ESTABLISH.—Any local housing and management authority may establish a system for making dwelling units in public housing available for occupancy that provides preference for such occupancy to families having certain characteristics.

(b) CONTENT.—Each system of preferences established pursuant to this section shall be based upon local housing needs and priorities, as determined by the local housing and management authority using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 107(e) or under the requirements applicable to comprehensive housing affordability strategy for the relevant jurisdiction.

SEC. 224. ADMISSION PROCEDURES.

(a) ADMISSION REQUIREMENTS.—A local housing and management authority shall ensure that each family residing in a public housing development owned or administered by the authority is admitted in accordance with the procedures established under this title by the authority and the income limits under section 222.

(b) AVAILABILITY OF CRIMINAL RECORDS.—A local housing and management authority may request and obtain records regarding the criminal convictions of applicants for, or tenants of, public housing as provided in section 646 of the Housing and Community Development Act of 1992.

(c) NOTIFICATION OF APPLICATION DECISIONS.—A local housing and management authority shall establish procedures designed to provide for notification to an applicant for admission to public housing of the determination with respect to such application, the basis for the determination, and, if the applicant is determined to be eligible for admission, the projected date of occupancy (to the extent such date can reasonably be determined). If an authority denies an applicant admission to public housing, the authority shall notify the applicant that the applicant may request an informal hearing on the denial within a reasonable time of such notification.

(d) CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE.—A local housing and management authority shall be subject to the restrictions regarding release of information relating to the identity and new residence of any family in public housing that was a victim of domestic violence that are applicable to shelters pursuant to the Family Violence Prevention and Services Act. The authority shall work with the United States Postal Service to establish procedures consistent with the confidentiality provisions in the Violence Against Women Act of 1994.

(e) TRANSFERS.—A local housing and management authority may apply, to each public housing resident seeking to transfer from one development to another development owned or operated by the authority, the screening procedures applicable at such time to new applicants for public housing.

SEC. 225. FAMILY RENTAL PAYMENT.

(a) RENTAL CONTRIBUTION BY RESIDENT.—

(1) IN GENERAL.—A family shall pay as monthly rent for a dwelling unit in public housing the amount that the local housing and management authority determines is appropriate with respect to the family and the unit, which shall be—

(A) based upon factors determined by the authority, which may include the adjusted income of the resident, type and size of dwelling unit, operating and other expenses of the authority, or any other factors that the authority considers appropriate; and

(B) an amount that is not less than the minimum monthly rental amount under subsection (b)(1) nor more than any maximum monthly rental amount established for the dwelling unit pursuant to subsection (b)(2).

Notwithstanding any other provision of this subsection, the amount paid by an elderly family or a disabled family for monthly rent for a dwelling unit in public housing may not exceed 30 percent of the family's adjusted monthly income. Notwithstanding any other provision of this subsection, the amount paid by a family whose head (or whose spouse) is a veteran (as such term is defined in section 203(b) of the National Housing Act) for monthly rent for a dwelling unit in public housing may not exceed 30 percent of the family's adjusted monthly income. In determining the amount of the rent charged under this paragraph for a dwelling unit, a local housing and management authority shall take into consideration the characteristics of the population served by the authority, the goals of the local housing management plan for the authority, and the goals under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the applicable jurisdiction.

(2) EXCEPTIONS.—Notwithstanding any other provision of this section, the amount paid for monthly rent for a dwelling unit in public housing may not exceed 30 percent of the family's adjusted monthly income for any family who—

(A) upon the date of the enactment of this Act, is residing in any dwelling unit in public housing and—

(i) is an elderly family; or

(ii) is a disabled family; or

(B) has an income that does not exceed 30 percent of the median income for the area (as determined by the Secretary with adjustments for smaller and larger families).

(b) ALLOWABLE RENTS.—

(1) MINIMUM RENTAL.—Each local housing and management authority shall establish, for each dwelling unit in public housing owned or administered by the authority, a minimum monthly rental contribution toward the rent (which rent shall include any amount allowed for utilities), which—

(A) may not be less than $25, nor more than $50; and

(B) may be increased annually by the authority, except that no such annual increase may exceed 10 percent of the amount of the minimum monthly rental contribution in effect for the preceding year.

Notwithstanding the preceding sentence, a local housing and management authority may, in its sole discretion, grant an exemption in whole or in part from payment of the minimum monthly rental contribution established under this paragraph to any family unable to pay such amount because of severe financial hardships. Severe financial hardships may include situations where the family is awaiting an eligibility determination for a Federal, State, or local assistance program, where the family would be evicted as a result of imposition of the minimum rent, and other situations as may be determined by the authority.

(2) MAXIMUM RENTAL.—Each local housing and management authority may establish, for each dwelling unit in public housing owned or administered by the authority, a maximum monthly rental amount, which shall be an amount determined by the authority which is based on, but does not exceed—

(A) the average, for dwelling units of similar size in public housing developments owned and operated by such authority, of operating expenses attributable to such units;

(B) the reasonable rental value of the unit; or

(C) the local market rent for comparable units of similar size.

(c) INCOME REVIEWS.—If a local housing and management authority establishes the amount of rent paid by a family for a public housing dwelling unit based on the adjusted income of the family, the authority shall review the incomes of such family occupying dwelling units in public housing owned or administered by the authority not less than annually.

(d) REVIEW OF MAXIMUM AND MINIMUM RENTS.—

(1) RENTAL CHARGES.—If the Secretary determines, at any time, that a significant percentage of the public housing dwelling units owned or operated by a large local housing and management authority are occupied by households paying more than 30 percent of their adjusted incomes for rent, the Secretary shall review the maximum and minimum monthly rental amounts established by the authority.

(2) POPULATION SERVED.—If the Secretary determines, at any time, that less than 40 percent of the public housing dwelling units owned or operated by a large local housing and management authority are occupied by households whose incomes do not exceed 30 percent of the area median income, the Secretary shall review the maximum and minimum monthly rental amounts established by the authority.

(3) MODIFICATION OF MAXIMUM AND MINIMUM RENTAL AMOUNTS.—If, pursuant to review under this subsection, the Secretary determines that the maximum and minimum rental amounts for a large local housing and management authority are not appropriate to serve the needs of the low-income population of the jurisdiction served by the authority (taking into consideration the financial resources and costs of the authority), as identified in the approved local housing management plan of the authority, the Secretary may require the authority to modify the maximum and minimum monthly rental amounts.

(4) LARGE LHMA.—For purposes of this subsection, the term ''large local housing and management authority'' means a local housing and management authority that owns or operates 1250 or more public housing dwelling units.

(e) PHASE-IN OF RENT CONTRIBUTION INCREASES.—

(1) IN GENERAL.—Except as provided in paragraph (2), for any family residing in a dwelling unit in public housing upon the date of the enactment of this Act, if the monthly contribution for rental of an assisted dwelling unit to be paid by the family upon initial applicability of this title is greater than the amount paid by the family under the provisions of the United States Housing Act of 1937 immediately before such applicability, any such resulting increase in rent contribution shall be—

(A) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more of such contribution before initial applicability; and

(B) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent of such contribution before initial applicability.

(2) EXCEPTION.—The minimum rent contribution requirement under subsection (b)(1)(A) shall apply to each family described in paragraph (1) of this subsection, notwithstanding such paragraph.

SEC. 226. LEASE REQUIREMENTS.

In renting dwelling units in a public housing development, each local housing and management authority shall utilize leases that—

(1) do not contain unreasonable terms and conditions;

(2) obligate the local housing and management authority to maintain the development in compliance with the housing quality requirements under section 232;

(3) require the local housing and management authority to give adequate written notice of termination of the lease, which shall not be less than—

(A) the period provided under the applicable law of the jurisdiction or 14 days, whichever is less, in the case of nonpayment of rent;

(B) a reasonable period of time, but not to exceed 14 days, when the health or safety of other residents or local housing and management authority employees is threatened; and

(C) the period of time provided under the applicable law of the jurisdiction, in any other case;

(4) require that the local housing and management authority may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, State, or local law, or for other good cause;

(5) provide that the local housing and management authority may terminate the tenancy of a public housing resident for any activity, engaged in by a public housing resident, any member of the resident's household, or any guest or other person under the resident's control, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the local housing and management authority or other manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off such premises;

(6) provide that any occupancy in violation of the provisions of section 105 shall be cause for termination of tenancy; and

(7) specify that, with respect to any notice of eviction or termination, notwithstanding any State law, a public housing resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records or regulations directly related to the eviction or termination.

SEC. 227. DESIGNATED HOUSING FOR ELDERLY AND DISABLED FAMILIES

(a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

(1) IN GENERAL.—Subject only to provisions of this section and notwithstanding any other provision of law, a local housing and management authority for which the information required under subsection (d) is in effect may provide public housing developments (or portions of developments) designated for occupancy by (A) only elderly families, (B) only disabled families, or (C) elderly and disabled families.

(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing developments (or portions of developments) that are designated for occupancy as provided in paragraph (1), the local housing and management authority may make units in such developments (or portions) available only to the types of families for whom the development is designated.

(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a local housing and management authority determines that there are insufficient numbers of elderly families to fill all the units in a development (or portion of a development) designated under paragraph (1) for occupancy by only elderly families, the authority may provide that near-elderly families may occupy dwelling units in the development (or portion).

(b) STANDARDS REGARDING EVICTIONS.—Except as provided in section 105(b)(1)(B), any tenant who is lawfully residing in a dwelling unit in a public housing development may not be evicted or otherwise required to vacate such unit because of the designation of the development (or portion of a development) pursuant to this section or because of any action taken by the Secretary or any local housing and management authority pursuant to this section.

(c) RELOCATION ASSISTANCE.—A local housing and management authority that designates any existing development or building, or portion thereof, for occupancy as provided under subsection (a)(1) shall provide, to each person and family who agrees to be relocated in connection with such designation—

(1) notice of the designation and an explanation of available relocation benefits, as soon as is practicable for the authority and the person or family;

(2) access to comparable housing (including appropriate services and design features), which may include choice-based rental housing assistance under title III, at a rental rate paid by the tenant that is comparable to that applicable to the unit from which the person or family has vacated; and

(3) payment of actual, reasonable moving expenses.

(d) REQUIRED INCLUSIONS IN LOCAL HOUSING MANAGEMENT PLAN.—A local housing and management authority may designate a development (or portion of a development) for occupancy under subsection (a)(1) only if the authority, as part of the authority's local housing management plan—

(1) establishes that the designation of the development is necessary—

(A) to achieve the housing goals for the jurisdiction under the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

(B) to meet the housing needs of the low-income population of the jurisdiction; and

(2) includes a description of—

(A) the development (or portion of a development) to be designated;

(B) the types of tenants for which the development is to be designated;

(C) any supportive services to be provided to tenants of the designated development (or portion);

(D) how the design and related facilities (as such term is defined in section 202(d)(8) of the Housing Act of 1959) of the development accommodate the special environmental needs of the intended occupants; and

(E) any plans to secure additional resources or housing assistance to provide assistance to families that may have been housed if occupancy in the development were not restricted pursuant to this section.

For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of residents. Notwithstanding section 108, the Secretary may approve a local housing management plan without approving the portion of the plan covering designation of a development pursuant to this section.

(e) EFFECTIVENESS.—

(1) Initial 5-year effectiveness.—The information required under subsection (d) shall be in effect for purposes of this section during the 5-year period that begins upon notification under section 108(a) of the local housing and management authority that the information complies with the requirements under section 107 and this section.

(2) RENEWAL.—Upon the expiration of the 5-year period under paragraph (1) or any 2-year period under this paragraph, an authority may extend the effectiveness of the designation and information for an additional 2-year period (that begins upon such expiration) by submitting to the Secretary any information needed to update the information. The Secretary may not limit the number of times a local housing and management authority extends the effectiveness of a designation and information under this paragraph.

(3) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this section, a local housing and management authority shall be considered to have submitted the information required under this section if the authority has submitted to the Secretary an application and allocation plan under section 7 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act) that has not been approved or disapproved before such date of enactment.

(4) TRANSITION PROVISION.—Any application and allocation plan approved under section 7 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act)

before such date of enactment shall be considered to be the information required to be submitted under this section and that is in effect for purposes of this section for the 5-year period beginning upon such approval.

(g) INAPPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITIONS POLICY ACT OF 1970.—No resident of a public housing development shall be considered to be displaced for purposes of the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 because of the designation of any existing development or building, or portion thereof, for occupancy as provided under subsection (a) of this section.

(h) USE OF AMOUNTS.—Any amounts appropriated pursuant to section 10(b) of the Housing Opportunity Program Extension Act of 1996 (Public Law 104–120) may also be used for choice-based rental housing assistance under title III for local housing and management authorities to implement this section.

Subtitle C—Management

SEC. 231. MANAGEMENT PROCEDURES.

(a) SOUND MANAGEMENT.—A local housing and management authority that receives grant amounts under this title shall establish and comply with procedures and practices sufficient to ensure that the public housing developments owned or administered by the authority are operated in a sound manner.

(b) ACCOUNTING SYSTEM FOR RENTAL COLLECTIONS AND COSTS.—

(1) ESTABLISHMENT.—Each local housing and management authority that receives grant amounts under this title shall establish and maintain a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) for each project and operating cost center (as determined by the Secretary).

(2) ACCESS TO RECORDS.—Each local housing and management authority shall make available to the general public the information required pursuant to paragraph (1) regarding collections and costs.

(3) EXEMPTION.—The Secretary may permit authorities owning or operating fewer than 500 dwelling units to comply with the requirements of this subsection by accounting on an authority-wide basis.

(c) MANAGEMENT BY OTHER ENTITIES.—Except as otherwise provided under this Act, a local housing and management authority may contract with any other entity to perform any of the management functions for public housing owned or operated by the local housing and management authority.

SEC. 232. HOUSING QUALITY REQUIREMENTS.

(a) IN GENERAL.—Each local housing and management authority that receives grant amounts under this Act shall maintain its public housing in a condition that complies—

(1) in the case of public housing located in a jurisdiction which has in effect laws, regulations, standards, or codes regarding habitability of residential dwellings, with such applicable laws, regulations, standards, or codes; or

(2) in the case of public housing located in a jurisdiction which does not have in effect laws, regulations, standards, or codes described in paragraph (1), with the housing quality standards established under subsection (b).

(b) FEDERAL HOUSING QUALITY STANDARDS.—The Secretary shall establish housing quality standards under this subsection that ensure that public housing dwelling units are safe, clean, and healthy. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 328(b). The Secretary shall differentiate between major and minor violations of such standards.

(c) DETERMINATIONS.—Each local housing and management authority providing housing assistance shall identify, in the local housing management plan of the authority, whether the authority is utilizing the standard under paragraph (1) or (2) of subsection (a).

(d) ANNUAL INSPECTIONS.—Each local housing and management authority that owns or operates public housing shall make an annual inspection of each public housing development to determine whether units in the development are maintained in accordance with the requirements under subsection (a). The authority shall submit the results of such inspections to the Secretary and the Inspector General for the Department of Housing and Urban Development and such results shall be available to the Housing Foundation and Accreditation Board established under title IV and any auditor conducting an audit under section 432.

SEC. 233. EMPLOYMENT OF RESIDENTS.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (A)—

(i) by striking ''public and Indian housing agencies'' and inserting ''local housing and management authorities and recipients of grants under the Native American Housing Assistance and Self-Determination Act of 1996''; and

(ii) by striking ''development assistance'' and all that follows through the end and inserting ''assistance provided under title II of the United States Housing Act of 1996 and used for the housing production, operation, or capital needs.''; and

(B) in subparagraph (B)(ii), by striking ''managed by the public or Indian housing agency'' and inserting ''assisted by the local housing and management authority or the recipient of a grant under the Native American Housing Assistance and Self-Determination Act of 1996''; and

(2) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by striking ''public and Indian housing agencies'' and inserting ''local housing and management authorities and recipients of grants under the Native American Housing Assistance and Self-Determination Act of 1996''; and

(ii) by striking ''development assistance'' and all that follows through ''section 14 of that Act'' and inserting ''assistance provided under title II of the United States Housing Act of 1996 and used for the housing production, operation, or capital needs''; and

(B) in subparagraph (B)(ii), by striking ''operated by the public or Indian housing agency'' and inserting ''assisted by the local housing and management authority or the recipient of a grant under the Native American Housing Assistance and Self-Determination Act of 1996''.

SEC. 234. RESIDENT COUNCILS AND RESIDENT MANAGEMENT CORPORATIONS.

(a) RESIDENT COUNCILS.—The residents of a public housing development may establish a resident council for the development for purposes of consideration of issues relating to residents, representation of resident interests, and coordination and consultation with a local housing and management authority. A resident council shall be an organization or association that—

(1) is nonprofit in character;

(2) is representative of the residents of the eligible housing;

(3) adopts written procedures providing for the election of officers on a regular basis; and

(4) has a democratically elected governing board, which is elected by the residents of the eligible housing on a regular basis.

(b) RESIDENT MANAGEMENT CORPORATIONS.—

(1) ESTABLISHMENT.—The residents of a public housing development may establish a resident management corporation for the purpose of assuming the responsibility for the management of the development under section 235 or purchasing a development.

(2) REQUIREMENTS.—A resident management corporation shall be a corporation that—

(A) is nonprofit in character;

(B) is organized under the laws of the State in which the development is located;

(C) has as its sole voting members the residents of the development; and

(D) is established by the resident council for the development or, if there is not a resident council, by a majority of the households of the development.

SEC. 235. MANAGEMENT BY RESIDENT MANAGEMENT CORPORATION.

(a) AUTHORITY.—A local housing and management authority may enter into a contract under this section with a resident management corporation to provide for the management of public housing developments by the corporation.

(b) CONTRACT.—A contract under this section for management of public housing developments by a resident management corporation shall establish the respective management rights and responsibilities of the corporation and the local housing and management authority. The contract shall be consistent with the requirements of this Act applicable to public housing development and may include specific terms governing management personnel and compensation, access to public housing records, submission of and adherence to budgets, rent collection procedures, resident income verification, resident eligibility determinations, resident eviction, the acquisition of supplies and materials and such other matters as may be appropriate. The contract shall be treated as a contracting out of services.

(c) BONDING AND INSURANCE.—Before assuming any management responsibility for a public housing development, the resident management corporation shall provide fidelity bonding and insurance, or equivalent protection. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the local housing and management authority against loss, theft, embezzlement, or fraudulent acts on the part of the resident management corporation or its employees.

(d) BLOCK GRANT ASSISTANCE AND INCOME.—A contract under this section shall provide for—

(1) the local housing and management authority to provide a portion of the block grant assistance under this title to the resident management corporation for purposes of operating the public housing development covered by the contract and performing such other eligible activities with respect to the development as may be provided under the contract;

(2) the amount of income expected to be derived from the development itself (from sources such as rents and charges);

(3) the amount of income to be provided to the development from the other sources of income of the local housing and management authority (such as interest income, administrative fees, and rents); and

(4) any income generated by a resident management corporation of a public housing development that exceeds the income estimated under the contract shall be used for eligible activities under section 203(a).

(e) CALCULATION OF TOTAL INCOME.—

(1) MAINTENANCE OF SUPPORT.—Subject to paragraph (2), the amount of assistance provided by a local housing and management authority to a public housing development managed by a resident management corporation may not be reduced during the 3-year period beginning on the date on which the resident management corporation is first established for the development.

(2) REDUCTIONS AND INCREASES IN SUPPORT.—If the total income of a local housing and management authority is reduced or increased, the income provided by the local housing and management authority to a public housing development managed by a resident management corporation shall be reduced or increased in proportion to the reduction or increase in the total income of the authority, except that any reduction in block grant amounts under this title to

the authority that occurs as a result of fraud, waste, or mismanagement by the authority shall not affect the amount provided to the resident management corporation.

SEC. 236. TRANSFER OF MANAGEMENT OF CERTAIN HOUSING TO INDEPENDENT MANAGER AT REQUEST OF RESIDENTS.

(a) AUTHORITY.—The Secretary may transfer the responsibility and authority for management of specified housing (as such term is defined in subsection (h)) from a local housing and management authority to an eligible management entity, in accordance with the requirements of this section, if—

(1) such housing is owned or operated by a local housing and management authority that is—

(A) not accredited under section 433 by the Housing Foundation and Accreditation Board; or

(B) designated as a troubled authority under section 431(a)(2); and

(2) the Secretary determines that—

(A) such housing has deferred maintenance, physical deterioration, or obsolescence of major systems and other deficiencies in the physical plant of the project;

(B) such housing is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

(C) such housing is located in an area such that the housing is subject to recurrent vandalism and criminal activity (including drug-related criminal activity); and

(D) the residents can demonstrate that the elements of distress for such housing specified in subparagraphs (A) through (C) can be remedied by an entity that has a demonstrated capacity to manage, with reasonable expenses for modernization.

Such a transfer may be made only as provided in this section, pursuant to the approval by the Secretary of a request for the transfer made by a majority vote of the residents for the specified housing, after consultation with the local housing and management authority for the specified housing.

(b) BLOCK GRANT ASSISTANCE.—Pursuant to a contract under subsection (c), the Secretary shall require the local housing and management authority for specified housing to provide to the manager for the housing, from any block grant amounts under this title for the authority, fair and reasonable amounts for operating costs for the housing. The amount made available under this subsection to a manager shall be determined by the Secretary based on the share for the specified housing of the total block grant amounts for the local housing and management authority transferring the housing, taking into consideration the operating and capital improvement needs of the specified housing, the operating and capital improvement needs of the remaining public housing units managed by the local housing and management authority, and the local housing management plan of such authority.

(c) CONTRACT BETWEEN SECRETARY AND MANAGER.—

(1) REQUIREMENTS.—Pursuant to the approval of a request under this section for transfer of the management of specified housing, the Secretary shall enter into a contract with the eligible management entity.

(2) TERMS.— A contract under this subsection shall contain provisions establishing the rights and responsibilities of the manager with respect to the specified housing and the Secretary and shall be consistent with the requirements of this Act applicable to public housing developments.

(d) COMPLIANCE WITH LOCAL HOUSING MANAGEMENT PLAN.—A manager of specified housing under this section shall comply with the approved local housing management plan applicable to the housing and shall submit such information to the local housing and management authority from which management was transferred as may be necessary for such authority to prepare and update its local housing management plan.

(e) DEMOLITION AND DISPOSITION BY MANAGER.—A manager under this section may demolish or dispose of specified housing only if, and in the manner, provided for in the local housing management plan for the authority transferring management of the housing.

(f) LIMITATION ON LHMA LIABILITY.—A local housing and management authority that is not a manager for specified housing shall not be liable for any act or failure to act by a manager or resident council for the specified housing.

(g) TREATMENT OF MANAGER.—To the extent not inconsistent with this section and to the extent the Secretary determines not inconsistent with the purposes of this Act, a manager of specified housing under this section shall be considered to be a local housing and management authority for purposes of this title.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) ELIGIBLE MANAGEMENT ENTITY.—The term ''eligible management entity'' means, with respect to any public housing development, any of the following entities that has been accredited in accordance with section 433:

(A) NONPROFIT ORGANIZATION.—A public or private nonprofit organization, which shall—

(i) include a resident management corporation or resident management organization and, as determined by the Secretary, a public or private nonprofit organization sponsored by the local housing and management authority that owns the development; and

(ii) not include the local housing and management authority that owns the development.

(B) FOR-PROFIT ENTITY.—A for-profit entity that has demonstrated experience in providing low-income housing.

(C) STATE OR LOCAL GOVERNMENT.—A State or local government, including an agency or instrumentality thereof.

(D) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—A local housing and management authority (other than the local housing and management authority that owns the development).

The term does not include a resident council.

(2) MANAGER.—The term ''manager'' means any eligible management entity that has entered into a contract under this section with the Secretary for the management of specified housing.

(3) NONPROFIT.—The term ''nonprofit'' means, with respect to an organization, association, corporation, or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor, or individual.

(4) PRIVATE NONPROFIT ORGANIZATION.—The term ''private nonprofit organization'' means any private organization (including a State or locally chartered organization) that—

(A) is incorporated under State or local law;

(B) is nonprofit in character;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

(5) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The term ''local housing and management authority'' has the meaning given such term in section 103(a).

(6) PUBLIC NONPROFIT ORGANIZATION.—The term ''public nonprofit organization'' means any public entity that is nonprofit in character.

(7) SPECIFIED HOUSING.—The term ''specified housing'' means a public housing development or developments, or a portion of a development or developments, for which the transfer of management is requested under this section. The term includes one or more contiguous buildings and an area of contiguous row houses, but in the case of a single building, the building shall be sufficiently separable from the remainder of the development of which it is part to make transfer of the management of the building feasible for purposes of this section.

SEC. 237. RESIDENT OPPORTUNITY PROGRAM.

(a) PURPOSE.—The purpose of this section is to encourage increased resident management of public housing developments, as a means of improving existing living conditions in public housing developments, by providing increased flexibility for public housing developments that are managed by residents by—

(1) permitting the retention, and use for certain purposes, of any revenues exceeding operating and project costs; and

(2) providing funding, from amounts otherwise available, for technical assistance to promote formation and development of resident management entities.

For purposes of this section, the term ''public housing development'' includes one or more contiguous buildings or an area of contiguous row houses the elected resident councils of which approve the establishment of a resident management corporation and otherwise meet the requirements of this section.

(b) PROGRAM REQUIREMENTS.—

(1) RESIDENT COUNCIL.—As a condition of entering into a resident opportunity program, the elected resident council of a public housing development shall approve the establishment of a resident management corporation that complies with the requirements of section 234(b)(2). When such approval is made by the elected resident council of a building or row house area, the resident opportunity program shall not interfere with the rights of other families residing in the development or harm the efficient operation of the development. The resident management corporation and the resident council may be the same organization, if the organization complies with the requirements applicable to both the corporation and council.

(2) PUBLIC HOUSING MANAGEMENT SPECIALIST.—The resident council of a public housing development, in cooperation with the local housing and management authority, shall select a qualified public housing management specialist to assist in determining the feasibility of, and to help establish, a resident management corporation and to provide training and other duties agreed to in the daily operations of the development.

(3) MANAGEMENT RESPONSIBILITIES.—A resident management corporation that qualifies under this section, and that supplies insurance and bonding or equivalent protection sufficient to the Secretary and the local housing and management authority, shall enter into a contract with the authority establishing the respective management rights and responsibilities of the corporation and the authority. The contract shall be treated as a contracting out of services and shall be subject to the requirements under section 234 for such contracts.

(4) ANNUAL AUDIT.—The books and records of a resident management corporation operating a public housing development shall be audited annually by a certified public accountant. A written report of each such audit shall be forwarded to the local housing and management authority and the Secretary.

(c) COMPREHENSIVE IMPROVEMENT ASSISTANCE.—Public housing developments managed by resident management corporations may be provided with modernization assistance from grant amounts under this title for purposes of renovating such developments. If such renovation activities (including the planning and architectural design of the rehabilitation) are administered by a resident management corporation, the local housing and management authority involved may not retain, for any administrative or other reason, any portion of the assistance provided pursuant to this subsection unless otherwise provided by contract.

(d) WAIVER OF FEDERAL REQUIREMENTS.—

(1) WAIVER OF REGULATORY REQUIREMENTS.—Upon the request of any resident management corporation and local housing and management authority, and after notice and an opportunity to comment is afforded to the affected residents, the Secretary may waive (for both the resident management corporation and the local housing and management authority) any requirement established by the Secretary (and not specified in any statute) that the Secretary determines to unnecessarily increase the costs or restrict the income of a public housing development.

(2) WAIVER TO PERMIT EMPLOYMENT.—Upon the request of any resident management corporation, the Secretary may, subject to applicable collective bargaining agreements, permit residents of such development to volunteer a portion of their labor.

(3) EXCEPTIONS.—The Secretary may not waive under this subsection any requirement with respect to income eligibility for purposes of section 222, rental payments under section 225, tenant or applicant protections, employee organizing rights, or rights of employees under collective bargaining agreements.

(e) OPERATING ASSISTANCE AND DEVELOPMENT INCOME.—

(1) CALCULATION OF OPERATING SUBSIDY.—Subject only to the exception provided in paragraph (3), the grant amounts received under this title by a local housing and management authority used for operating costs under section 203(a)(2) that are allocated to a public housing development managed by a resident management corporation shall not be less than per unit monthly amount of such assistance used by the local housing and management authority in the previous year, as determined on an individual development basis.

(2) CONTRACT REQUIREMENTS.—Any contract for management of a public housing development entered into by a local housing and management authority and a resident management corporation shall specify the amount of income expected to be derived from the development itself (from sources such as rents and charges) and the amount of income funds to be provided to the development from the other sources of income of the authority (such as operating assistance under section 203(a), interest income, administrative fees, and rents).

(f) RESIDENT MANAGEMENT TECHNICAL ASSISTANCE AND TRAINING.—

(1) FINANCIAL ASSISTANCE.—To the extent budget authority is available under this title, the Secretary shall provide financial assistance to resident management corporations or resident councils that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing developments, and the securing of such support. In addition, the Secretary may provide financial assistance to resident management corporations or resident councils for activities sponsored by resident organizations for economic uplift, such as job training, economic development, security, and other self-sufficiency activities beyond those related to the management of public housing. The Secretary may require resident councils or resident management corporations to utilize local housing and management authorities or other qualified organizations as contract administrators with respect to financial assistance provided under this paragraph.

(2) LIMITATION ON ASSISTANCE.—The financial assistance provided under this subsection with respect to any public housing development may not exceed $100,000.

(3) PROHIBITION.—A resident management corporation or resident council may not, before the award to the corporation or council of a grant amount under this subsection, enter into any contract or other agreement with any entity to provide such entity with amounts from the grant for providing technical assistance or carrying out other activities eligible for assistance with amounts under this subsection. Any such agreement entered into in violation of this paragraph shall be void and unenforceable.

(4) FUNDING.—Of any amounts made available for financial assistance under this title, the Secretary may use to carry out this subsection $15,000,000 for fiscal year 1996.

(5) LIMITATION REGARDING ASSISTANCE UNDER HOPE GRANT PROGRAM.—The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act).

(6) TECHNICAL ASSISTANCE AND CLEARINGHOUSE.—The Secretary may use up to 10 percent of the amount made available pursuant to paragraph (4)—

(A) to provide technical assistance, directly or by grant or contract, and

(B) to receive, collect, process, assemble, and disseminate information,

in connection with activities under this subsection.

(g) ASSESSMENT AND REPORT BY SECRETARY.—Not later than 3 years after the date of the enactment of the United States Housing Act of 1996, the Secretary shall—

(1) conduct an evaluation and assessment of resident management, and particularly of the effect of resident management on living conditions in public housing; and

(2) submit to the Congress a report setting forth the findings of the Secretary as a result of the evaluation and assessment and including any recommendations the Secretary determines to be appropriate.

(h) APPLICABILITY.—Any management contract between a local housing and management authority and a resident management corporation that is entered into after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 shall be subject to this section and any regulations issued to carry out this section.

Subtitle D—Homeownership

SEC. 251. RESIDENT HOMEOWNERSHIP PROGRAMS.

(a) IN GENERAL.—A local housing and management authority may carry out a homeownership program in accordance with this section and the local housing management plan of the authority to make public housing dwelling units, public housing developments, and other housing projects available for purchase by low-income families. An authority may transfer a unit only pursuant to a homeownership program approved by the Secretary. Notwithstanding section 108, the Secretary may approve a local housing management plan without approving the portion of the plan regarding a homeownership program pursuant to this section.

(b) PARTICIPATING UNITS.—A program under this section may cover any existing public housing dwelling units or projects, and may include other dwelling units and housing owned, operated, or assisted, or otherwise acquired for use under such program, by the local housing and management authority.

(c) ELIGIBLE PURCHASERS.—

(1) LOW-INCOME REQUIREMENT.—Only low-income families assisted by a local housing and management authority, other low-income families, and entities formed to facilitate such sales by purchasing units for resale to low-income families shall be eligible to purchase housing under a homeownership program under this section.

(2) OTHER REQUIREMENTS.—A local housing and management authority may establish other requirements or limitations for families to purchase housing under a homeownership program under this section, including requirements or limitations regarding employment or participation in employment counseling or training activities, criminal activity, participation in homeownership counseling programs, evidence of regular income, and other requirements. In the case of purchase by an entity for resale to low-income families, the entity shall sell the units to low-income families within 5 years from the date of its acquisition of the units. The entity shall use any net proceeds from the resale and from managing the units, as determined in accordance with guidelines of the Secretary, for housing purposes, such as funding resident organizations and reserves for capital replacements.

(d) FINANCING AND ASSISTANCE.—A homeownership program under this section may provide financing for acquisition of housing by families purchasing under the program or by the local housing and management authority for sale under this program in any manner considered appropriate by the authority (including sale to a resident management corporation).

(e) DOWNPAYMENT REQUIREMENT.—

(1) IN GENERAL.—Each family purchasing housing under a homeownership program under this section shall be required to provide from its own resources a downpayment in connection with any loan for acquisition of the housing, in an amount determined by the local housing and management authority. Except as provided in paragraph (2), the authority shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase,

(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(f) OWNERSHIP INTERESTS.—A homeownership program under this section may provide for sale to the purchasing family of any ownership interest that the local housing and management authority considers appropriate under the program, including ownership in fee simple, a condominium interest, an interest in a limited dividend cooperative, a shared appreciation interest with a local housing and management authority providing financing.

(g) RESALE.—

(1) AUTHORITY AND LIMITATION.—A homeownership program under this section shall permit the resale of a dwelling unit purchased under the program by an eligible family, but shall provide such limitations on resale as the authority considers appropriate (whether the family purchases directly from the authority or from another entity) for the authority to recapture—

(A) from any economic gain derived from any such resale occurring during the 5-year period beginning upon purchase of the dwelling unit by the eligible family, a portion of the amount of any financial assistance provided under the program by the authority to the eligible family; and

(B) after the expiration of such 5-year period, only such amounts as are equivalent to the assistance provided under this section by the authority to the purchaser.

(2) CONSIDERATIONS.—The limitations referred to in paragraph (1) may provide for consideration of the aggregate amount of assistance provided under the program to the family, the contribution to equity provided by the purchasing eligible family, the period of time elapsed between purchase under the homeownership program and resale, the reason for resale, any improvements to the property made by the eligible family, any appreciation in the value of the property, and any other factors that the authority considers appropriate.

(h) INAPPLICABILITY OF DISPOSITION REQUIREMENTS.—The provisions of section 261 shall not

apply to disposition of public housing dwelling units under a homeownership program under this section, except that any dwelling units sold under such a program shall be treated as public housing dwelling units for purposes of subsections (e) and (f) of section 261.

Subtitle E—Disposition, Demolition, and Revitalization of Developments

SEC. 261. REQUIREMENTS FOR DEMOLITION AND DISPOSITION OF DEVELOPMENTS.

(a) AUTHORITY AND FLEXIBILITY.—A local housing and management authority may demolish, dispose of, or demolish and dispose of nonviable or nonmarketable public housing developments of the authority in accordance with this section.

(b) LOCAL HOUSING MANAGEMENT PLAN REQUIREMENT.—A local housing and management authority may take any action to demolish or dispose of a public housing development (or a portion of a development) only if such demolition or disposition complies with the provisions of this section and is in accordance with the local housing management plan for the authority. Notwithstanding section 108, the Secretary may approve a local housing management plan without approving the portion of the plan covering demolition or disposition pursuant to this section.

(c) PURPOSE OF DEMOLITION OR DISPOSITION.—A local housing and management authority may demolish or dispose of a public housing development (or portion of a development) only if the authority provides sufficient evidence to the Secretary that—

(1) the development (or portion thereof) is severely distressed or obsolete;

(2) the development (or portion thereof) is in a location making it unsuitable for housing purposes;

(3) the development (or portion thereof) has design or construction deficiencies that make cost-effective rehabilitation infeasible;

(4) assuming that reasonable rehabilitation and management intervention for the development has been completed and paid for, the anticipated revenue that would be derived from charging market-based rents for units in the development (or portion thereof) would not cover the anticipated operating costs and replacement reserves of the development (or portion) at full occupancy and the development (or portion) would constitute a substantial burden on the resources of the local housing and management authority;

(5) retention of the development (or portion thereof) is not in the best interests of the residents of the local housing and management authority because—

(A) developmental changes in the area surrounding the development adversely affect the health or safety of the residents or the feasible operation of the development by the local housing and management authority;

(B) demolition or disposition will allow the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as low-income housing; or

(C) other factors exist that the authority determines are consistent with the best interests of the residents and the authority and not inconsistent with other provisions of this Act;

(6) in the case only of demolition or disposition of a portion of a development, the demolition or disposition will help to ensure the remaining useful life of the remainder of the development; or

(7) in the case only of property other than dwelling units—

(A) the property is excess to the needs of a development; or

(B) the demolition or disposition is incidental to, or does not interfere with, continued operation of a development.

(d) CONSULTATION.—A local housing and management authority may demolish or dispose of a public housing development (or portion of a development) only if the authority notifies and confers regarding the demolition or disposition with—

(1) the residents of the development (or portion); and

(2) appropriate local government officials.

(e) USE OF PROCEEDS.—Any net proceeds from the disposition of a public housing development (or portion of a development) shall be used for—

(1) housing assistance for low-income families that is consistent with the low-income housing needs of the community, through acquisition, development, or rehabilitation of, or homeownership programs for, other low-income housing or the provision of choice-based assistance under title III for such families;

(2) supportive services relating to job training or child care for residents of a development or developments; or

(3) leveraging amounts for securing commercial enterprises, on-site in public housing developments of the local housing and management authority, appropriate to serve the needs of the residents.

(f) RELOCATION.—A local housing and management authority that demolishes or disposes of a public housing development (or portion of a development thereof) shall ensure that—

(1) each family that is a resident of the development (or portion) that is demolished or disposed of is relocated to other safe, clean, healthy, and affordable housing, which is, to the maximum extent practicable, housing of the family's choice or is provided with choice-based assistance under title III;

(2) the local housing and management authority does not take any action to dispose of any unit until any resident to be displaced is relocated in accordance with paragraph (1); and

(3) each resident family to be displaced is paid relocation expenses, and the rent to be paid initially by the resident following relocation does not exceed the amount permitted under section 225(a).

(g) RIGHT OF FIRST REFUSAL FOR RESIDENT ORGANIZATIONS AND RESIDENT MANAGEMENT CORPORATIONS.—

(1) IN GENERAL.—A local housing and management authority may not dispose of a public housing development (or portion of a development) unless the authority has, before such disposition, offered to sell the property, as provided in this subsection, to each resident organization and resident management corporation operating at the development for continued use as low-income housing, and no such organization or corporation purchases the property pursuant to such offer. A resident organization may act, for purposes of this subsection, through an entity formed to facilitate homeownership under subtitle D.

(2) TIMING.—Disposition of a development (or portion thereof) under this section may not take place—

(A) before the expiration of the period during which any such organization or corporation may notify the authority of interest in purchasing the property, which shall be the 30-day period beginning on the date that the authority first provides notice of the proposed disposition of the property to such resident organizations and resident management corporations;

(B) if an organization or corporation submits notice of interest in accordance with subparagraph (A), before the expiration of the period during which such organization or corporation may obtain a commitment for financing to purchase the property, which shall be the 60-day period beginning upon the submission to the authority of the notice of interest; or

(C) if, during the period under subparagraph (B), an organization or corporation obtains such financing commitment and makes a bona fide offer to the authority to purchase the property for a price equal to or exceeding the applicable offer price under paragraph (3).

The authority shall sell the property pursuant to any purchase offer described in subparagraph (C).

(3) TERMS OF OFFER.—An offer by a local housing and management authority to sell a property in accordance with this subsection shall involve a purchase price that reflects the market value of the property, the reason for the sale, the impact of the sale on the surrounding community, and any other factors that the authority considers appropriate.

(h) INFORMATION FOR LOCAL HOUSING MANAGEMENT PLAN.—A local housing and management authority may demolish or dispose of a public housing development (or portion thereof) only if it includes in the applicable local housing management plan information sufficient to describe—

(1) the housing to be demolished or disposed of;

(2) the purpose of the demolition or disposition under subsection (c) and why the demolition or disposition complies with the requirements under subsection (c);

(3) how the consultations required under subsection (d) will be made;

(4) how the net proceeds of the disposition will be used in accordance with subsection (e);

(5) how the authority will relocate residents, if necessary, as required under subsection (f); and

(6) that the authority has offered the property for acquisition by resident organizations and resident management corporations in accordance with subsection (g).

(i) SITE AND NEIGHBORHOOD STANDARDS EXEMPTION.—Notwithstanding any other provision of law, a local housing and management authority may provide for development of public housing dwelling units on the same site or in the same neighborhood as any dwelling units demolished, pursuant to a plan under this section, but only if such development provides for significantly fewer dwelling units.

(j) TREATMENT OF REPLACEMENT UNITS.—In connection with any demolition or disposition of public housing under this section, a local housing and management authority may provide for other housing assistance for low-income families that is consistent with the low-income housing needs of the community, including—

(1) the provision of choice-based assistance under title III; and

(2) the development, acquisition, or lease by the authority of dwelling units, which dwelling units shall—

(A) be eligible to receive assistance with grant amounts provided under this title; and

(B) be made available for occupancy, operated, and managed in the manner required for public housing, and subject to the other requirements applicable to public housing dwelling units.

(k) PERMISSIBLE RELOCATION WITHOUT PLAN.—If a local housing and management authority determines that public housing dwelling units are not clean, safe, and healthy or cannot be maintained cost-effectively in a clean, safe, and healthy condition, the local housing and management authority may relocate residents of such dwelling units before the submission of a local housing management plan providing for demolition or disposition of such units.

(l) CONSOLIDATION OF OCCUPANCY WITHIN OR AMONG BUILDINGS.—Nothing in this section may be construed to prevent a local housing and management authority from consolidating occupancy within or among buildings of a public housing development, or among developments, or with other housing for the purpose of improving living conditions of, or providing more efficient services to, residents.

(m) DE MINIMIS EXCEPTION TO DEMOLITION REQUIREMENTS.—Notwithstanding any other provision of this section, in any 5-year period a local housing and management authority may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the local housing and management authority, without providing for such demolition in a local housing management

plan, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents or the demolished unit was beyond repair.

SEC. 262. DEMOLITION, SITE REVITALIZATION, REPLACEMENT HOUSING, AND CHOICE-BASED ASSISTANCE GRANTS FOR DEVELOPMENTS.

(a) PURPOSES.—The purpose of this section is to provide assistance to local housing and management authorities for the purposes of—

(1) reducing the density and improving the living environment for public housing residents of severely distressed public housing developments through the demolition of obsolete public housing developments (or portions thereof);

(2) revitalizing sites (including remaining public housing dwelling units) on which such public housing developments are located and contributing to the improvement of the surrounding neighborhood; and

(3) providing housing that will avoid or decrease the concentration of very low-income families; and

(4) providing choice-based assistance in accordance with title III for the purpose of providing replacement housing and assisting residents to be displaced by the demolition.

(b) GRANT AUTHORITY.—The Secretary may make grants available to local housing and management authorities as provided in this section.

(c) CONTRIBUTION REQUIREMENT.—The Secretary may not make any grant under this section to any applicant unless the applicant certifies to the Secretary that the applicant will supplement the amount of assistance provided under this section with an amount of funds from sources other than this section equal to not less than 5 percent of the amount provided under this section, including amounts from other Federal sources, any State or local government sources, any private contributions, and the value of any in-kind services or administrative costs provided.

(d) ELIGIBLE ACTIVITIES.—Grants under this section may be used for activities to carry out revitalization programs for severely distressed public housing, including—

(1) architectural and engineering work, including the redesign, reconstruction, or redevelopment of a severely distressed public housing development, including the site on which the development is located;

(2) the demolition, sale, or lease of the site, in whole or in part;

(3) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

(4) payment of reasonable legal fees;

(5) providing reasonable moving expenses for residents displaced as a result of the revitalization of the development;

(6) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

(7) necessary management improvements;

(8) leveraging other resources, including additional housing resources, retail supportive services, jobs, and other economic development uses on or near the development that will benefit future residents of the site;

(9) replacement housing and housing assistance under title III;

(10) transitional security activities; and

(11) necessary supportive services, except that not more than 10 percent of the amount of any grant may be used for activities under this paragraph.

(e) APPLICATION AND SELECTION.—

(1) APPLICATION.—An application for a grant under this section shall contain such information and shall be submitted at such time and in accordance with such procedures, as the Secretary shall prescribe.

(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for the award of grants under this section, which shall include—

(A) the relationship of the grant to the local housing management plan for the local housing and management authority and how the grant will result in a revitalized site that will enhance the neighborhood in which the development is located;

(B) the capability and record of the applicant local housing and management authority, or any alternative management agency for the authority, for managing large-scale redevelopment or modernization projects, meeting construction timetables, and obligating amounts in a timely manner;

(C) the extent to which the local housing and management authority could undertake such activities without a grant under this section;

(D) the extent of involvement of residents, State and local governments, private service providers, financing entities, and developers, in the development of a revitalization program for the development; and

(E) the amount of funds and other resources to be leveraged by the grant.

The Secretary shall give preference in selection to any local housing and management authority that has been awarded a planning grant under section 24(c) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act).

(f) COST LIMITS.—Subject to the provisions of this section, the Secretary—

(1) shall establish cost limits on eligible activities under this section sufficient to provide for effective revitalization programs; and

(2) may establish other cost limits on eligible activities under this section.

(h) DEMOLITION AND REPLACEMENT.—Any severely distressed public housing demolished or disposed of pursuant to a revitalization plan and any public housing produced in lieu of such severely distressed housing, shall be subject to the provisions of section 261.

(i) ADMINISTRATION BY OTHER ENTITIES.—The Secretary may require a grantee under this section to make arrangements satisfactory to the Secretary for use of an entity other than the local housing and management authority to carry out activities assisted under the revitalization plan, if the Secretary determines that such action will help to effectuate the purposes of this section.

(j) WITHDRAWAL OF FUNDING.—If a grantee under this section does not proceed expeditiously, in the determination of the Secretary, the Secretary shall withdraw any grant amounts under this section that have not been obligated by the local housing and management authority. The Secretary shall redistribute any withdrawn amounts to one or more local housing and management authorities eligible for assistance under this section or to one or more other entities capable of proceeding expeditiously in the same locality in carrying out the revitalization plan of the original grantee.

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPLICANT.—The term ''applicant'' means—

(A) any local housing and management authority that is not designated as troubled or dysfunctional pursuant to section 431(a)(2);

(B) any local housing and management authority or private housing management agent selected, or receiver appointed pursuant, to section 438; and

(C) any local housing and management authority that is designated as troubled pursuant to section 431(a)(2)(D) that—

(i) is so designated principally for reasons that will not affect the capacity of the authority to carry out a revitalization program;

(ii) is making substantial progress toward eliminating the deficiencies of the authority; or

(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

(2) PRIVATE NONPROFIT CORPORATION.—The term ''private nonprofit organization'' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

(A) is incorporated under State or local law;

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

(C) complies with standards of financial accountability acceptable to the Secretary; and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

(3) SEVERELY DISTRESSED PUBLIC HOUSING.—The term ''severely distressed public housing'' means a public housing development (or building in a development)—

(A) that requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including inappropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the development;

(B) is a significant contributing factor to the physical decline of and disinvestment by public and private entities in the surrounding neighborhood;

(C)(i) is occupied predominantly by families who are very low-income families with children, are unemployed, and dependent on various forms of public assistance; and

(ii) has high rates of vandalism and criminal activity (including drug-related criminal activity) in comparison to other housing in the area;

(D) cannot be revitalized through assistance under other programs, such as the public housing block grant program under this title, or the programs under sections 9 and 14 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act), because of cost constraints and inadequacy of available amounts; and

(E) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the development of which the building is part to make use of the building feasible for purposes of this section.

(4) SUPPORTIVE SERVICES.—The term ''supportive services'' includes all activities that will promote upward mobility, self-sufficiency, and improved quality of life for the residents of the public housing development involved, including literacy training, job training, day care, and economic development activities.

(l) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

(1) the number, type, and cost of public housing units revitalized pursuant to this section;

(2) the status of developments identified as severely distressed public housing;

(3) the amount and type of financial assistance provided under and in conjunction with this section; and

(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

(m) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section $480,000,000 for each of fiscal years 1996, 1997, and 1998.

(2) TECHNICAL ASSISTANCE.—Of the amount appropriated pursuant to paragraph (1) for any fiscal year, the Secretary may use not more than 0.50 percent for technical assistance. Such assistance may be provided directly or indirectly by grants, contracts, or cooperative agreements, and shall include training, and the cost of necessary travel for participants in such training, by or to officials of the Department of Housing and Urban Development, of local housing and management authorities, and of residents.

(n) SUNSET.—No assistance may be provided under this section after September 30, 1998.

SEC. 263. VOLUNTARY VOUCHER SYSTEM FOR PUBLIC HOUSING.

(a) IN GENERAL.—A local housing and management authority may convert any public housing development (or portion thereof) owned and operated by the authority to a system of choice-based rental housing assistance under title III, in accordance with this section.

(b) ASSESSMENT AND PLAN REQUIREMENT.—In converting under this section to a choice-based rental housing assistance system, the local housing and management authority shall develop a conversion assessment and plan under this subsection, in consultation with the appropriate public officials and with significant participation by the residents of the development (or portion thereof), which assessment and plan shall—

(1) be consistent with and part of the local housing management plan for the authority;

(2) describe the conversion and future use or disposition of the public housing development, including an impact analysis on the affected community;

(3) include a cost analysis that demonstrates whether or not the cost (both on a net present value basis and in terms of new budget authority requirements) of providing choice-based rental housing assistance under title III for the same families in substantially similar dwellings over the same period of time is less expensive than continuing public housing assistance in the public housing development proposed for conversion for the remaining useful life of the development; and

(4) identify the actions, if any, that the local housing and management authority will take with regard to converting any public housing development or developments (or portions thereof) of the authority to a system of choice-based rental housing assistance under title III.

(c) STREAMLINED ASSESSMENT AND PLAN.—At the discretion of the Secretary or at the request of a local housing and management authority, the Secretary may waive any or all of the requirements of subsection (b) or otherwise require a streamlined assessment with respect to any public housing development or class of public housing developments.

(d) IMPLEMENTATION OF CONVERSION PLAN.—

(1) IN GENERAL.—A local housing and management authority may implement a conversion plan only if the conversion assessment under this section demonstrates that the conversion—

(A) will not be more expensive than continuing to operate the public housing development (or portion thereof) as public housing; and

(B) will principally benefit the residents of the public housing development (or portion thereof) to be converted, the local housing and management authority, and the community.

(2) DISAPPROVAL.—The Secretary shall disapprove a conversion plan only if the plan is plainly inconsistent with the conversion assessment under subsection (b) or there is reliable information and data available to the Secretary that contradicts that conversion assessment.

(e) OTHER REQUIREMENTS.—To the extent approved by the Secretary, the funds used by the local housing and management authority to provide choice-based rental housing assistance under title III shall be added to the housing assistance payment contract administered by the local housing and management authority or any entity administering the contract on behalf of the local housing and management authority.

(f) SAVINGS PROVISION.—This section does not affect any contract or other agreement entered into under section 22 of the United States Housing Act of 1937 (as such section existed immediately before the enactment of this Act).

Subtitle F—General Provisions

SEC. 271. CONVERSION TO BLOCK GRANT ASSISTANCE.

(a) SAVINGS PROVISIONS.—Any amounts made available to a public housing agency for assistance for public housing pursuant to the United States Housing Act of 1937 (or any other provision of law relating to assistance for public housing) under an appropriation for fiscal year 1996 or any previous fiscal year shall be subject to the provisions of such Act as in effect before the enactment of this Act, notwithstanding the repeals made by this Act, except to the extent the Secretary provides otherwise to provide for the conversion of public housing and public housing assistance to the system provided under this Act.

(b) MODIFICATIONS.—Notwithstanding any provision of this Act or any annual contributions contract or other agreement entered into by the Secretary and a public housing agency pursuant to the provisions of the United States Housing Act of 1937 (as in effect before the enactment of this Act), the Secretary and the agency may by mutual consent amend, supersede, modify any such agreement as appropriate to provide for assistance under this title, except that the Secretary and the agency may not consent to any such amendment, supersession, or modification that substantially alters any outstanding obligations requiring continued maintenance of the low-income character of any public housing development and any such amendment, supersession, or modification shall not be given effect.

SEC. 272. PAYMENT OF NON-FEDERAL SHARE.

Rental or use-value of buildings or facilities paid for, in whole or in part, from production, modernization, or operation costs financed under this title may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the residents in a project assisted under this title.

SEC. 273. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) ACQUISITION COST.—The term ''acquisition cost'' means the amount prudently expended by a local housing and management authority in acquiring property for a public housing development.

(2) DEVELOPMENT.—The terms ''public housing development'' and ''development'' mean—

(A) public housing; and

(B) the improvement of any such housing.

(3) ELIGIBLE LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The term ''eligible local housing and management authority'' means, with respect to a fiscal year, a local housing and management authority that is eligible under section 202(d) for a grant under this title.

(4) GROUP HOME AND INDEPENDENT LIVING FACILITY.—The terms ''group home'' and ''independent living facility'' have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

(5) OPERATION.—The term ''operation'' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or financing in connection with a public housing development, including the financing of resident programs and services.

(6) PRODUCTION.—The term ''production'' means any or all undertakings necessary for planning, land acquisition, financing, demolition, construction, or equipment, in connection with the construction, acquisition, or rehabilitation of a property for use as a public housing development, including activity in connection with a public housing development that is confined to the reconstruction, remodeling, or repair of existing buildings.

(7) PRODUCTION COST.—The term ''production cost'' means the costs incurred by a local housing and management authority for production of public housing and the necessary financing for production (including the payment of carrying charges and acquisition costs).

(8) RESIDENT COUNCIL.—The term ''resident council'' means an organization or association that meets the requirements of section 234(a).

(9) RESIDENT MANAGEMENT CORPORATION.—The term ''resident management corporation'' means a corporation that meets the requirements of section 234(b).

(10) RESIDENT PROGRAM.—The term ''resident programs and services'' means programs and services for families residing in public housing developments. Such term includes (A) the development and maintenance of resident organizations which participate in the management of public housing developments, (B) the training of residents to manage and operate the public housing development and the utilization of their services in management and operation of the development, (C) counseling on household management, housekeeping, budgeting, money management, homeownership issues, child care, and similar matters, (D) advice regarding resources for job training and placement, education, welfare, health, and other community services, (E) services that are directly related to meeting resident needs and providing a wholesome living environment; and (F) referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

SEC. 274. AUTHORIZATION OF APPROPRIATIONS FOR BLOCK GRANTS.

There are authorized to be appropriated for grants under this title, the following amounts:

(1) CAPITAL FUND.—For the allocations from the capital fund for grants, $2,500,000,000 for each of fiscal years 1997, 1998, 1999, and 2000; and

(2) OPERATING FUND.—For the allocations from the operating fund for grants, $2,800,000,000 for each of fiscal years 1997, 1998, 1999, and 2000.

SEC. 275. AUTHORIZATION OF APPROPRIATIONS FOR OPERATION SAFE HOME.

There is authorized to be appropriated, for assistance for relocating residents of public housing under the operation safe home program of the Department of Housing and Urban Development (including assistance for costs of relocation and housing assistance under title III), $700,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000. The Secretary shall provide that families who are residing in public housing, who have been subject to domestic violence, and for whom provision of assistance is likely to reduce or eliminate the threat of subsequent violence to the members of the family, shall be eligible for assistance under the operation safe home program.

TITLE III—CHOICE-BASED RENTAL HOUSING AND HOMEOWNERSHIP ASSISTANCE FOR LOW-INCOME FAMILIES

Subtitle A—Allocation

SEC. 301. AUTHORITY TO PROVIDE HOUSING ASSISTANCE AMOUNTS.

To the extent that amounts to carry out this title are made available, the Secretary may enter into contracts with local housing and management authorities for each fiscal year to provide housing assistance under this title.

SEC. 302. CONTRACTS WITH LHMA'S.

(a) CONDITION OF ASSISTANCE.—The Secretary may provide amounts under this title to a local housing and management authority for a fiscal year only if the Secretary has entered into a contract under this section with the local housing and management authority, under which the Secretary shall provide such authority with amounts (in the amount of the allocation for the authority determined pursuant to section 304) for housing assistance under this title for low-income families.

(b) USE FOR HOUSING ASSISTANCE.—A contract under this section shall require a local housing and management authority to use amounts provided under this title to provide housing assistance in any manner authorized under this title.

(c) ANNUAL OBLIGATION OF AUTHORITY.—A contract under this title shall provide amounts

for housing assistance for 1 fiscal year covered by the contract.

(d) ENFORCEMENT OF HOUSING QUALITY REQUIREMENTS.—Each contract under this section shall require the local housing and management authority administering assistance provided under the contract—

(1) to ensure compliance, under each housing assistance payments contract entered into pursuant to the contract under this section, with the provisions of the housing assistance payments contract included pursuant to section 351(c)(4); and

(2) to establish procedures for assisted families to notify the authority of any noncompliance with such provisions.

SEC. 303. ELIGIBILITY OF LHMA'S FOR ASSISTANCE AMOUNTS.

The Secretary may provide amounts available for housing assistance under this title pursuant to the formula established under section 304(a) to a local housing and management authority only if—

(1) the authority has submitted a local housing management plan to the Secretary for such fiscal year and applied to the Secretary for such assistance;

(2) the plan has been determined to comply with the requirements under section 107 and the Secretary has not notified the authority that the plan fails to comply with such requirements;

(3) the authority is accredited under section 433 by the Housing Foundation and Accreditation Board;

(4) no member of the board of directors or other governing body of the authority, or the executive director, has been convicted of a felony; and

(5) the authority has not been disqualified for assistance pursuant to subtitle B of title IV.

SEC. 304. ALLOCATION OF AMOUNTS.

(a) FORMULA ALLOCATION.—

(1) IN GENERAL.—When amounts for assistance under this title are first made available for reservation, after reserving amounts in accordance with subsections (b)(3) and (c), and section 112, the Secretary shall allocate such amounts, only among local housing and management authorities meeting the requirements under this title to receive such assistance, on the basis of a formula that is established in accordance with paragraph (2) and based upon appropriate criteria to reflect the needs of different States, areas, and communities, using the most recent data available from the Bureau of the Census of the Department of Commerce and the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (or any consolidated plan incorporating such strategy) for the applicable jurisdiction. The Secretary may establish a minimum allocation amount, in which case only the local housing and management authorities that, pursuant to the formula, are provided an amount equal to or greater than the minimum allocation amount, shall receive an allocation.

(2) REGULATIONS.—The formula under this subsection shall be established by regulation issued by the Secretary. Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, any proposed regulation containing such formula shall be issued pursuant to a negotiated rulemaking procedure under subchapter of chapter 5 of such title and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.

(b) ALLOCATION CONSIDERATIONS.—

(1) LIMITATION ON REALLOCATION FOR ANOTHER STATE.—Any amounts allocated for a State or areas or communities within a State that are not likely to be used within the fiscal year for which the amounts are provided shall not be reallocated for use in another State, unless the Secretary determines that other areas or communities within the same State (that are eligible for amounts under this title) cannot use the amounts within the same fiscal year.

(2) EFFECT OF RECEIPT OF TENANT-BASED ASSISTANCE FOR DISABLED FAMILIES.—The Secretary may not consider the receipt by a local housing and management authority of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving amounts under this title for the authority or in determining the amount of such assistance to be provided to the authority.

(3) EXEMPTION FROM FORMULA ALLOCATION.—The formula allocation requirements of subsection (a) shall not apply to any assistance under this title that is approved in appropriation Acts for uses that the Secretary determines are incapable of geographic allocation, including funding for the headquarters reserve fund under section 112, amendments of existing housing assistance payments contracts, renewal of such contracts, assistance to families that would otherwise lose assistance due to the decision of the project owner to prepay the project mortgage or not to renew the housing assistance payments contract, assistance to prevent displacement from public or assisted housing or to provide replacement housing in connection with the demolition or disposition of public housing, assistance for relocation from public housing, assistance in connection with protection of crime witnesses, assistance for conversion from leased housing contracts under section 23 of the United States Housing Act of 1937 (as in effect before the enactment of the Housing and Community Development Act of 1974), and assistance in support of the property disposition and portfolio management functions of the Secretary.

(c) RECAPTURE OF AMOUNTS.—

(1) AUTHORITY.—In each fiscal year, from any budget authority made available for assistance under this title or section 8 of the United States Housing Act of 1937 (as in effect before the enactment of this Act) that is obligated to a local housing and management authority but remains unobligated by the authority upon the expiration of the 8-month period beginning upon the initial availability of such amounts for obligation by the authority, the Secretary may deobligate an amount, as determined by the Secretary, not exceeding 50 percent of such unobligated amount.

(2) USE.—The Secretary may reallocate and transfer any amounts deobligated under paragraph (1) only to local housing and management authorities in areas that the Secretary determines have received less funding than other areas, based on the relative needs of all areas.

SEC. 305. ADMINISTRATIVE FEES.

(a) FEE FOR ONGOING COSTS OF ADMINISTRATION.—

(1) IN GENERAL.—The Secretary shall establish fees for the costs of administering the choice-based housing assistance program under this title.

(2) FISCAL YEAR 1996.—

(A) CALCULATION.—For fiscal year 1996, the fee for each month for which a dwelling unit is covered by a contract for assistance under this title shall be—

(i) in the case of a local housing and management authority that, on an annual basis, is administering a program for not more than 600 dwelling units, 7.65 percent of the base amount; and

(ii) in the case of an authority that, on an annual basis, is administering a program for more than 600 dwelling units—

(I) for the first 600 units, 7.65 percent of the base amount; and

(II) for any additional dwelling units under the program, 7.0 percent of the base amount.

(B) BASE AMOUNT.—For purposes of this paragraph, the base amount shall be the higher of—

(i) the fair market rental established under section 8(c) of the United States Housing Act of 1937 (as in effect immediately before the date of the enactment of this Act) for fiscal year 1993 for a 2-bedroom existing rental dwelling unit in the market area of the authority, and

(ii) the amount that is the lesser of (I) such fair market rental for fiscal year 1994 or (II) 103.5 percent of the amount determined under clause (i),

adjusted based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary. The Secretary may require that the base amount be not less than a minimum amount and not more than a maximum amount.

(3) SUBSEQUENT FISCAL YEARS.—For subsequent fiscal years, the Secretary shall publish a notice in the Federal Register, for each geographic area, establishing the amount of the fee that would apply for local housing and management authorities administering the program, based on changes in wage data or other objectively measurable data that reflect the costs of administering the program, as determined by the Secretary.

(4) INCREASE.—The Secretary may increase the fee if necessary to reflect the higher costs of administering small programs and programs operating over large geographic areas.

(b) FEE FOR PRELIMINARY EXPENSES.—The Secretary shall also establish reasonable fees (as determined by the Secretary) for—

(1) the costs of preliminary expenses, in the amount of $500, for a local housing and management authority, but only in the first year that the authority administers a choice-based housing assistance program under this title, and only if, immediately before the date of the enactment of this Act, the authority was not administering a tenant-based rental assistance program under the United States Housing Act of 1937 (as in effect immediately before such date of enactment), in connection with its initial increment of assistance received;

(2) the costs incurred in assisting families who experience difficulty (as determined by the Secretary) in obtaining appropriate housing under the programs; and

(3) extraordinary costs approved by the Secretary.

(c) TRANSFER OF FEES IN CASES OF CONCURRENT GEOGRAPHICAL JURISDICTION.—

(1) IN GENERAL.—In each fiscal year, if any local housing and management authority provides tenant-based rental assistance under section 8 of the United States Housing Act of 1937 or housing assistance under this title on behalf of a family who uses such assistance for a dwelling unit that is located within the jurisdiction of such authority but is also within the jurisdiction of another local housing and management authority, the Secretary shall take such steps as may be necessary to ensure that the local housing and management authority that provides the services for a family receives all or part of the administrative fee under this section (as appropriate).

SEC. 306. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated for providing local housing and management authorities with housing assistance under this title, $1,861,668,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) ASSISTANCE FOR DISABLED FAMILIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for choice-based housing assistance under this title to be used in accordance with paragraph (2), $50,000,000 for fiscal year 1997, and such sums as may be necessary for each subsequent fiscal year.

(2) USE.—The Secretary shall provide amounts made available under paragraph (1) to local housing and management authorities only for use to provide housing assistance under this title for nonelderly disabled families (including such families relocating pursuant to designation of a public housing development under section 227 and other nonelderly disabled families who have applied to the authority for housing assistance under this title).

(3) ALLOCATION OF AMOUNTS.—The Secretary shall allocate and provide amounts made available under paragraph (1) to local housing and management authorities as the Secretary determines appropriate based on the relative levels of need among the authorities for assistance for families described in paragraph (1).

SEC. 307. CONVERSION OF SECTION 8 ASSISTANCE.

(a) IN GENERAL.—Any amounts made available to a local housing and management authority under a contract for annual contributions for assistance under section 8 of the United States Housing Act of 1937 (as in effect before the enactment of this Act) that have not been obligated for such assistance by such authority before such enactment shall be used to provide assistance under this title, except to the extent the Secretary determines such use is inconsistent with existing commitments.

(b) EXCEPTION.—Subsection (a) shall not apply to any amounts made available under a contract for housing constructed or substantially rehabilitated pursuant to section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983.

Subtitle B—Choice-Based Housing Assistance for Eligible Families

SEC. 321. ELIGIBLE FAMILIES AND PREFERENCES FOR ASSISTANCE.

(a) LOW-INCOME REQUIREMENT.—Housing assistance under this title may be provided only on behalf of a family that—

(1) at the time that such assistance is initially provided on behalf of the family, is determined by the local housing and management authority to be a low-income family; or

(2) qualifies to receive such assistance under any other provision of Federal law.

(b) INCOME TARGETING.—Of the families initially assisted under this title by a local housing and management authority in any year, not less than 50 percent shall be families whose incomes do not exceed 60 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families. The Secretary may establish income ceiling higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(c) INCOME TARGETING.—Of the families initially assisted under this title by a local housing and management authority in any year, not less than 40 percent shall be families whose incomes do not exceed 30 percent of the area median income, as determined by the Secretary with adjustments for smaller and larger families. The Secretary may establish income ceiling higher or lower than 30 percent of the area median income on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(d) REVIEWS OF FAMILY INCOMES.—

(1) IN GENERAL.—Reviews of family incomes for purposes of this title shall be subject to the provisions of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and shall be conducted upon the initial provision of housing assistance for the family and thereafter not less than annually.

(2) PROCEDURES.—Each local housing and management authority administering housing assistance under this title shall establish procedures that are appropriate and necessary to ensure that income data provided to the authority and owners by families applying for or receiving housing assistance from the authority is complete and accurate.

(e) PREFERENCES FOR ASSISTANCE.—

(1) AUTHORITY TO ESTABLISH.—Any local housing and management authority that receives amounts under this title may establish a system for making housing assistance available on behalf of eligible families that provides preference for such assistance to eligible families having certain characteristics.

(2) CONTENT.—Each system of preferences established pursuant to this subsection shall be based upon local housing needs and priorities, as determined by the local housing and management authority using generally accepted data sources, including any information obtained pursuant to an opportunity for public comment as provided under section 107(e) or under the requirements applicable to comprehensive housing affordability strategy for the relevant jurisdiction.

(f) PORTABILITY OF HOUSING ASSISTANCE.—

(1) NATIONAL PORTABILITY.—An eligible family that is selected to receive or is receiving assistance under this title may rent any eligible dwelling unit in any area where a program is being administered under this title. Notwithstanding the preceding sentence, a local housing and management authority may require that any family not living within the jurisdiction of the local housing and management authority at the time the family applies for assistance from the authority shall, during the 12-month period beginning on the date of initial receipt of housing assistance made available on behalf of the family from that authority, lease and occupy an eligible dwelling unit located within the jurisdiction served by the authority. The authority for the jurisdiction into which the family moves shall have the responsibility for administering assistance for the family.

(2) SOURCE OF FUNDING FOR A FAMILY THAT MOVES.—For a family that has moved into the jurisdiction of a local housing and management authority and that, at the time of the move, has been selected to receive, or is receiving, assistance provided by another authority, the authority for the jurisdiction into which the family has moved may, in its discretion, cover the cost of assisting the family under its contract with the Secretary or through reimbursement from the other authority under that authority's contract.

(3) AUTHORITY TO DENY ASSISTANCE TO CERTAIN FAMILIES WHO MOVE.—A family may not receive housing assistance as provided under this subsection if the family has moved from a dwelling unit in violation of the lease for the dwelling unit.

(4) FUNDING ALLOCATIONS.—In providing assistance amounts under this title for local housing and management authorities for any fiscal year, the Secretary may give consideration to any reduction or increase in the number of resident families under the program of an authority in the preceding fiscal year as a result of this subsection.

(g) LOSS OF ASSISTANCE UPON TERMINATION OF TENANCY.—A local housing and management authority shall, consistent with the policies described in the local housing management plan of the authority, establish policies providing that an assisted family whose tenancy is terminated for serious violations of the terms or conditions of the lease shall—

(1) lose any right to continued housing assistance; and

(2) immediately become ineligible for housing assistance under this title or for admission to public housing under title II—

(A) in the case of a termination due to drug-related criminal activity, for a period of not less than 3 years from the date of the termination; and

(B) for other terminations, for a reasonable period of time as determined by the local housing and management authority.

(h) CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE.—A local housing and management authority shall be subject to the restrictions regarding release of information relating to the identity and new residence of any family receiving housing assistance who was a victim of domestic violence that are applicable to shelters pursuant to the Family Violence Prevention and Services Act. The authority shall work with the United States Postal Service to establish procedures consistent with the confidentiality provisions in the Violence Against Women Act of 1994.

(i) DENIAL OF ASSISTANCE TO CRIMINAL OFFENDERS.—In making assistance under this title available on behalf of eligible families, a local housing and management authority may deny the provision of such assistance in the same manner, for the same period, and subject to the same conditions that an owner of federally assisted housing may deny occupancy in such housing under subsections (b) and (c) of section 642 of the Housing and Community Development Act of 1992.

(j) AVAILABILITY OF CRIMINAL RECORDS.—A local housing and management authority may request and obtain records regarding the criminal convictions of applicants for housing assistance under this title and assisted families under this title to the same extent an owner of federally assisted housing may obtain such records regarding an applicant for or tenant of federally assisted housing under section 646 of the Housing and Community Development Act of 1992.

SEC. 322. RESIDENT CONTRIBUTION.

(a) AMOUNT.—

(1) IN GENERAL.—An assisted family shall contribute on a monthly basis for the rental of an assisted dwelling unit an amount that the local housing and management authority determines is appropriate with respect to the family and the unit, but shall not be less than the minimum monthly rental contribution determined under subsection (d).

(2) EXCEPTIONS FOR CERTAIN CURRENT RESIDENTS.—Notwithstanding paragraph (1), the amount paid by an assisted family for monthly rent for an assisted dwelling unit, may not exceed 30 percent of the family's adjusted monthly income for any family who—

(A) upon the date of the enactment of this Act, is an assisted family and—

(i) is an elderly family; or

(ii) is a disabled family; or

(B) has an income that does not exceed 30 percent of the median income for the area (as determined by the Secretary with adjustments for smaller and larger families).

Any amount payable under paragraph (3) shall be in addition to the amount payable under this paragraph.

(3) EXCESS RENTAL AMOUNT.—In any case in which the monthly rent charged for a dwelling unit pursuant to the housing assistance payments contract exceeds the applicable payment standard (established under section 353) for the dwelling unit, the assisted family residing in the unit shall contribute (in addition to the amount of the monthly rent contribution otherwise determined under paragraph (1) or (2) of this subsection for such family) such entire excess rental amount.

(b) LIMITATION.—Notwithstanding any other provision of this section, the amount paid by an assisted family that is an elderly family or a disabled family, for monthly rent for an assisted dwelling unit bearing a gross rent that does not exceed the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located, may not exceed 30 percent of the family's adjusted monthly income.

(c) LIMITATION.—Notwithstanding any other provision of this section, the amount paid by an assisted family whose head (or whose spouse) is a veteran (as such term is defined in section 203(b) of the National Housing Act) for monthly rent for an assisted dwelling unit bearing a gross rent that does not exceed the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located may not exceed 30 percent of the family's adjusted monthly income.

(d) MINIMUM MONTHLY RENTAL CONTRIBUTION.—

(1) IN GENERAL.—The local housing and management authority shall determine the amount of the minimum monthly rental contribution of

an assisted family (which rent shall include any amount allowed for utilities), which—

(A) shall be based upon factors including the adjusted income of the family and any other factors that the authority considers appropriate;

(B) shall be not less than $25, nor more than $50; and

(C) may be increased annually by the authority, except that no such annual increase may exceed 10 percent of the amount of the minimum monthly contribution in effect for the preceding year.

(2) HARDSHIP EXCEPTION.—Notwithstanding paragraph (1), a local housing and management authority may, in its sole discretion, grant an exemption in whole or in part from payment of the minimum monthly rental contribution established under this paragraph to any assisted family unable to pay such amount because of severe financial hardships. Severe financial hardships may include situations where the family is awaiting an eligibility determination for a Federal, State, or local assistance program, where the family would be evicted as a result of imposition of the minimum rent, and other situations as may be determined by the authority.

(e) TREATMENT OF CHANGES IN RENTAL CONTRIBUTION.—

(1) NOTIFICATION OF CHANGES.—A local housing and management authority shall promptly notify the owner of an assisted dwelling unit of any change in the resident contribution by the assisted family residing in the unit that takes effect immediately or at a later date.

(2) COLLECTION OF RETROACTIVE CHANGES.—In the case of any change in the rental contribution of an assisted family that affects rental payments previously made, the local housing and management authority shall collect any additional amounts required to be paid by the family under such change directly from the family and shall refund any excess rental contribution paid by the family directly to the family.

(f) PHASE-IN OF RENT CONTRIBUTION INCREASES.—

(1) IN GENERAL.—Except as provided in paragraph (2), for any family that is receiving tenant-based rental assistance under section 8 of the United States Housing Act of 1937 upon the initial applicability of the provisions of this title to such family, if the monthly contribution for rental of an assisted dwelling unit to be paid by the family upon such initial applicability is greater than the amount paid by the family under the provisions of the United States Housing Act of 1937 immediately before such applicability, any such resulting increase in rent contribution shall be—

(A) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more of such contribution before initial applicability; and

(B) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent of such contribution before initial applicability.

(2) EXCEPTION.—The minimum rent contribution requirement under subsection (d)(1)(B) shall apply to each family described in paragraph (1) of this subsection, notwithstanding such paragraph.

SEC. 323. RENTAL INDICATORS.

(a) IN GENERAL.—The Secretary shall establish and issue rental indicators under this section periodically, but not less than annually, for existing rental dwelling units that are eligible dwelling units. The Secretary shall establish and issue the rental indicators by housing market area (as the Secretary shall establish) for various sizes and types of dwelling units.

(b) AMOUNT.—For a market area, the rental indicator established under subsection (a) for a dwelling unit of a particular size and type in the market area shall be a dollar amount that reflects the rental amount for a standard quality rental unit of such size and type in the market area that is an eligible dwelling unit.

(c) EFFECTIVE DATE.—The Secretary shall cause the proposed rental indicators established under subsection (a) for each market area to be published in the Federal Register with reasonable time for public comment, and such rental indicators shall become effective upon the date of publication in final form in the Federal Register.

(d) ANNUAL ADJUSTMENT.—Each rental indicator in effect under this section shall be adjusted to be effective on October 1 of each year to reflect changes, based on the most recent available data trended so that the indicators will be current for the year to which they apply, in rents for existing rental dwelling units of various sizes and types in the market area suitable for occupancy by families assisted under this title.

SEC. 324. LEASE TERMS.

Rental assistance may be provided for an eligible dwelling unit only if the assisted family and the owner of the dwelling unit enter into a lease for the unit that—

(1) provides for a single lease term of 12 months and continued tenancy after such term under a periodic tenancy on a month-to-month basis;

(2) contains terms and conditions specifying that termination of tenancy during the term of a lease shall be subject to the provisions set forth in section 325; and

(3) is set forth in the standard form, which is used in the local housing market area by the owner and applies generally to any other tenants in the property who are not assisted families, together with any addendum necessary to include the many terms required under this section.

A lease may include any addenda appropriate to set forth the provisions under this title.

SEC. 325. TERMINATION OF TENANCY.

(a) GENERAL GROUNDS FOR TERMINATION OF TENANCY.—Each housing assistance payments contract under section 351 shall provide that the owner of any assisted dwelling unit assisted under the contract may, before expiration of a lease for a unit, terminate the tenancy of any tenant of the unit, but only for—

(1) violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause; or

(2) any activity, engaged in by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off such premises.

(b) MANNER OF TERMINATION.—Each housing assistance payments contract shall provide that the owner shall conduct the termination of tenancy of any tenant of an assisted dwelling unit under the contract in accordance with applicable State or local laws, including providing any notice of termination required under such laws.

SEC. 326. ELIGIBLE OWNERS.

(a) OWNERSHIP ENTITY.—Rental assistance under this title may be provided for any eligible dwelling unit for which the owner is any public agency, private person or entity (including a cooperative), nonprofit organization, agency of the Federal Government, or local housing and management authority.

(b) INELIGIBLE OWNERS.—

(1) IN GENERAL.—Notwithstanding subsection (a), a local housing and management authority—

(A) may not enter into a housing assistance payments contract (or renew an existing contract) covering a dwelling unit that is owned by an owner who is debarred, suspended, or subject to limited denial of participation under part 24 of title 24, Code of Federal Regulations;

(B) may prohibit, or authorize the termination or suspension of, payment of housing assistance under a housing assistance payments contract in effect at the time such debarment, suspension, or limited denial of participation takes effect.

If the local housing and management authority takes action under subparagraph (B), the authority shall take such actions as may be necessary to protect assisted families who are affected by the action, which may include the provision of additional assistance under this title to such families.

(2) PROHIBITION OF SALE TO RELATED PARTIES.—The Secretary shall establish guidelines to prevent housing assistance payments for a dwelling unit that is owned by any spouse, child, or other party who allows an owner described in paragraph (1) to maintain control of the unit.

SEC. 327. SELECTION OF DWELLING UNITS.

(a) FAMILY CHOICE.—The determination of the dwelling unit in which an assisted family resides and for which housing assistance is provided under this title shall be made solely by the assisted family, subject to the provisions of this title and any applicable law.

(b) DEED RESTRICTIONS.—Housing assistance may not be used in any manner that abrogates any local deed restriction that applies to any housing consisting of 1 to 4 dwelling units. Nothing in this section may be construed to affect the provisions or applicability of the Fair Housing Act.

SEC. 328. ELIGIBLE DWELLING UNITS.

(a) IN GENERAL.—A dwelling unit shall be an eligible dwelling unit for purposes of this title only if the local housing and management authority to provide housing assistance for the dwelling unit determines that the dwelling unit—

(1) is an existing dwelling unit that is not located within a nursing home or the grounds of any penal, reformatory, medical, mental, or similar public or private institution; and

(2) complies—

(A) with applicable State or local laws, regulations, standards, or codes regarding habitability of residential dwellings that—

(i) are in effect for the jurisdiction in which the dwelling unit is located;

(ii) provide protection to residents of the dwellings that is equal to or greater than the protection provided under the housing quality standards established under subsection (b); and

(iii) that do not severely restrict housing choice; or

(B) in the case of a dwelling unit located in a jurisdiction which does not have in effect laws, regulations, standards, or codes described in subparagraph (A), with the housing quality standards established under subsection (c).

Each local housing and management authority providing housing assistance shall identify, in the local housing management plan for the authority, whether the authority is utilizing the standard under subparagraph (A) or (B) of paragraph (2) and, if the authority utilizes the standard under subparagraph (A), shall certify in such plan that the applicable State or local laws, regulations, standards, or codes comply with the requirements under such subparagraph.

(b) DETERMINATIONS.—

(1) IN GENERAL.—A local housing and management authority shall make the determinations required under subsection (a) pursuant to an inspection of the dwelling unit conducted before any assistance payment is made for the unit.

(2) EXPEDITIOUS INSPECTION.—Inspections of dwelling units under this subsection shall be made before the expiration of the 15-day period beginning upon a request by the resident or

landlord to the local housing and management authority. The performance of the authority in meeting the 15-day inspection deadline shall be taken into account in assessing the performance of the authority.

(c) FEDERAL HOUSING QUALITY STANDARDS.—The Secretary shall establish housing quality standards under this subsection that ensure that assisted dwelling units are safe, clean, and healthy. Such standards shall include requirements relating to habitability, including maintenance, health and sanitation factors, condition, and construction of dwellings, and shall, to the greatest extent practicable, be consistent with the standards established under section 232(b). The Secretary shall differentiate between major and minor violations of such standards.

(d) ANNUAL INSPECTIONS.—Each local housing and management authority providing housing assistance shall make an annual inspection of each assisted dwelling unit during the term of the housing assistance payments contracts for the unit to determine whether the unit is maintained in accordance with the requirements under subsection (a)(2). The authority shall retain the records of the inspection for a reasonable time and shall make the records available upon request to the Secretary and the Inspector General for the Department of Housing and Urban Development, the Housing Foundation and Accreditation Board established under title IV, and any auditor conducting an audit under section 432.

(e) INSPECTION GUIDELINES.—The Secretary shall establish procedural guidelines and performance standards to facilitate inspections of dwelling units and conform such inspections with practices utilized in the private housing market. Such guidelines and standards shall take into consideration variations in local laws and practices of local housing and management authorities and shall provide flexibility to authorities appropriate to facilitate efficient provision of assistance under this title.

(f) RULE OF CONSTRUCTION.—This section may not be construed to prevent the provision of housing assistance in connection with supportive services for elderly or disabled families.

SEC. 329. HOMEOWNERSHIP OPTION.

(a) IN GENERAL.—A local housing and management authority providing housing assistance under this title may provide homeownership assistance to assist eligible families to purchase a dwelling unit (including purchase under lease-purchase homeownership plans).

(b) REQUIREMENTS.—A local housing and management authority providing homeownership assistance under this section shall, as a condition of an eligible family receiving such assistance, require the family to—

(1) demonstrate that the family has sufficient income from employment or other sources (other than public assistance), as determined in accordance with requirements established by the authority; and

(2) meet any other initial or continuing requirements established by the local housing and management authority.

(c) DOWNPAYMENT REQUIREMENT.—

(1) IN GENERAL.—A local housing and management authority may establish minimum downpayment requirements, if appropriate, in connection with loans made for the purchase of dwelling units for which homeownership assistance is provided under this section. If the authority establishes a minimum downpayment requirement, except as provided in paragraph (2) the authority shall permit the family to use grant amounts, gifts from relatives, contributions from private sources, and similar amounts as downpayment amounts in such purchase.

(2) DIRECT FAMILY CONTRIBUTION.—In purchasing housing pursuant to this section subject to a downpayment requirement, each family shall contribute an amount of the downpayment, from resources of the family other than grants, gifts, contributions, or other similar amounts referred to in paragraph (1), that is not less than 1 percent of the purchase price.

(d) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive homeownership assistance pursuant to this section during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

SEC. 330. ASSISTANCE FOR RENTAL OF MANUFACTURED HOMES.

(a) AUTHORITY.—Nothing in this title may be construed to prevent a local housing and management authority from providing housing assistance under this title on behalf of a low-income family for the rental of—

(1) a manufactured home that is the principal residence of the family and the real property on which the home is located; or

(2) the real property on which is located a manufactured home, which is owned by the family and is the principal residence of the family.

(b) ASSISTANCE FOR CERTAIN FAMILIES OWNING MANUFACTURED HOMES.—

(1) AUTHORITY.—Notwithstanding section 351 or any other provision of this title, a local housing and management authority that receives amounts under a contract under section 302 may enter into a housing assistance payment contract to make assistance payments under this title to a family that owns a manufactured home, but only as provided in paragraph (2).

(2) LIMITATIONS.—In the case only of a low-income family that owns a manufactured home, rents the real property on which it is located, and to whom housing assistance under this title has been made available for the rental of such property, the local housing and management authority making such assistance available shall enter into a contract to make housing assistance payments under this title directly to the family (rather than to the owner of such real property) if—

(1) the owner of the real property refuses to enter into a contract to receive housing assistance payments pursuant to section 351(a);

(2) the family was residing in such manufactured home on such real property at the time such housing assistance was initially made available on behalf of the family;

(3) the family provides such assurances to the agency, as the Secretary may require, to ensure that amounts from the housing assistance payments are used for rental of the real property; and

(4) the rental of the real property otherwise complies with the requirements for assistance under this title.

A contract pursuant to this subsection shall be subject to the provisions of section 351 and any other provisions applicable to housing assistance payments contracts under this title, except that the Secretary may provide such exceptions as the Secretary considers appropriate to facilitate the provision of assistance under this subsection.

Subtitle C—Payment of Housing Assistance on Behalf of Assisted Families

SEC. 351. HOUSING ASSISTANCE PAYMENTS CONTRACTS.

(a) IN GENERAL.—Each local housing and management authority that receives amounts under a contract under section 302 may enter into housing assistance payments contracts with owners of existing dwelling units to make housing assistance payments to such owners in accordance with this title.

(b) LHMA ACTING AS OWNER.—A local housing and management authority may enter into a housing assistance payments contract to make housing assistance payments under this title to itself (or any agency or instrumentality thereof) as the owner of dwelling units (other than public housing), and the authority shall be subject to the same requirements that are applicable to other owners, except that the determinations under section 328(a) and 354(b) shall be made by a competent party not affiliated with the authority, and the authority shall be responsible for any expenses of such determinations.

(c) PROVISIONS.—Each housing assistance payments contract shall—

(1) have a term of not more than 12 months;

(2) require that the assisted dwelling unit may be rented only pursuant to a lease that complies with the requirements of section 324;

(3) comply with the requirements of section 325 (relating to termination of tenancy);

(4) require the owner to maintain the dwelling unit in accordance with the applicable standards under section 328(a)(2); and

(5) provide that the screening and selection of eligible families for assisted dwelling units shall be the function of the owner.

SEC. 352. AMOUNT OF MONTHLY ASSISTANCE PAYMENT.

(a) UNITS HAVING GROSS RENT EXCEEDING PAYMENT STANDARD.—In the case of a dwelling unit bearing a gross rent that exceeds the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located—

(1) the amount by which such payment standard exceeds the amount of the resident contribution determined in accordance with section 322(a)(1);

(2) in the case only of families described in paragraph (2) of section 322(a), the amount by which such payment standard exceeds the lesser of the resident contribution determined in accordance with section 322(a)(1) or 30 percent of the family's adjusted monthly income;

(3) in the case of an assisted family that is an elderly family or a disabled family, the amount of the monthly assistance payment shall be the amount by which such payment standard exceeds the lesser of the amount of the resident contribution determined in accordance with section 322 or 30 percent of the family's adjusted monthly income; or

(4) in the case of a family whose head (or whose spouse) is a veteran (as such term is defined in section 203(b) of the National Housing Act), the lesser of the amount of such resident contribution or 30 percent of the family's adjusted monthly income.

(b) SHOPPING INCENTIVE FOR UNITS HAVING GROSS RENT NOT EXCEEDING PAYMENT STANDARD.—In the case of an assisted family renting an eligible dwelling unit bearing a gross rent that does not exceed the payment standard established under section 353 for a dwelling unit of the applicable size and located in the market area in which such assisted dwelling unit is located, the following requirements shall apply:

(1) AMOUNT OF MONTHLY ASSISTANCE PAYMENT.—The amount of the monthly assistance payment for housing assistance under this title on behalf of the assisted family shall be the amount by which the gross rent for the dwelling unit exceeds the amount of the resident contribution.

(2) ESCROW OF SHOPPING INCENTIVE SAVINGS.—An amount equal to 50 percent of the difference between payment standard and the gross rent for the dwelling unit shall be placed in an interest bearing escrow account on behalf of such family on a monthly basis by the local housing and management authority. Amounts in the escrow account shall be made available to the assisted family on an annual basis.

(3) DEFICIT REDUCTION.—The local housing and management authority making housing assistance payments on behalf of such assisted family in a fiscal year shall reserve from amounts made available to the authority for assistance payments for such fiscal year an amount equal to the amount described in paragraph (2). At the end of each fiscal year, the

Secretary shall recapture any such amounts reserved by local housing and management authorities and such amounts shall be covered into the General Fund of the Treasury of the United States.

For purposes of this section, in the case of a family receiving homeownership assistance under section 329, the term ''gross rent'' shall mean the homeownership costs to the family as determined in accordance with guidelines of the Secretary.

SEC. 353. PAYMENT STANDARDS.

(a) ESTABLISHMENT.—Each local housing and management authority providing housing assistance under this title shall establish payment standards under this section for various areas, and sizes and types of dwelling units, for use in determining the amount of monthly housing assistance payment to be provided on behalf of assisted families.

(b) USE OF RENTAL INDICATORS.—The payment standard for each size and type of housing for each market area shall be an amount that is not less than 80 percent, and not greater than 120 percent, of the rental indicator established under section 323 for such size and type for such area.

(c) REVIEW.—If the Secretary determines, at any time, that a significant percentage of the assisted families who are assisted by a local housing and management authority and are occupying dwelling units of a particular size are paying more than 30 percent of their adjusted incomes for rent, the Secretary shall review the payment standard established by the authority for such size dwellings. If, pursuant to the review, the Secretary determines that such payment standard is not appropriate to serve the needs of the low-income population of the jurisdiction served by the authority (taking into consideration rental costs in the area), as identified in the approved community improvement plan of the authority, the Secretary may require the local housing and management authority to modify the payment standard.

SEC. 354. REASONABLE RENTS.

(a) ESTABLISHMENT.—The rent charged for a dwelling unit for which rental assistance is provided under this title shall be established pursuant to negotiation and agreement between the assisted family and the owner of the dwelling unit.

(b) REASONABLENESS.—

(1) DETERMINATION.—A local housing and management authority providing rental assistance under this title for a dwelling unit shall, before commencing assistance payments for a unit (with respect to initial contract rents and any rent revisions), determine whether the rent charged for the unit exceeds the rents charged for comparable units in the applicable private unassisted market.

(2) UNREASONABLE RENTS.—If the authority determines that the rent charged for a dwelling unit exceeds such comparable rents, the authority shall—

(A) inform the assisted family renting the unit that such rent exceeds the rents for comparable unassisted units in the market; and

(B) refuse to provide housing assistance payments for such unit.

SEC. 355. PROHIBITION OF ASSISTANCE FOR VACANT RENTAL UNITS.

If an assisted family vacates a dwelling unit for which rental assistance is provided under a housing assistance payments contract before the expiration of the term of the lease for the unit, rental assistance pursuant to such contract may not be provided for the unit after the month during which the unit was vacated.

Subtitle D—General and Miscellaneous Provisions

SEC. 371. DEFINITIONS.

For purposes of this title:

(1) ASSISTED DWELLING UNIT.—The term ''assisted dwelling unit'' means a dwelling unit in which an assisted family resides and for which housing assistance payments are made under this title.

(2) ASSISTED FAMILY.—The term ''assisted family'' means an eligible family on whose behalf housing assistance payments are made under this title or who has been selected and approved for housing assistance.

(3) CHOICE-BASED.—The term ''choice-based'' means, with respect to housing assistance, that the assistance is not attached to a dwelling unit but can be used for any eligible dwelling unit selected by the eligible family.

(4) ELIGIBLE DWELLING UNIT.—The term ''eligible dwelling unit'' means a dwelling unit that complies with the requirements under section 328 for consideration as an eligible dwelling unit.

(5) ELIGIBLE FAMILY.—The term ''eligible family'' means a family that meets the requirements under section 321(a) for assistance under this title.

(6) HOMEOWNERSHIP ASSISTANCE.—The term ''homeownership assistance'' means housing assistance provided under section 329 for the ownership of a dwelling unit.

(7) HOUSING ASSISTANCE.—The term ''housing assistance'' means assistance provided under this title on behalf of low-income families for the rental or ownership of an eligible dwelling unit.

(8) HOUSING ASSISTANCE PAYMENTS CONTRACT.—The term ''housing assistance payments contract'' means a contract under section 351 between a local housing and management authority (or the Secretary) and an owner to make housing assistance payments under this title to the owner on behalf of an assisted family.

(9) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The terms ''local housing and management authority'' and ''authority'' have the meaning given such terms in section 103, except that the terms include—

(A) a consortia of local housing and management authorities that the Secretary determines has the capacity and capability to administer a program for housing assistance under this title in an efficient manner;

(B) any other entity that, upon the date of the enactment of this Act, was administering any program for tenant-based rental assistance under section 8 of the United States Housing Act of 1937 (as in effect before the enactment of this Act), pursuant to a contract with the Secretary or a public housing agency; and

(C) with respect to any area in which no local housing and management authority has been organized or where the Secretary determines that a local housing and management authority is unwilling or unable to implement this title, or is not performing effectively—

(i) the Secretary or another entity that by contract agrees to receive assistance amounts under this title and enter into housing assistance payments contracts with owners and perform the other functions of local housing and management authority under this title; or

(ii) notwithstanding any provision of State or local law, a local housing and management authority for another area that contracts with the Secretary to administer a program for housing assistance under this title, without regard to any otherwise applicable limitations on its area of operation.

(10) OWNER.—The term ''owner'' means the person or entity having the legal right to lease or sublease dwelling units. Such term includes any principals, general partners, primary shareholders, and other similar participants in any entity owning a multifamily housing project, as well as the entity itself.

(11) RENT.—The terms ''rent'' and ''rental'' include, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(12) RENTAL ASSISTANCE.—The term ''rental assistance'' means housing assistance provided under this title for the rental of a dwelling unit.

SEC. 372. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary shall permit local housing and management authorities administering housing assistance under this title to retain, out of amounts obtained by the authorities from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

(1) 50 percent of the amount actually collected; or

(2) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

(b) USE.—Amounts retained by an authority shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. If the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

(c) RECOVERY.—Amounts may be recovered under this section—

(1) by an authority through a lawsuit (including settlement of the lawsuit) brought by the authority or through court-ordered restitution pursuant to a criminal proceeding resulting from an authority's investigation where the authority seeks prosecution of a family or where an authority seeks prosecution of an owner;

(2) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 111; or

(3) through an agreement between the parties.

SEC. 373. STUDY REGARDING GEOGRAPHIC CONCENTRATION OF ASSISTED FAMILIES.

(a) IN GENERAL.—The Secretary shall conduct a study of the geographic areas in the State of Illinois served by the Housing Authority of Cook County and the Chicago Housing Authority and submit to the Congress a report and a specific proposal, which addresses and resolves the issues of—

(1) the adverse impact on local communities due to geographic concentration of assisted households under the tenant-based housing programs under section 8 of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) and under this title; and

(2) facilitating the deconcentration of such assisted households by providing broader housing choices to such households.

The study shall be completed, and the report shall be submitted, not later than 90 days after the date of the enactment of this Act.

(b) CONCENTRATION.—For purposes of this section, the term ''concentration'' means, with respect to any area within a census tract, that—

(1) 15 percent or more of the households residing within such area have incomes which do not exceed the poverty level; or

(2) 15 percent or more of the total affordable housing stock located within such area is assisted housing.

TITLE IV—ACCREDITATION AND OVERSIGHT OF LOCAL HOUSING AND MANAGEMENT AUTHORITIES

Subtitle A—Housing Foundation and Accreditation Board

SEC. 401. ESTABLISHMENT.

There is established an independent agency in the executive branch of the Government to be known as the Housing Foundation and Accreditation Board (in this title referred to as the ''Board'').

SEC. 402. MEMBERSHIP.

(a) IN GENERAL.—The Board shall be composed of 12 members appointed by the President

not later than 180 days after the date of the enactment of this Act, as follows:

(1) 4 members shall be appointed from among 10 individuals recommended by the Secretary of Housing and Urban Development.

(2) 4 members shall be appointed from among 10 individuals recommended by the Chairman and Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(3) 4 members appointed from among 10 individuals recommended by the Chairman and Ranking Minority Member of the Committee on Banking and Financial Services of the House of Representatives.

(b) QUALIFICATIONS.—

(1) REQUIRED REPRESENTATION.—The Board shall at all times have the following members:

(A) 2 members who are residents of public housing or dwelling units assisted under title III of this Act or the provisions of section 8 of the United States Housing Act of 1937 (as in effect before the enactment of this Act).

(B) at least 2, but not more than 4 members who are executive directors of local housing and management authorities.

(C) 1 member who is a member of the Institute of Real Estate Managers.

(D) 1 member who is the owner of a multifamily housing project assisted under a program administered by the Secretary of Housing and Urban Development.

(2) REQUIRED EXPERIENCE.—The Board shall at all times have as members individuals with the following experience:

(A) At least 1 individual who has extensive experience in the residential real estate finance business.

(B) At least 1 individual who has extensive experience in operating a nonprofit organization that provides affordable housing.

(C) At least 1 individual who has extensive experience in construction of multifamily housing.

(D) At least 1 individual who has extensive experience in the management of a community development corporation.

(E) At least 1 individual who has extensive experience in auditing participants in government programs.

A single member of the board with the appropriate experience may satisfy the requirements of more than 1 subparagraph of this paragraph. A single member of the board with the appropriate qualifications and experience may satisfy the requirements of a subparagraph of paragraph (1) and a subparagraph of this paragraph.

(c) POLITICAL AFFILIATION.—Not more than 6 members of the Board may be of the same political party.

(d) TERMS.—

(1) IN GENERAL.—Each member of the Board shall be appointed for a term of 4 years, except as provided in paragraphs (2) and (3).

(2) TERMS OF INITIAL APPOINTEES.—As designated by the President at the time of appointment, of the members first appointed—

(A) 3 shall be appointed for terms of 1 year;

(B) 3 shall be appointed for terms of 2 years;

(C) 3 shall be appointed for terms of 3 years; and

(D) 3 shall be appointed for terms of 4 years;

(3) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made.

(e) CHAIRPERSON.—The Board shall elect a chairperson from among members of the Board.

(f) QUORUM.—A majority of the members of the Board shall constitute a quorum for the transaction of business.

(g) VOTING.—Each member of the Board shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Board.

(h) PROHIBITION ON ADDITIONAL PAY.—Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

SEC. 403. FUNCTIONS.

The purpose of this subtitle is to establish the Board as a nonpolitical entity to carry out the following functions:

(1) EVALUATION OF DEEP SUBSIDY PROGRAMS.—Measuring the performance and efficiency of all ''deep subsidy'' programs for housing assistance administered by the Secretary of Housing and Urban Development, including the public housing program under title II and the programs for tenant- and project-based rental assistance under title III and section 8 of the United States Housing Act of 1937 (as in effect before the enactment of this Act).

(2) ESTABLISHMENT OF LHMA PERFORMANCE BENCHMARKS.—Establishing standards and guidelines under section 431 for use by the Secretary in measuring the performance and efficiency of local housing and management authorities and other owners and providers of federally assisted housing in carrying out operational and financial functions.

(3) IMPROVEMENT OF INDEPENDENT AUDITS.—Providing for the development of effective means for conducting comprehensive financial and performance audits of local housing and management authorities under section 432 and, to the extent provided in such section, providing for the conducting of such audits.

(4) ACCREDITATION OF LHMA'S.—Establishing a procedure under section 431(b) for accrediting local housing and management authorities to receive block grants under title II for the operation, maintenance, and production of public housing and amounts for housing assistance under title III, ensuring that financial and performance audits under section 432 are conducted annually for each local housing and management authority, and reviewing such audits for purposes of accreditation.

(5) CLASSIFICATION OF LHMA'S.—Classifying local housing and management authorities, under to section 434, according to the performance categories under section 431(a)(2).

SEC. 404. INITIAL ESTABLISHMENT OF STANDARDS AND PROCEDURES FOR LHMA COMPLIANCE.

(a) DEADLINE.—Not later than the expiration of the 12-month period beginning upon the completion of the appointment, under section 402, of the initial members of the Board, the Board shall organize its structure and operations, establish the standards, guidelines, and procedures under sections 431, and establish any fees under section 406. Before issuing such standards, guidelines, and procedures in final form, the Board shall submit a copy to the Congress.

(b) PRIORITY OF INITIAL EVALUATIONS.—After organization of the Board and establishment of standards, guidelines, and procedures under sections 431, the Board shall commence evaluations under section 433(b) for the purpose of accrediting local housing and management authorities and shall give priority to conducting evaluations of local housing and management authorities that are designated as troubled public housing agencies under section 6(j) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act) pursuant to section 431(d).

(c) ASSISTANCE FROM NATIONAL CENTER FOR HOUSING MANAGEMENT.—

(1) IN GENERAL.—During the period referred to in subsection (a), the National Center for Housing Management established by Executive Order 11668 (42 U.S.C. 3531 note) shall, to the extent agreed to by the Center, provide the Board with ongoing assistance and advice relating to the following matters:

(A) Organizing the structure of the Board and its operations.

(B) Establishing performance standards and guidelines under section 431(a).

Such Center may, at the request of the Board, provide assistance and advice with respect to matters not described in paragraphs (1) and (2) and after the expiration of the period referred to in subsection (a).

(2) ASSISTANCE.—The assistance provided by such Center shall include staff and logistical support for the Board and such operational and managerial activities as are necessary to assist the Board to carry out its functions during the period referred to in subsection (a).

SEC. 405. POWERS.

(a) HEARINGS.—The Board may, for the purpose of carrying out this subtitle, hold such hearings and sit and act at such times and places as the Board determines appropriate.

(b) RULES AND REGULATIONS.—The Board may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Board may secure directly from any department or agency of the Federal Government such information as the Board may require for carrying out its functions, including local housing management plans submitted to the Secretary by local housing and management authorities under title II. Upon request of the Board, any such department or agency shall furnish such information. The Board may acquire information directly from local housing and management authorities to the same extent the Secretary may acquire such information.

(2) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Board, on a reimbursable basis, such administrative support services as the Board may request.

(3) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—Upon the request of the chairperson of the Board, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Board in carrying out its functions under this subtitle.

(4) HUD INSPECTOR GENERAL.—The Inspector General of the Department of Housing and Urban Development shall serve the Board as a principal adviser with respect to all aspects of annual financial and performance audits of local housing and management authorities under section 432. The Inspector General may advise the Board with respect to other activities and functions of the Board.

(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Board may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts with private firms, institutions, and individuals for the purpose of conducting evaluations under section 404(b), audits of local housing and management authorities as provided under section 432, research, and surveys necessary to enable the Board to discharge its functions under this subtitle, and may enter into contracts with the National Center for Housing Management to conduct the functions assigned to the Center under this title.

(f) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Board shall appoint an executive director of the Board, who shall be compensated at a rate fixed by the Board, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) OTHER PERSONNEL.—In addition to the executive director, the Board may appoint and fix the compensation of such personnel as the Board considers necessary, in accordance with

the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. Such personnel may include personnel for assessment teams under section 431(b).

SEC. 406. FEES.

(a) ACCREDITATION FEES.—The Board may establish and charge fees for the accreditation of local housing and management authorities as the Board considers necessary to cover the costs of the operations of the Board relating to establishing standards, guidelines, and procedures for evaluating the performance of local housing and management authorities, performing comprehensive reviews relating to the accreditation of such authorities, and conducting audits of authorities under section 432.

(b) FUND.—Any fees collected under this section shall be deposited in an operations fund for the Board, which is hereby established in the Treasury of the United States. Amounts in such fund shall be available, to the extent provided in appropriation Acts, for the expenses of the Board in carrying out its functions under this subtitle.

SEC. 407. REPORTS.

(a) REPORT ON COORDINATION WITH HUD FUNCTIONS.—Not later than the expiration of the 12-month period beginning upon the date of the enactment of this Act, the Board shall submit a report to the Congress that—

(1) identifies and describes the processes, procedures, and activities of the Department of Housing and Urban Development which may duplicate functions of the Board, and makes recommendations regarding activities of the Department that may no longer be necessary as a result of improved auditing of authorities pursuant to this title;

(2) makes recommendations for any changes to Federal law necessary to improve auditing of local housing and management authorities; and

(3) makes recommendations regarding the review and evaluation functions currently performed by the Department of Housing and Urban Development that may be more efficiently performed by the Board and should be performed by the Board, and those that should continue to be performed by the Department.

(b) ANNUAL REPORTS.—The Board shall submit a report to the Congress annually describing, for the year for which the report is made—

(1) any modifications made by the Board to the standards, guidelines, and procedures issued under section 431 by the Board;

(2) the results of the assessments, reviews, and evaluations conducted by the Board under subtitle B;

(3) the types and extent of assistance, information, and products provided by the Board; and

(4) any other activities of the Board.

SEC. 408. GAO AUDIT.

The activities and transactions of the Board shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access for the purpose of audit and examination to any books, documents, papers, and records of the Board that are necessary to facilitate an audit.

Subtitle B—Accreditation and Oversight Standards and Procedures

SEC. 431. ESTABLISHMENT OF PERFORMANCE BENCHMARKS AND ACCREDITATION PROCEDURES.

(a) PERFORMANCE BENCHMARKS.—

(1) PERFORMANCE AREAS.—The Housing Foundation and Accreditation Board established under section 401 (in this subtitle referred to as the ''Board'') shall establish standards and guidelines, for use under section 434, to measure the performance of local housing and management authorities in all aspects relating to—

(A) operational and financial functions;

(B) providing, maintaining, and assisting low-income housing—

(i) that is safe, clean, and healthy, as required under sections 232 and 328;

(ii) in a manner consistent with the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act, if appropriate;

(iii) that is occupied by eligible families; and

(iv) that is affordable to eligible families;

(C) producing low-income housing and executing capital projects, if applicable;

(D) administering the provision of housing assistance under title III;

(E) accomplishing the goals and plans set forth in the local housing management plan for the authority;

(F) promoting responsibility and self-sufficiency among residents of public housing developments of the authority and assisted families under title III; and

(G) complying with the other requirements of the authority under block grant contracts under title II, grant agreements under title III, and the provisions of this Act.

(2) PERFORMANCE CATEGORIES.—In establishing standards and guidelines under this section, the Board shall define various levels of performance, which shall include the following levels:

(A) EXCEPTIONALLY WELL-MANAGED.—A minimum acceptable level of performance in the areas specified in paragraph (1) for classification of a local housing and management authority as exceptionally well-managed, which shall indicate that the authority functions exceptionally.

(B) WELL-MANAGED.—A minimum acceptable level of performance in the areas specified in paragraph (1) for classification of a local housing and management authority as well-managed, which shall indicate that the authority functions satisfactorily.

(C) AT RISK OF BECOMING TROUBLED.—A minimum acceptable level of performance in the areas specified in paragraph (1) for classification of a local housing and management authority as at risk of becoming troubled, which shall indicate that there are elements in the operations, management, or functioning of the authority that must be addressed before they result in serious and complicated deficiencies.

(D) TROUBLED.—A minimum level of performance in the areas specified in paragraph (1) for classification of a local housing and management authority as a troubled authority, which shall indicate that the authority functions unsatisfactorily with respect to certain areas under paragraph (1), but such deficiencies are not irreparable.

(E) DYSFUNCTIONAL.—A maximum level of performance in the areas specified in paragraph (1) for classification of a local housing and management authority as dysfunctional, which shall indicate that the authority suffers such deficiencies that the authority should not be allowed to continue to manage low-income housing or administer housing assistance.

(3) ACCREDITATION STANDARD.—In establishing standards and guidelines under this section, the Board shall establish a minimum acceptable level of performance for accrediting a local housing and management authority for purposes of authorizing the authority to enter into a new block grant contract under title II or a new grant agreement under title III.

(b) ACCREDITATION PROCEDURE.—The Accreditation Board shall establish procedures for—

(1) reviewing the performance of a local housing and management authority over the term of the expiring accreditation, which review shall be conducted during the 12-month period that ends upon the conclusion of the term of the expiring accreditation;

(2) evaluating the capability of a local housing and management authority that proposes to enter into an initial block grant contract under title II or an initial grant agreement under title III; and

(3) determining whether the authority complies with the standards and guidelines for accreditation established under subsection (a)(3).

The procedures for a review or evaluation under this subsection shall provide for the review or evaluation to be conducted by an assessment team established by the Board, which shall review annual financial and performance audits conducted under section 432 and obtain such information as the Board may require.

(c) IDENTIFICATION OF POTENTIAL PROBLEMS.—The standards and guidelines under subsection (a) and the procedure under subsection (b) shall be established in a manner designed to identify potential problems in the operations, management, functioning of local housing and management authorities at a time before such problems result in serious and complicated deficiencies.

(d) INTERIM APPLICABILITY OF PHMAP.—Notwithstanding any other provision of this subtitle, during the period that begins on the date of the enactment of this Act and ends upon the date of the effectiveness of final regulations establishing the standards, guidelines, and procedures required under this section and section 432, the Secretary shall assess the management performance of local housing and management authorities in the same manner provided for public housing agencies pursuant to section 6(j) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) and may take actions with respect to local housing and management authorities that are authorized under such section with respect to public housing agencies.

SEC. 432. FINANCIAL AND PERFORMANCE AUDITS.

(a) REQUIREMENT.—A financial and performance audit under this section shall be conducted for each local housing and management authority for each fiscal year that the authority receives grant amounts under this Act, as provided under one of the following paragraphs:

(1) LHMA PROVIDES FOR AUDIT.—If neither the Secretary nor the Board takes action under paragraph (2) or (3), the Secretary shall require the local housing and management authority to have the audit conducted. The Secretary may prescribe that such audits be conducted pursuant to guidelines set forth by the Department.

(2) SECRETARY REQUESTS BOARD TO PROVIDE FOR AUDIT.—The Secretary may request the Board to contract directly with an auditor to have the audit conducted for the authority.

(3) BOARD PROVIDES FOR AUDIT.—The Board may notify the Secretary that it will contract directly with an auditor to have the audit conducted for the authority.

(b) OTHER AUDITS.—Pursuant to risk assessment strategies designed to ensure the integrity of the programs for assistance under this Act, which shall be established by the Inspector General for the Department of Housing and Urban Development in consultation with the Board, the Inspector General may request the Board to conduct audits under this subsection of local housing and management authorities. Such audits may be in addition to, or in place of, audits under subsection (a), as the Board shall provide.

(c) SUBMISSION OF RESULTS.—

(1) SUBMISSION TO SECRETARY AND BOARD.—The results of any audit conducted under this subsection shall be submitted to the local housing and management authority, the Secretary, and the Board.

(2) SUBMISSION TO LOCAL OFFICIALS.—

(A) REQUIREMENT.—A local housing and management authority shall submit each audit conducted under this section to any local elected official or officials responsible for appointing the members of the board of directors (or other similar governing body) of the local housing and management authority for review and comment. Any such comments shall be submitted, together with the audit, to the Secretary and the Board and the Secretary and the Board shall consider such comments in reviewing the audit.

(B) TIMING.—An audit shall be submitted to local officials as provided in subparagraph (A)—

(i) in the case of an audit conducted under subsection (a)(1), not later than 60 days before the local housing and management authority submits the audit to the Secretary and the Board; or

(ii) in the case of an audit under paragraph (2) or (3) of subsection (a) or under subsection (b), not later than 60 days after the authority receives the audit.

(d) PROCEDURES.— The requirements for financial and performance audits under this section shall—

(1) be established by the Board, in consultation with the Inspector General of the Department of Housing and Urban Development;

(2) provide for the audit to be conducted by an independent auditor selected—

(A) in the case of an audit under subsection (a)(1), by the authority; and

(B) in the case of an audit under paragraph (2) or (3) of subsection (a) or under subsection (b), by the Board;

(3) authorize the auditor to obtain information from a local housing and management authority, to access any books, documents, papers, and records of an authority that are pertinent to this Act and assistance received pursuant to this Act, and to review any reports of an authority to the Secretary;

(4) impose sufficient requirements for obtaining information so that the audits are useful to the Board in evaluating local housing and management authorities; and

(5) include procedures for testing the reliability of internal financial controls of local housing and management authorities.

(e) PURPOSE.—Audits under this section shall be designed to—

(1) evaluate the financial performance and soundness and management performance of the local housing and management authority board of directors (or other similar governing body) and the authority management officials and staff;

(2) assess the compliance of an authority with all aspects of the standards and guidelines established under section 431(a)(1);

(3) provide information to the Secretary and the Board regarding the financial performance and management of the authority and to determine whether a review under section 225(d) or 353(c) is required; and

(4) identify potential problems in the operations, management, functioning of a local housing and management authority at a time before such problems result in serious and complicated deficiencies.

(f) INAPPLICABILITY OF SINGLE AUDIT ACT.—Notwithstanding the first sentence of section 7503(a) of title 31, United States Code, an audit conducted in accordance with chapter 75 of such title shall not exempt any local housing and management authority from conducting an audit under this section. Audits under this section shall not be subject to the requirements for audits under such chapter. An audit under this section for a local housing and management authority for a fiscal year shall be considered to satisfy any requirements under such chapter for such fiscal year.

(g) WITHHOLDING OF AMOUNTS FOR COSTS OF AUDIT.—

(1) LHMA RESPONSIBLE FOR AUDIT.—If the Secretary requires a local housing and management authority to have an audit under this section conducted pursuant to subsection (a)(1) and determines that the authority has failed to take the actions required to submit an audit under this section for a fiscal year, the Secretary may—

(A) arrange for, and pay the costs of, the audit and withhold, from the total allocation for any fiscal year otherwise payable to the authority under this Act, amounts sufficient to pay for the reasonable costs of conducting an acceptable audit (including, if appropriate, the reasonable costs of accounting services necessary to place the authority's books and records in condition that permits an audit); or

(B) request the Board to conduct the audit pursuant to subsection (a)(2) and withhold amounts pursuant to paragraph (2) of this subsection.

(2) BOARD RESPONSIBLE FOR AUDIT.—If the Board is responsible for an audit for a local housing and management authority pursuant to paragraph (2) or (3) of subsection (a), subsection (b), or paragraph (1)(B) of this subsection, the Secretary shall—

(A) withhold, from the total allocation for any fiscal year otherwise payable to the authority under this Act, amounts sufficient to pay for the audit, but in no case more than the reasonable cost of conducting an acceptable audit (including, if appropriate, the reasonable costs of accounting services necessary to place the authority's books and records in condition that permits an audit); and

(B) transfer such amounts to the Board.

SEC. 433. ACCREDITATION.

(a) REVIEW UPON EXPIRATION OF PREVIOUS ACCREDITATION.—The Accreditation Board shall perform a comprehensive review of the performance of a local housing and management authority, in accordance with the procedures established under section 431(b), before the expiration of the term for which a previous accreditation was granted under this subtitle.

(b) INITIAL EVALUATION.—

(1) IN GENERAL.—Before entering into an initial block grant contract under title II or an initial contract pursuant to section 302 for assistance under title III with any local housing and management authority, the Board shall conduct a comprehensive evaluation of the capabilities of the local housing and management authority.

(2) EXCEPTION.—Paragraph (1) shall not apply to an initial block grant contract or grant agreement entered into during the period beginning upon the date of the enactment of this Act and ending upon the date of the effectiveness of final regulations establishing the standards, guidelines, and procedures required under section 431 with any public housing agency that received amounts under the United States Housing Act of 1937 during fiscal year 1995.

(c) DETERMINATION AND REPORT.—Pursuant to a review or evaluation under this section, the Board shall determine whether the authority meets the requirements for accreditation under section 431(a)(3), shall accredit the authority if it meets such requirements, and shall submit a report on the results of the review or evaluation and such determination to the Secretary and the authority.

(d) ACCREDITATION.—An accreditation under this section shall expire at the end the term established by the Board in granting the accreditation, which may not exceed 5 years. The Board may qualify an accreditation placing conditions on the accreditation based on the future performance of the authority.

SEC. 434. CLASSIFICATION BY PERFORMANCE CATEGORY.

Upon completing the accreditation process under section 433 with respect to a local housing and management authority, the Housing Finance and Accreditation Board shall designate the authority according to the performance categories under section 431(a)(2). In determining the classification of an authority, the Board shall consider the most recent financial and performance audit under section 432 of the authority and accreditation reports under section 433(c) for the authority.

SEC. 435. PERFORMANCE AGREEMENTS FOR AUTHORITIES AT RISK OF BECOMING TROUBLED.

(a) IN GENERAL.—Upon designation of a local housing and management authority as at risk of becoming troubled under section 431(a)(2)(C), the Secretary shall seek to enter into an agreement with the authority providing for improvement of the elements of the authority that have been identified. An agreement under this section shall contain such terms and conditions as the Secretary determines are appropriate for addressing the elements identified, which may include an on-site, independent assessment of the management of the authority.

(b) POWERS OF SECRETARY.—If the Secretary determines that such action is necessary to prevent the local housing and management authority from becoming a troubled authority, the Secretary may—

(1) solicit competitive proposals from other local housing and management authorities and private housing management agents (which may be selected by existing tenants through administrative procedures established by the Secretary), for any case in which such agents may be needed for managing all, or part, of the housing or functions administered by the authority; or

(2) solicit competitive proposals from other local housing and management authorities and private entities with experience in construction management, for any case in which such authorities or firms may be needed to oversee implementation of assistance made available for capital improvement for public housing of the authority.

SEC. 436. PERFORMANCE AGREEMENTS AND CDBG SANCTIONS FOR TROUBLED LHMA'S.

(a) IN GENERAL.—Upon designation of a local housing and management authority as a troubled authority under section 431(a)(2)(D), the Secretary shall seek to enter into an agreement with the authority providing for improving the management performance of the authority.

(b) CONTENTS.—An agreement under this section between the Secretary and a local housing and management authority shall set forth—

(1) targets for improving performance, as measured by the guidelines and standards established under section 431(a)(1) and other requirements within a specified period of time, which shall include targets to be met upon the expiration of the 12-month period beginning upon entering into the agreement;

(2) strategies for meeting such targets;

(3) sanctions for failure to implement such strategies; and

(4) to the extent the Secretary deems appropriate, a plan for enhancing resident involvement in the management of the local housing and management authority.

(c) LOCAL ASSISTANCE IN IMPLEMENTATION.—The Secretary and the local housing and management authority shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out an agreement under this section.

(d) DEFAULT UNDER PERFORMANCE AGREEMENT.—Upon the expiration of the 12-month period beginning upon entering into an agreement under this section with a local housing and management authority, the Secretary shall review the performance of the authority in relation to the performance targets and strategies under the agreement. If the Secretary determines that the authority has failed to comply with the performance targets established for such period, the Secretary shall take the action authorized under subsection (b)(2) or (b)(5) of section 438.

(e) CDBG SANCTION AGAINST LOCAL GOVERNMENT CONTRIBUTING TO TROUBLED STATUS OF LHMA.—If the Secretary determines that the actions or inaction of any unit of general local government within which any portion of the jurisdiction of a local housing and management authority is located has substantially contributed to the conditions resulting in the authority being designated under section 431(a)(2)(D) as a troubled authority, the Secretary may redirect or withhold, from such unit of general local government any amounts allocated for such unit under section 106 of such Act.

SEC. 437. OPTION TO DEMAND CONVEYANCE OF TITLE TO OR POSSESSION OF PUBLIC HOUSING.

(a) AUTHORITY FOR CONVEYANCE.—A contract under section 201 for block grants under title II (including contracts which amend or supersede contracts previously made (including contracts for contributions)) may provide that upon the occurrence of a substantial default with respect to the covenants or conditions to which the local housing and management authority is subject (as such substantial default shall be defined in such contract) or upon designation of the authority as dysfunctional pursuant to section 431(a)(2)(E), the local housing and management authority shall be obligated, at the option of the Secretary, to—

(1) convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this Act; or

(2) deliver to the Secretary possession of the development, as then constituted, to which such contract relates.

(b) OBLIGATION TO RECONVEY.—Any block grant contract under title II containing the provisions authorized in subsection (a) shall also provide that the Secretary shall be obligated to reconvey or redeliver possession of the development, as constituted at the time of reconveyance or redelivery, to such local housing and management authority or to its successor (if such local housing and management authority or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable after—

(1) the Secretary is satisfied that all defaults with respect to the development have been cured, and that the development will, in order to fulfill the purposes of this Act, thereafter be operated in accordance with the terms of such contract; or

(2) the termination of the obligation to make annual block grants to the authority, unless there are any obligations or covenants of the authority to the Secretary which are then in default.

Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the development to the Secretary pursuant to subsection (a) upon the subsequent occurrence of a substantial default.

(c) CONTINUED GRANTS FOR REPAYMENT OF BONDS AND NOTES UNDER 1937 ACT.—If—

(1) a contract for block grants under title II for an authority includes provisions that expressly state that the provisions are included pursuant to this subsection, and

(2) the portion of the block grant payable for debt service requirements pursuant to the contract has been pledged by the local housing and management authority as security for the payment of the principal and interest on any of its obligations, then—

(A) the Secretary shall (notwithstanding any other provisions of this Act), continue to make the block grant payments for the authority so long as any of such obligations remain outstanding; and

(B) the Secretary may covenant in such a contract that in any event such block grant amounts shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the development for the purpose at the time such block grant payments are made, will suffice for the payment of all installments of principal and interest on the obligations for which the amounts provided for in the contract shall have been pledged as security that fall due within the next succeeding 12 months.

In no case shall such block grant amounts be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

SEC. 438. REMOVAL OF INEFFECTIVE LHMA'S.

(a) CONDITIONS OF REMOVAL.—The actions specified in subsection (b) may be taken only upon—

(1) the occurrence of events or conditions that constitute a substantial default by a local housing and management authority with respect to (A) the covenants or conditions to which the local housing and management authority is subject, or (B) an agreement entered into under section 436;

(2) designation of the authority as dysfunctional pursuant to section 431(a)(2)(E);

(3) in the case only of action under subsection (b)(1), failure of a local housing and management authority to obtain reaccreditation upon the expiration of the term of a previous accreditation granted under this subtitle; or

(4) submission to the Secretary of a petition by the residents of the public housing owned or operated by a local housing and management authority that is designated as troubled or dysfunctional pursuant to section 431(a)(2).

(b) REMOVAL ACTIONS.—Notwithstanding any other provision of law or of any block grant contract under title II or any grant agreement under title III, in accordance with subsection (a), the Secretary may—

(1) solicit competitive proposals from other local housing and management authorities and private housing management agents (which, in the discretion of the Secretary, may be selected by existing public housing residents through administrative procedures established by the Secretary) and, if appropriate, provide for such agents to manage all, or part, of the housing administered by the local housing and management authority or all or part of the other functions of the authority;

(2) take possession of the local housing and management authority, including any developments or functions of the authority under any section of this Act;

(3) solicit competitive proposals from other local housing and management authorities and private entities with experience in construction management and, if appropriate, provide for such authorities or firms to oversee implementation of assistance made available for capital improvements for public housing;

(4) require the authority to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents and assisted families under title III for managing all, or part of, the public housing administered by the authority or the functions of the authority; or

(5) petition for the appointment of a receiver for the local housing and management authority to any district court of the United States or to any court of the State in which any portion of the jurisdiction of the local housing and management authority is located, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this section.

(c) EMERGENCY ASSISTANCE.—The Secretary may make available to receivers and other entities selected or appointed pursuant to this section such assistance as is fair and reasonable to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of public housing residents or assisted families under title III.

(d) POWERS OF SECRETARY.—If the Secretary takes possession of an authority, or any developments or functions of an authority, pursuant to subsection (b)(2), the Secretary—

(1) may abrogate contracts that substantially impede correction of the substantial default or improvement of the classification, but only after efforts to renegotiate such contracts have failed;

(2) may demolish and dispose of assets of the authority in accordance with subtitle E of title II;

(3) where determined appropriate by the Secretary, may require the establishment of one or more new local housing and management authorities;

(4) may consolidate the authority into other well-managed local housing and management authorities with the consent of such well-managed authorities;

(5) shall not be subject to any State or local laws relating to civil service requirements, employee rights, procurement, or financial or administrative controls that, in the determination of the Secretary, substantially impede correction of the substantial default or improvement of the classification; and

(6) shall have such additional authority as a district court of the United States has the authority to confer under like circumstances upon a receiver to achieve the purposes of the receivership.

The Secretary may appoint, on a competitive or noncompetitive basis, an individual or entity as an administrative receiver to assume the Secretary's responsibility under this paragraph for the administration of a local housing and management authority. The Secretary may delegate to the administrative receiver any or all of the powers of the Secretary under this subsection. Regardless of any delegation under this subsection, an administrative receiver may not require the establishment of one or more new local housing and management authorities pursuant to paragraph (3) unless the Secretary first approves such establishment. For purposes of this subsection, the term ''local housing and management authority'' includes any developments or functions of a local housing and management authority under any section of this title.

(e) RECEIVERSHIP.—

(1) REQUIRED APPOINTMENT.—In any proceeding under subsection (b)(5), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the local housing and management authority in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The receiver appointed may be another local housing and management authority, a private management corporation, the Secretary, or any other appropriate entity. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

(2) POWERS OF RECEIVER.—If a receiver is appointed for a local housing and management authority pursuant to subsection (b)(5), in addition to the powers accorded by the court appointing the receiver, the receiver—

(A) may abrogate contracts that substantially impede correction of the substantial default or improvement of the classification;

(B) may demolish and dispose of assets of the authority in accordance with subtitle E of title II;

(C) where determined appropriate by the Secretary, may require the establishment of one or more new local housing and management authorities, to the extent permitted by State and local law; and

(D) except as provided in subparagraph (C), shall not be subject to any State or local laws relating to civil service requirements, employee rights, procurement, or financial or administrative controls that, in the determination of the receiver, substantially impede correction of the substantial default or improvement of the classification.

For purposes of this paragraph, the term ''local housing and management authority'' includes any developments or functions of a local housing and management authority under any section of this title.

(3) TERMINATION.—The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured or the local housing and management authority will be able to make the same amount of

progress in correcting the management of the housing as the receiver.

(f) LIABILITY.—If the Secretary takes possession of an authority pursuant to subsection (b)(2) or a receiver is appointed pursuant to subsection (b)(5) for a local housing and management authority, the Secretary or the receiver shall be deemed to be acting in the capacity of the local housing and management authority (and not in the official capacity as Secretary or other official) and any liability incurred shall be a liability of the local housing and management authority.

(g) EFFECTIVENESS.—The provisions of this section shall apply with respect to actions taken before, on, or after the effective date of this Act and shall apply to any receivers appointed for a public housing agency before the date of enactment of this Act.

SEC. 439. MANDATORY TAKEOVER OF CHRONICALLY TROUBLED PHA'S.

(a) REMOVAL OF AGENCY.—Notwithstanding any other provision of this Act, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary shall take one of the following actions with respect to each chronically troubled public housing agency:

(1) CONTRACTING FOR MANAGEMENT.—Solicit competitive proposals for the management of the agency pursuant to section 437(b)(1) and replace the management of the agency pursuant to selection of such a proposal.

(2) TAKEOVER.—Take possession of the agency pursuant to section 437(b)(2) of such Act.

(b) DEFINITION.—For purposes of this section, the term ''chronically troubled public housing agency'' means a public housing agency that, as of the date of the enactment of this Act, is designated under section 6(j)(2) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) as a troubled public housing agency and has been so designated continuously for the 3-year period ending upon such date of enactment; except that such term does not include any agency that owns or operates less than 1250 public housing dwelling units and that the Secretary determines can, with a reasonable amount of effort, make such improvements or remedies as may be necessary to remove its designation as troubled within 12 months.

SEC. 440. TREATMENT OF TROUBLED PHA'S.

(a) EFFECT OF TROUBLED STATUS ON CHAS.—The comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the State or unit of general local government in which any troubled public housing agency is located shall not be considered to comply with the requirements under section 105 of the Cranston-Gonzalez National Affordable Housing Act unless such plan includes a description of the manner in which the State or unit will assist such troubled agency in improving its operations to remove such designation.

(b) DEFINITION.—For purposes of this section, the term ''troubled public housing agency'' means a public housing agency that—

(1) upon the date of the enactment of this Act, is designated under section 6(j)(2) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this Act) as a troubled public housing agency; and

(2) is not a chronically troubled public housing agency, as such term is defined in section 439(b) of this Act.

SEC. 441. MAINTENANCE OF AND ACCESS TO RECORDS.

(a) KEEPING OF RECORDS.—Each local housing and management authority shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the authority of the proceeds of assistance received pursuant to this Act and to ensure compliance with the requirements of this Act.

(b) ACCESS TO DOCUMENTS.—The Secretary, the Inspector General for the Department of Housing and Urban Development, and the Comptroller General of the United States shall each have access for the purpose of audit and examination to any books, documents, papers, and records of a local housing and management authority that are pertinent to this Act and assistance received pursuant to this Act.

SEC. 442. ANNUAL REPORTS REGARDING TROUBLED LHMA'S.

The Secretary shall submit a report to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, that—

(1) identifies the local housing and management authorities that are designated as troubled or dysfunctional under section 431(a)(2) and the reasons for such designation;

(2) identifies the local housing and management authorities that have lost accreditation pursuant to section 433; and

(3) describes any actions that have been taken in accordance with sections 433, 434, 435, 436, and 438.

SEC. 443. APPLICABILITY TO RESIDENT MANAGEMENT CORPORATIONS.

The Secretary shall apply the provisions of this subtitle to resident management corporations in the same manner as applied to local housing and management authorities.

TITLE V—REPEALS AND CONFORMING AMENDMENTS

SEC. 501. REPEALS.

(a) IN GENERAL.—The following provisions of law are hereby repealed:

(1) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(2) ASSISTED HOUSING ALLOCATION.—Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439).

(3) PUBLIC HOUSING RENT WAIVERS FOR POLICE.—Section 519 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a–1).

(4) OCCUPANCY PREFERENCES AND INCOME MIX FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION PROJECTS.—Subsection (c) of section 545, and section 555, of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note).

(5) TREATMENT OF CERTIFICATE AND VOUCHER HOLDERS.—Subsection (c) of section 183 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note).

(6) EXCESSIVE RENT BURDEN DATA.—Subsection (b) of section 550 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note).

(7) SECTION 8 DISASTER RELIEF.—Sections 931 and 932 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437c note).

(8) MOVING TO OPPORTUNITY FOR FAIR HOUSING.—Section 152 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note).

(9) REPORT REGARDING FAIR HOUSING OBJECTIVES.—Section 153 of the Housing and Community Development Act of 1992 (42 U.S.C. 1437f note).

(10) SECTION 8 COMMUNITY INVESTMENT DEMONSTRATION.—Section 6 of the HUD Demonstration Act of 1993 (42 U.S.C. 1437f note).

(11) SPECIAL PROJECTS FOR ELDERLY OR HANDICAPPED FAMILIES.—Section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438).

(12) ACCESS TO PHA BOOKS.—Section 816 of the Housing Act of 1954 (42 U.S.C. 1435).

(13) MISCELLANEOUS PROVISIONS.—Subsections (b)(1), (c), and (d) of section 326 of the Housing and Community Development Amendments of 1981 (Public Law 97–35, 95 Stat. 406; 42 U.S.C. 1437f note).

(14) PAYMENT FOR DEVELOPMENT MANAGERS.—Section 329A of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437j–1).

(15) PURCHASE OF PHA OBLIGATIONS.—Section 329E of the Housing and Community Development Amendments of 1981 (12 U.S.C. 2294a).

(16) PROCUREMENT OF INSURANCE BY PHA'S.—

(A) In the item relating to ''ADMINISTRATIVE PROVISIONS'' under the heading ''MANAGEMENT AND ADMINISTRATION'' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991, the penultimate undesignated paragraph of such item (Public Law 101–507; 104 Stat. 1369).

(B) In the item relating to ''ADMINISTRATIVE PROVISIONS'' under the heading ''MANAGEMENT AND ADMINISTRATION'' in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, the 19th through 23d undesignated paragraphs of such item (Public Law 102–139; 105 Stat. 758).

(17) PUBLIC HOUSING CHILDHOOD DEVELOPMENT.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note).

(18) INDIAN HOUSING CHILDHOOD DEVELOPMENT.—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note).

(19) PUBLIC HOUSING COMPREHENSIVE TRANSITION DEMONSTRATION.—Section 126 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437f note).

(20) PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.—Section 521 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note).

(21) PUBLIC HOUSING MINCS DEMONSTRATION.—Section 522 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note).

(22) PUBLIC HOUSING ENERGY EFFICIENCY DEMONSTRATION.—Section 523 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437g note).

(23) OMAHA HOMEOWNERSHIP DEMONSTRATION.—Section 132 of the Housing and Community Development Act of 1992 (Public Law 102–550; 106 stat. 3712).

(24) PUBLIC AND ASSISTED HOUSING YOUTH SPORTS PROGRAMS.—Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a).

(b) SAVINGS PROVISION.—The repeals made by subsection (a) shall not affect any legally binding obligations entered into before the date of the enactment of this Act. Any funds or activities subject to a provision of law repealed by subsection (a) shall continue to be governed by the provision as in effect immediately before such repeal.

SEC. 502. CONFORMING AND TECHNICAL PROVISIONS.

(a) ALLOCATION OF ELDERLY HOUSING AMOUNTS.—Section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)) is amended by adding at the end the following new paragraph:

''(4) CONSIDERATION IN ALLOCATING ASSISTANCE.—Assistance under this section shall be allocated in a manner that ensures that the awards of the assistance are made for projects of sufficient size to accommodate facilities for supportive services appropriate to the needs of frail elderly residents.''.

(b) ELIGIBILITY FOR ASSISTED HOUSING.—

(1) GENERAL.—Notwithstanding any other provision of law, for purposes of determining eligibility for admission to assisted housing, a person shall not be considered to have a disability or a handicap solely because of the prior or current illegal use of a controlled substance (as defined in section 102 of the Controlled Substances Act) or solely by reason of the prior or current use of alcohol.

(2) DEFINITION.—For purposes of this subsection, the term ''assisted housing'' means housing designed primarily for occupancy by elderly persons or persons with disabilities that is assisted pursuant to this Act, the United States Housing Act of 1937, section 221(d)(3) or 236 of

the National Housing Act, section 202 of the Housing Act of 1959, section 101 of the Housing and Urban Development Act of 1965, or section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(3) CONTINUED OCCUPANCY.—This subsection may not be construed to prohibit the continued occupancy of any person who is a resident in assisted housing on the date of enactment of this Act.

(c) AMENDMENT TO HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983.—Section 227(d)(2) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701r–1(d)(2)) is amended by inserting ''the United States Housing Act of 1996,'' after ''the United States Housing Act of 1937,''.

(d) REVIEW OF DRUG ELIMINATION PROGRAM CONTRACTS.—

(1) REQUIREMENT.—Notwithstanding the repeal under section 501(a)(26), the Secretary of Housing and Urban Development shall investigate all security contracts awarded by grantees under the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) that are public housing agencies that own or operate more than 4,500 public housing dwelling units—

(A) to determine whether the contractors under such contracts have complied with all laws and regulations regarding prohibition of discrimination in hiring practices;

(B) to determine whether such contracts were awarded in accordance with the applicable laws and regulations regarding the award of such contracts;

(C) to determine how many such contracts were awarded under emergency contracting procedures;

(D) to evaluate the effectiveness of the contracts; and

(E) to provide a full accounting of all expenses under the contracts.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall complete the investigation required under paragraph (1) and submit a report to the Congress regarding the findings under the investigation. With respect to each such contract, the report shall (A) state whether the contract was made and is operating, or was not made or is not operating, in full compliance with applicable laws and regulations, and (B) for each contract that the Secretary determines is in such compliance in a personal certification of such compliance by the Secretary of Housing and Urban Development.

(3) ACTIONS.—For each contract that is described in the report under paragraph (2) as not made or not operating in full compliance with applicable laws and regulation, the Secretary of Housing and Urban Development shall promptly take any actions available under law or regulation that are necessary—

(A) to bring such contract into compliance; or

(B) to terminate the contract.

(e) REFERENCES.—Except as provided in section 271 and 501(b), any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to—

(1) public housing or housing assisted under the United States Housing Act of 1937 is deemed to refer to public housing assisted under title II of this Act;

(2) to assistance under section 8 of the United States Housing Act of 1937 is deemed to refer to assistance under title III of this Act; and

(3) to assistance under the United States Housing Act of 1937 is deemed to refer to assistance under this Act.

(f) CONVERSION OF PROJECT-BASED ASSISTANCE TO CHOICE-BASED RENTAL ASSISTANCE.—

(1) SECTION 8 PROJECT-BASED CONTRACTS.—Upon the request of the owner of a multifamily housing project for which project-based assistance is provided under a contract entered into under section 8 of the United States Housing Act of 1937 (as in effect before the enactment of this Act), notwithstanding the termination date of such contract the Secretary shall provide for a reduction in the number of dwelling units assisted under the contract, which may not exceed 40 percent of the units in the project and shall be subject to the requirements in paragraphs (3) and (4) of this subsection.

(2) SECTION 236 CONTRACTS.—Upon the request of the owner of a multifamily housing project for which assistance is provided under a contract for interest reduction payments under section 236 of the National Housing Act, notwithstanding the termination date of such contract the Secretary shall provide for a reduction in the number of dwelling units assisted under the contract, which may not exceed 40 percent of the units in the project. The amount of the interest reduction payments made on behalf of the owner shall be reduced by a fraction for which the numerator is the aggregate basic rent for the units which are no longer assisted under the contract for interest reduction payments and the denominator is the aggregate basic rents for all units in the project. The requirements of section 236(g) of the National Housing Act shall not apply to rental charges collected with respect to dwelling units for which assistance in terminated under this paragraph. Such reduction shall be subject to the requirements in paragraphs (3) and (4) of this subsection.

(3) ELIGIBLE UNITS.—A unit may be removed from coverage by a contract pursuant to paragraph (1) or (2) only—

(A) upon the vacancy of the unit; and

(B) in the case of—

(i) units assisted under section 8 of the United States Housing Act of 1937, if the contract rent for the unit is not less than the applicable fair market rental established pursuant to section 8(c) of such Act for the area in which the unit is located; or

(ii) units assisted under an interest reduction contract under section 236 of the National Housing Act, if the reduction in the amount of interest reduction payments on a monthly basis is less than the aggregate amount of fair market rents established pursuant to section 8(c) of such Act for the number and type of units which are removed from coverage by the contract.

(4) RECAPTURE.—Any budget authority that becomes available to a local housing and management authority or the Secretary pursuant to this section shall be used to provide choice-based rental assistance under title III, during the term covered by such contract.

SEC. 503. AMENDMENTS TO PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.

(a) SHORT TITLE, PURPOSES, AND AUTHORITY TO MAKE GRANTS.—Chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.) is amended by striking the chapter heading and all that follows through section 5123 and inserting the following:

''CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME

''SEC. 5121. SHORT TITLE.

''This chapter may be cited as the 'Community Partnerships Against Crime Act of 1996'.

''SEC. 5122. PURPOSES.

''The purposes of this chapter are to—

''(1) improve the quality of life for the vast majority of law-abiding public housing residents by reducing the levels of fear, violence, and crime in their communities;

''(2) broaden the scope of the Public and Assisted Housing Drug Elimination Act of 1990 to apply to all types of crime, and not simply crime that is drug-related; and

''(3) reduce crime and disorder in and around public housing through the expansion of community-oriented policing activities and problem solving.

''SEC. 5123. AUTHORITY TO MAKE GRANTS.

''The Secretary of Housing and Urban Development may make grants in accordance with the provisions of this chapter for use in eliminating crime in and around public housing and other federally assisted low-income housing projects to (1) local housing and management authorities, and (2) private, for-profit and nonprofit owners of federally assisted low-income housing.''.

(b) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—Section 5124(a) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903(a)) is amended—

(A) in the matter preceding paragraph (1), by inserting ''and around'' after ''used in'';

(B) in paragraph (3), by inserting before the semicolon the following: '', including fencing, lighting, locking, and surveillance systems'';

(C) in paragraph (4), by striking subparagraph (A) and inserting the following new subparagraph:

''(A) to investigate crime; and'';

(D) in paragraph (6)—

(i) by striking ''in and around public or other federally assisted low-income housing projects''; and

(ii) by striking ''and'' after the semicolon; and

(E) by striking paragraph (7) and inserting the following new paragraphs:

''(7) providing funding to nonprofit public housing resident management corporations and resident councils to develop security and crime prevention programs involving site residents;

''(8) the employment or utilization of one or more individuals, including law enforcement officers, made available by contract or other cooperative arrangement with State or local law enforcement agencies, to engage in community- and problem-oriented policing involving interaction with members of the community in proactive crime control and prevention activities;

''(9) programs and activities for or involving youth, including training, education, recreation and sports, career planning, and entrepreneurship and employment activities and after school and cultural programs; and

''(10) service programs for residents that address the contributing factors of crime, including programs for job training, education, drug and alcohol treatment, and other appropriate social services.''.

(2) OTHER LHMA-OWNED HOUSING.—Section 5124(b) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903(b)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by striking ''drug-related crime in housing owned by public housing agencies'' and inserting ''crime in and around housing owned by local housing and management authorities''; and

(ii) by striking ''paragraphs (1) through (7)'' and inserting ''paragraphs (1) through (10)''; and

(B) in paragraph (2)—

(i) by striking ''public housing agency'' and inserting ''local housing and management authority''; and

(ii) by striking ''drug-related'' and inserting ''criminal''.

(c) GRANT PROCEDURES.—Section 5125 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11904) is amended to read as follows:

''SEC. 5125. GRANT PROCEDURES.

''(a) LHMA'S WITH 250 OR MORE UNITS.—

''(1) GRANTS.—In each fiscal year, the Secretary shall make a grant under this chapter from any amounts available under section 5131(b)(1) for the fiscal year to each of the following local housing and management authorities:

''(A) NEW APPLICANTS.—Each local housing and management authority that owns or operates 250 or more public housing dwelling units and has—

''(i) submitted an application to the Secretary for a grant for such fiscal year, which includes a 5-year crime deterrence and reduction plan under paragraph (2); and

''(ii) had such application and plan approved by the Secretary.

''(B) RENEWALS.—Each local housing and management authority that owns or operates 250 or more public housing dwelling units and for which—

''(i) a grant was made under this chapter for the preceding Federal fiscal year;

''(ii) the term of the 5-year crime deterrence and reduction plan applicable to such grant includes the fiscal year for which the grant under this subsection is to be made; and

''(iii) the Secretary has determined, pursuant to a performance review under paragraph (4), that during the preceding fiscal year the agency has substantially fulfilled the requirements under subparagraphs (A) and (B) of paragraph (4).

''(2) 5-YEAR CRIME DETERRENCE AND REDUCTION PLAN.—Each application for a grant under this subsection shall contain a 5-year crime deterrence and reduction plan. The plan shall be developed with the participation of residents and appropriate law enforcement officials. The plan shall describe, for the local housing and management authority submitting the plan—

''(A) the nature of the crime problem in public housing owned or operated by the local housing and management authority;

''(B) the building or buildings of the local housing and management authority affected by the crime problem;

''(C) the impact of the crime problem on residents of such building or buildings; and

''(D) the actions to be taken during the term of the plan to reduce and deter such crime, which shall include actions involving residents, law enforcement, and service providers.

The term of a plan shall be the period consisting of 5 consecutive fiscal years, which begins with the first fiscal year for which funding under this chapter is provided to carry out the plan.

''(3) AMOUNT.—In any fiscal year, the amount of the grant for a local housing and management authority receiving a grant pursuant to paragraph (1) shall be the amount that bears the same ratio to the total amount made available under section 5131(b)(1) as the total number of public dwelling units owned or operated by such authority bears to the total number of dwelling units owned or operated by all local housing and management authorities that own or operate 250 or more public housing dwelling units that are approved for such fiscal year.

''(4) PERFORMANCE REVIEW.—For each fiscal year, the Secretary shall conduct a performance review of the activities carried out by each local housing and management authority receiving a grant pursuant to this subsection to determine whether the agency—

''(A) has carried out such activities in a timely manner and in accordance with its 5-year crime deterrence and reduction plan; and

''(B) has a continuing capacity to carry out such plan in a timely manner.

''(5) SUBMISSION OF APPLICATIONS.—The Secretary shall establish such deadlines and requirements for submission of applications under this subsection.

''(6) REVIEW AND DETERMINATION.—The Secretary shall review each application submitted under this subsection upon submission and shall approve the application unless the application and the 5-year crime deterrence and reduction plan are inconsistent with the purposes of this chapter or any requirements established by the Secretary or the information in the application or plan is not substantially complete. Upon approving or determining not to approve an application and plan submitted under this subsection, the Secretary shall notify the local housing and management authority submitting the application and plan of such approval or disapproval.

''(7) DISAPPROVAL OF APPLICATIONS.—If the Secretary notifies an authority that the application and plan of the authority is not approved, not later than the expiration of the 15-day period beginning upon such notice of disapproval, the Secretary shall also notify the authority, in writing, of the reasons for the disapproval, the actions that the authority could take to comply with the criteria for approval, and the deadlines for such actions.

''(8) FAILURE TO APPROVE OR DISAPPROVE.—If the Secretary fails to notify an authority of approval or disapproval of an application and plan submitted under this subsection before the expiration of the 60-day period beginning upon the submission of the plan or fails to provide notice under paragraph (7) within the 15-day period under such paragraph to an authority whose application has been disapproved, the application and plan shall be considered to have been approved for purposes of this section.

''(b) LHMA'S WITH FEWER THAN 250 UNITS AND OWNERS OF FEDERALLY ASSISTED LOW-INCOME HOUSING.—

''(1) APPLICATIONS AND PLANS.—To be eligible to receive a grant under this chapter, a local housing and management authority that owns or operates fewer than 250 public housing dwelling units or an owner of federally assisted low-income housing shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require. The application shall include a plan for addressing the problem of crime in and around the housing for which the application is submitted, describing in detail activities to be conducted during the fiscal year for which the grant is requested.

''(2) GRANTS FOR LHMA'S WITH FEWER THAN 250 UNITS.—In each fiscal year the Secretary may, to the extent amounts are available under section 5131(b)(2), make grants under this chapter to local housing and management authorities that own or operate fewer than 250 public housing dwelling units and have submitted applications under paragraph (1) that the Secretary has approved pursuant to the criteria under paragraph (4).

''(3) GRANTS FOR FEDERALLY ASSISTED LOW-INCOME HOUSING.—In each fiscal year the Secretary may, to the extent amounts are available under section 5131(b)(3), make grants under this chapter to owners of federally assisted low-income housing that have submitted applications under paragraph (1) that the Secretary has approved pursuant to the criteria under paragraphs (4) and (5).

''(4) CRITERIA FOR APPROVAL OF APPLICATIONS.—The Secretary shall determine whether to approve each application under this subsection on the basis of—

''(A) the extent of the crime problem in and around the housing for which the application is made;

''(B) the quality of the plan to address the crime problem in the housing for which the application is made;

''(C) the capability of the applicant to carry out the plan; and

''(D) the extent to which the tenants of the housing, the local government, local community-based nonprofit organizations, local tenant organizations representing residents of neighboring projects that are owned or assisted by the Secretary, and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

In each fiscal year, the Secretary may give preference to applications under this subsection for housing made by applicants who received a grant for such housing for the preceding fiscal year under this subsection or under the provisions of this chapter as in effect immediately before the date of the enactment of the United States Housing Act of 1996.

''(5) ADDITIONAL CRITERIA FOR FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria under paragraph (4), the Secretary may establish other criteria for evaluating applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

''(A) relevant differences between the financial resources and other characteristics of local housing and management authorities and owners of federally assisted low-income housing; or

''(B) relevant differences between the problem of crime in public housing administered by such authorities and the problem of crime in federally assisted low-income housing.''.

(d) DEFINITIONS.—Section 5126 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11905) is amended—

(1) by striking paragraphs (1) and (2);

(2) in paragraph (4)(A), by striking ''section'' before ''221(d)(4)'';

(3) by redesignating paragraphs (3) and (4) (as so amended) as paragraphs (1) and (2), respectively; and

(4) by adding at the end the following new paragraph:

''(3) LOCAL HOUSING AND MANAGEMENT AUTHORITY.—The term 'local housing and management authority' has the meaning given the term in title I of the United States Housing Act of 1996.''.

(e) IMPLEMENTATION.—Section 5127 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11906) is amended by striking ''Cranston-Gonzalez National Affordable Housing Act'' and inserting ''United States Housing Act of 1996''.

(f) REPORTS.—Section 5128 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11907) is amended—

(1) by striking ''drug-related crime in'' and inserting ''crime in and around''; and

(2) by striking ''described in section 5125(a)'' and inserting ''for the grantee submitted under subsection (a) or (b) of section 5125, as applicable''.

(g) FUNDING AND PROGRAM SUNSET.—Chapter 2 of subtitle C of title V of the Anti-Drug Abuse Act of 1988 is amended by striking section 5130 (42 U.S.C. 11909) and inserting the following new sections:

''SEC. 5130. FUNDING.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this chapter such sums as may be necessary for fiscal years 1997 and 1998.

''(b) ALLOCATION.—Of any amounts available, or that the Secretary is authorized to use, to carry out this chapter in any fiscal year—

''(1) 85 percent shall be available only for assistance pursuant to section 5125(a) to local housing and management authorities that own or operate 250 or more public housing dwelling units;

''(2) 10 percent shall be available only for assistance pursuant to section 5125(b)(2) to local housing and management authorities that own or operate fewer than 250 public housing dwelling units; and

''(3) 5 percent shall be available only for assistance to federally assisted low-income housing pursuant to section 5125(b)(3).''.

(h) CONFORMING AMENDMENTS.—The table of contents in section 5001 of the Anti-Drug Abuse Act of 1988 (Public Law 100–690; 102 Stat. 4295) is amended—

(1) by striking the item relating to the heading for chapter 2 of subtitle C of title V and inserting the following:

''CHAPTER 2—COMMUNITY PARTNERSHIPS AGAINST CRIME'';

(2) by striking the item relating to section 5122 and inserting the following new item:

''Sec. 5122. Purposes.'';

(3) by striking the item relating to section 5125 and inserting the following new item:

''Sec. 5125. Grant procedures.'';

and

(4) by striking the item relating to section 5130 and inserting the following new item:

''Sec. 5130. Funding.''.

(i) TREATMENT OF NOFA.—The cap limiting assistance under the Notice of Funding Availability issued by the Department of Housing and

Urban Development in the Federal Register of April 8, 1996, shall not apply to a local housing and management authority within an area designated as a high intensity drug trafficking area under section 1005(c) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504(c).

SEC. 504. TREATMENT OF CERTAIN PROJECTS.

Rehabilitation activities undertaken by Pennrose Properties in connection with 40 dwelling units for senior citizens in the Providence Square development located in New Brunswick, New Jersey, are hereby deemed to have been conducted pursuant to the approval of and an agreement with the Secretary of Housing and Urban Development under clauses (i) and (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act).

SEC. 505. AMENDMENTS RELATING TO COMMUNITY DEVELOPMENT ASSISTANCE.

(a) ELIGIBILITY OF METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended—

(1) by striking the second sentence and inserting the following new sentence: ''Any city that was classified as a metropolitan city for at least 1 year after September 30, 1989, pursuant to the first sentence of this paragraph, shall remain classified as a metropolitan city by reason of this sentence until the first year for which data from the 2000 Decennial Census is available for use for purposes of allocating amounts this title.''; and

(2) by striking the fifth sentence and inserting the following new sentence: ''Notwithstanding that the population of a unit of general local government was included, after September 30, 1989, with the population of an urban county for purposes of qualifying for assistance under section 106, the unit of general local government may apply for assistance under section 106 as a metropolitan city if the unit meets the requirements of the second sentence of this paragraph.''.

(b) PUBLIC SERVICES LIMITATION.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by striking ''through 1997'' and inserting ''through 1998''.

SEC. 506. AUTHORITY TO TRANSFER SURPLUS REAL PROPERTY FOR HOUSING USE.

Section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) is amended by adding at the end the following new subsection:

''(r)(1) Under such regulations as the Administrator may prescribe, and with the written consent of appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for homeless individuals or families, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

''(2) Under such regulations as the Administrator may prescribe, and with the written consent of appropriate local governmental authorities, the Administrator may transfer to any nonprofit organization which exists for the primary purpose of providing housing or housing assistance for low-income individuals or families such surplus real property, including buildings, fixtures, and equipment situated thereon, as is needed for housing use.

''(3) In making transfers under this subsection, the Administrator shall take such action, which shall include grant agreements with an organization receiving a grant, as may be necessary to ensure that—

''(A) assistance provided under this subsection is used to facilitate and encourage homeownership opportunities through the construction of self-help housing, under terms which require that the person receiving the assistance contribute a significant amount of labor toward the construction; and

''(B) the dwellings constructed with property transferred under this subsection shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below the prevailing market prices.

''(4)(A) Where the Administrator has transferred a significant portion of a surplus real property, including buildings, fixtures, and equipment situated thereon, under paragraph (1) or (2) of this subsection, the transfer of the entire property shall be deemed to be in compliance with title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.).

''(B) For the purpose of this paragraph, the term 'a significant portion of a surplus real property' means a portion of surplus real property—

''(i) which constitutes at least 5 acres of total acreage;

''(ii) whose fair market value exceeds $100,000; or

''(iii) whose fair market value exceeds 15 percent of the surplus property's fair market value.

''(5) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) and shall not supersede the provisions of section 2(e) of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (10 U.S.C. 2687 note).''.

SEC. 507. RURAL HOUSING ASSISTANCE.

The last sentence of section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by inserting before the period the following: '', and the city of Altus, Oklahoma, shall be considered a rural area for purposes of this title until the receipt of data from the decennial census in the year 2000''.

SEC. 508. TREATMENT OF OCCUPANCY STANDARDS.

(a) NATIONAL STANDARD PROHIBITED.—The Secretary of Housing and Urban Development shall not directly or indirectly establish a national occupancy standard.

(b) STATE STANDARD.—If a State establishes an occupancy standard—

(1) such standard shall be presumed reasonable for purposes of any laws administered by the Secretary; and

(2) the Secretary shall not suspend, withdraw, or deny certification of any State or local public agency based in whole or in part on that State occupancy standard or its operation.

(c) ABSENCE OF STATE STANDARD.—If a State fails to establish an occupancy standard, an occupancy standard of 2 persons per bedroom established by a housing provider shall be presumed reasonable for the purposes of any laws administered by the Secretary.

(d) DEFINITION.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the term ''occupancy standard'' means a law, regulation, or housing provider policy that establishes a limit on the number of residents a housing provider can properly manage in a dwelling for any 1 or more of the following purposes—

(A) providing a decent home and services for each resident;

(B) enhancing the livability of a dwelling for all residents, including the dwelling for each particular resident; and

(C) avoiding undue physical deterioration of the dwelling and property.

(2) EXCEPTION.—The term ''occupancy standard'' does not include a Federal, State, or local restriction regarding the maximum number of persons permitted to occupy a dwelling for the sole purpose of protecting the health and safety of the residents of a dwelling, including building and housing code provisions.

(e) EFFECTIVE DATE.—This section shall take effect January 1, 1996.

SEC. 509. IMPLEMENTATION OF PLAN.

(a) IMPLEMENTATION.—Within 120 days after the enactment of this Act, the Secretary of Housing and Urban Development shall implement the Ida Barbour Revitalization Plan of the City of Portsmouth, Virginia, in a manner consistent with existing limitations under law. The Secretary shall consider and make any waivers to existing regulations consistent with such plan to enable timely implementation of such plan.

(b) REPORT.—Such city shall submit a report to the Secretary on progress in implementing the plan not later than 1 year after the date of the enactment of this Act and annually thereafter through the year 2000. The report shall include quantifiable measures revealing the increase in homeowners, employment, tax base, voucher allocation, leverage ratio of funds, impact on and compliance with the city's consolidated plan, identification of regulatory and statutory obstacles which have or are causing unnecessary delays in the plan's successful implementation or are contributing to unnecessary costs associated with the revitalization, and any other information as the Secretary considers appropriate.

SEC. 510. INCOME ELIGIBILITY FOR HOME AND CDBG PROGRAMS.

(a) HOME INVESTMENT PARTNERSHIPS.—The Cranston-Gonzalez National Affordable Housing Act is amended as follows:

(1) DEFINITIONS.—In section 104(10) (42 U.S.C. 12704(10))—

(A) by striking ''income ceilings higher or lower'' and inserting ''an income ceiling higher'';

(B) by striking ''variations are'' and inserting ''variation is''; and

(C) by striking ''high or''.

(2) INCOME TARGETING.—In section 214(1)(A) (42 U.S.C. 12744(1)(A))—

(A) by striking ''income ceilings higher or lower'' and inserting ''an income ceiling higher'';

(B) by striking ''variations are'' and inserting ''variation is''; and

(C) by striking ''high or''.

(3) RENT LIMITS.—In section 215(a)(1)(A) (42 U.S.C. 12745(a)(1)(A))—

(A) by striking ''income ceilings higher or lower'' and inserting ''an income ceiling higher'';

(B) by striking ''variations are'' and inserting ''variation is''; and

(C) by striking ''high or''.

(b) CDBG.—Section 102(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(20)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

''(B) The Secretary may—

''(i) with respect to any reference in subparagraph (A) to 50 percent of the median income of the area involved, establish percentages of median income for any area that are higher or lower than 50 percent if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such area; and

''(ii) with respect to any reference in subparagraph (A) to 80 percent of the median income of the area involved, establish a percentage of median income for any area that is higher than 80 percent if the Secretary finds such variation to be necessary because of unusually low family incomes in such area.''.

SEC. 511. AMENDMENTS RELATING TO SECTION 236 PROGRAM.

Section 236(f)(1) of the National Housing Act (12 U.S.C. 1715z–1) (as amended by section 405(d)(1) of The Balanced Budget Downpayment Act, I, and by section 228(a) of The Balanced Budget Downpayment Act, II) is amended—

(1) in the second sentence, by striking ''the lower of (i)'';

(2) in the second sentence, by striking ''(ii) the fair market rental established under section 8(c)

of the United States Housing Act of 1937 for the market area in which the housing is located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,''; and

(3) by inserting after the second sentence the following: ''However, in the case of a project which contains more than 5,000 units, is subject to an interest reduction payments contract, and is financed under a State or local program, the Secretary may reduce the rental charge ceiling, but in no case shall the rent be below basic rent. For plans of action approved for capital grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 or the provisions of the Emergency Low Income Housing Preservation Act of 1987, the rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing is located, as represents 30 percent of the tenant's adjusted income, but in no case shall the rent be below basic rent.''.

SEC. 512. PROSPECTIVE APPLICATION OF GOLD CLAUSES.

Section 5118(d)(2) of title 31, United States Code, is amended by adding at the end the following new sentence: ''This paragraph shall continue to apply to any obligations issued on or before October 27, 1977, notwithstanding any assignment and/or novation of such obligations after such date, unless all parties to the assignment and/or novation specifically agree to include a gold clause in the new agreement.''.

SEC. 513. MOVING TO WORK DEMONSTRATION FOR THE 21ST CENTURY.

(a) PURPOSE.—The purpose of this demonstration under this section is to give local housing and management authorities and the Secretary of Housing and Urban Development the flexibility to design and test various approaches for providing and administering housing assistance that—

(1) reduce cost and achieve greater cost effectiveness in Federal expenditures;

(2) give incentives to families with children where the head of household is working, seeking work, or preparing for work by participating in job training, educational programs, or programs that assist people to obtain employment and become economically self-sufficient; and

(3) increase housing choices for low-income families.

(b) PROGRAM AUTHORITY.—

(1) SELECTION OF PARTICIPANTS.—The Secretary of Housing and Urban Development shall conduct a demonstration program under this section beginning in fiscal year 1997 under which local housing and management authorities (including Indian housing authorities) administering the public or Indian housing program and the choice-based rental assistance program under title III of this Act shall be selected by the Secretary to participate. In the first year of the demonstration, the Secretary shall select 100 local housing and management authorities to participate. In each of the next 2 years of the demonstration, the Secretary shall select 100 additional local housing and management authorities per year to participate. During the first year of the demonstration, the Secretary shall select for participation any authority that complies with the requirement under subsection (d) and owns or administers more than 99,999 dwelling units of public housing.

(2) TRAINING.—The Secretary, in consultation with representatives of public housing interests, shall provide training and technical assistance during the demonstration and conduct detailed evaluations of up to 30 such agencies in an effort to identify replicable program models promoting the purpose of the demonstration.

(3) USE OF HOUSING ASSISTANCE.—Under the demonstration, notwithstanding any provision of this Act, an authority may combine operating assistance provided under section 9 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act), modernization assistance provided under section 14 of such Act, assistance provided under section 8 of such Act for the certificate and voucher programs, assistance for pubic housing provided under title II of this Act, and choice-based rental assistance provided under title III of this Act, to provide housing assistance for low-income families and services to facilitate the transition to work on such terms and conditions as the authority may propose.

(c) APPLICATION.—An application to participate in the demonstration—

(1) shall request authority to combine assistance refereed to in subsection (b)(3);

(2) shall be submitted only after the local housing and management authority provides for citizen participation through a public hearing and, if appropriate, other means;

(3) shall include a plan developed by the authority that takes into account comments from the public hearing and any other public comments on the proposed program, and comments from current and prospective residents who would be affected, and that includes criteria for—

(A) establishing a reasonable rent policy, which shall be designed to encourage employment and self-sufficiency by participating families, consistent with the purpose of this demonstration, such as by excluding some or all of a family's earned income for purposes of determining rent; and

(B) assuring that housing assisted under the demonstration program meets housing quality standards established or approved by the Secretary; and

(4) may request assistance for training and technical assistance to assist with design of the demonstration and to participate in a detailed evaluation.

(d) SELECTION CRITERIA.—In selecting among applications, the Secretary shall take into account the potential of each authority to plan and carry out a program under the demonstration and other appropriate factors as reasonably determined by the Secretary. An authority shall be eligible to participate in any fiscal year only if the most recent score for the authority under the public housing management assessment program under section 6(j) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act) is 90 or greater.

(e) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) Section 261 of this Act shall continue to apply to public housing notwithstanding any use of the housing under this demonstration.

(2) Section 113 of this Act shall apply to housing assisted under the demonstration, other than housing assisted solely due to occupancy by families receiving tenant-based assistance.

(f) EFFECT ON PROGRAM ALLOCATIONS.—The amount of assistance received under titles II and III by a local housing and management authority participating in the demonstration under this section shall not be diminished by its participation.

(g) RECORDS, REPORTS, AND AUDITS.—

(1) KEEPING OF RECORDS.—Each authority shall keep such records as the Secretary may prescribe as reasonably necessary to disclose the amounts and the disposition of amounts under this demonstration, to ensure compliance with the requirements of this section, and to measure performance.

(2) REPORTS.—Each authority shall submit to the Secretary a report, or series of reports, in a form and at a time specified by the Secretary. Each report shall—

(A) document the use of funds made available under this section;

(B) provide such data as the Secretary may request to assist the Secretary in assessing the demonstration; and

(C) describe and analyze the effect of assisted activities in addressing the objectives of this part.

(3) ACCESS TO DOCUMENTS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(4) ACCESS TO DOCUMENTS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to assistance in connection with, and the requirements of, this section.

(h) EVALUATION AND REPORT.—

(1) CONSULTATION WITH LHMA AND FAMILY REPRESENTATIVES.—In making assessments throughout the demonstration, the Secretary shall consult with representatives of local housing and management authorities and residents.

(2) REPORT TO CONGRESS.—Not later than 180 days after the end of the third year of the demonstration, the Secretary shall submit to the Congress a report evaluating the programs carried out under the emonstration. The report shall also include findings and recommendations for any appropriate legislative action.

SEC. 514. OCCUPANCY SCREENING AND EVICTIONS FROM FEDERALLY ASSISTED HOUSING.

(a) OCCUPANCY SCREENING.—Section 642 of the Housing and Community Development Act of 1992 (42 U.S.C. 13602)—

(1) by inserting ''(a) GENERAL CRITERIA.—'' before ''In''; and

(2) by adding at the end the following new subsections:

''(b) AUTHORITY TO DENY OCCUPANCY FOR CRIMINAL OFFENDERS.—In selecting tenants for occupancy of dwelling units in federally assisted housing, if the owner of such housing determines that an applicant for occupancy in the housing or any member of the applicant's household is or was, during the preceding 3 years, engaged in any activity described in paragraph (2)(C) of section 645, the owner may—

''(1) deny such applicant occupancy and consider the applicant (for purposes of any waiting list) as not having applied for such occupancy ; and

''(2) after the expiration of the 3-year period beginning upon such activity, require the applicant, as a condition of occupancy in the housing or application for occupancy in the housing, to submit to the owner evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in criminal activity for which denial was made under paragraph (1) have not engaged in any criminal activity during such 3-year period.

''(c) AUTHORITY TO REQUIRE ACCESS TO CRIMINAL RECORDS.—An owner of federally assisted housing may require, as a condition of providing occupancy in a dwelling unit in such housing to an applicant for occupancy and the members of the applicant's household, that each adult member of the household provide the owner with a signed, written authorization for the owner to obtain records described in section 646(a) regarding such member of the household from the National Crime Information Center, police departments, and other law enforcement agencies.

''(d) DEFINITION.—For purposes of subsections (b) and (c), the term 'federally assisted housing' has the meaning given the term by this title, except that the term does not include housing that only meets the requirements of section 683(2)(E).''.

(b) TERMINATION OF TENANCY.—Subtitle C of title VI of the Housing and Community Development Act of 1992 (42 U.S.C. 13601 et seq.) is

amended by adding at the end the following new section:

"SEC. 645. TERMINATION OF TENANCY.

''Each lease for a dwelling unit in federally assisted housing (as such term is defined in section 642(d)) shall provide that—

''(1) the owner may not terminate the tenancy except for violation of the terms and conditions of the lease, violation of applicable Federal, State, or local law, or other good cause; and

''(2) any activity, engaged in by the tenant, any member of the tenant's household, or any guest or other person under the tenant's control, that—

''(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or employees of the owner or other manager of the housing,

''(B) threatens the health or safety of, or right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises, or

''(C) is criminal activity (including drug-related criminal activity) on or off the premises,

shall be cause for termination of tenancy.''.

(c) AVAILABILITY OF CRIMINAL RECORDS FOR TENANT SCREENING AND EVICTION.—Subtitle C of title VI of the Housing and Community Development Act of 1992 (42 U.S.C. 13601 et seq.) is amended adding after section 645 (as added by subsection (b) of this section) the following new section:

"SEC. 646. AVAILABILITY OF RECORDS.

''(a) IN GENERAL.—

''(1) PROVISION OF INFORMATION.—Notwithstanding any other provision of law other than paragraph (2), upon the request of an owner of federally assisted housing, the National Crime Information Center, a police department, and any other law enforcement agency shall provide to the owner of federally assisted housing information regarding the criminal conviction records of an adult applicant for, or tenants of, the federally assisted housing for purposes of applicant screening, lease enforcement, and eviction, but only if the owner requests such information and presents to such Center, department, or agency with a written authorization, signed by such applicant, for the release of such information to such owner.

''(2) EXCEPTION.—The information provided under paragraph (1) may not include any information regarding any criminal conviction of an applicant or resident for any act (or failure to act) for which the applicant or resident was not treated as an adult under the laws of the convicting jurisdiction.

''(b) CONFIDENTIALITY.—An owner receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer or employee of the owner. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to an owner is used, and confidentiality of such information is maintained, as required under this section.

''(c) OPPORTUNITY TO DISPUTE.—Before an adverse action is taken with regard to assistance for federally assisted housing on the basis of a criminal record, the owner shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

''(d) FEE.—An owner of federally assisted housing may be charged a reasonable fee for information provided under subsection (a).

''(e) RECORDS MANAGEMENT.—Each owner of federally assisted housing that receives criminal record information under this section shall establish and implement a system of records management that ensures that any criminal record received by the owner is—

''(1) maintained confidentially;

''(2) not misused or improperly disseminated; and

''(3) destroyed, once the purpose for which the record was requested has been accomplished.

''(f) PENALTY.—Any person who knowingly and willfully requests or obtains any information concerning an applicant for, or resident of, federally assisted housing pursuant to the authority under this section under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term 'person' as used in this subsection shall include an officer or employee of any local housing and management authority.

''(g) CIVIL ACTION.—Any applicant for, or resident of, federally assisted housing affected by (1) a negligent or knowing disclosure of information referred to in this section about such person by an officer or employee of any owner, which disclosure is not authorized by this section, or (2) any other negligent or knowing action that is inconsistent with this section, may bring a civil action for damages and such other relief as may be appropriate against any owner responsible for such unauthorized action. The district court of the United States in the district in which the affected applicant or resident resides, in which such unauthorized action occurred, or in which the officer or employee alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

''(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) ADULT.—The term 'adult' means a person who is 18 years of age or older, or who has been convicted of a crime as an adult under any Federal, State, or tribal law.

''(2) FEDERALLY ASSISTED HOUSING.—The term 'federally assisted housing' has the meaning given the term by this title, except that the term does not include housing that only meets the requirements of section 683(2)(E).''.

(d) DEFINITIONS.—Section 683 of the Housing and Community Development Act of 1992 (42 U.S.C. 13643) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''section 3(b) of the United States Housing Act of 1937'' and inserting ''section 102 of the United States Housing Act of 1996'';

(B) in subparagraph (B), by inserting before the semicolon at the end the following; ''(as in effect before the enactment of the United States Housing Act of 1996)'';

(C) in subparagraph (F), by striking ''and'' at the end;

(D) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(E) by adding at the end the following new subparagraph:

''(H) for purposes only of subsections (b) and (c) of sections 642, and section 645 and 646, housing assisted under section 515 of the Housing Act of 1949.'';

(2) in paragraph (4), by striking ''public housing agency'' and inserting ''local housing and management authority''; and

(3) by adding at the end the following new paragraph:

''(6) DRUG-RELATED CRIMINAL ACTIVITY.—The term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act).''.

SEC. 515. USE OF AMERICAN PRODUCTS.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 516. LIMITATION ON EXTENT OF USE OF LOAN GUARANTEES FOR HOUSING PURPOSES.

Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by inserting after subsection (h) the following new section:

''(i) LIMITATION ON USE.—Of any amounts obtained from notes or other obligations issued by an eligible public entity or public agency designated by an eligible public entity and guaranteed under this section pursuant to an application for a guarantee submitted after the date of the enactment of the Housing and Community Development Act of 1992, the aggregate amount used for the purposes described in clauses (2) and (4) of subsection (a), and for other housing activities under the purposes described in clauses (1) and (3) of subsection (a), may not exceed 50 percent of such amounts obtained by the eligible public entity or agency.''.

SEC. 517. CONSULTATION WITH AFFECTED AREAS IN SETTLEMENT OF LITIGATION.

In negotiating any settlement of, or consent decree for, any litigation regarding public housing or rental assistance (under title III of this Act or the United States Housing Act of 1937, as in effect before the enactment of this Act) that involves the Secretary and any local housing and management authority or any unit of general local government, the Secretary shall consult with any units of general local government and local housing and management authorities having jurisdictions that are adjacent to the jurisdiction of the local housing and management authority involved.

TITLE VI—NATIONAL COMMISSION ON HOUSING ASSISTANCE PROGRAMS COST

SEC. 601. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Housing Assistance Programs Cost (in this title referred to as the ''Commission'').

SEC. 602. MEMBERSHIP.

(a) APPOINTMENT.—The Commission shall be composed of 9 members, who shall be appointed not later than 90 days after the date of the enactment of this Act. The members shall be as follows:

(1) 3 members to be appointed by the Secretary of Housing and Urban Development;

(2) 3 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing Opportunity and Community Development of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the Senate; and

(3) 3 members appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Opportunity of the Committee on Banking and Financial Services of the House of Representatives and the Chairman and Ranking Minority Member of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations of the House of Representatives.

(b) QUALIFICATIONS.—The 3 members of the Commission appointed under each of paragraphs (1), (2), and (3) of subsection (a)—

(1) shall all be experts in the field of accounting, economics, cost analysis, finance, or management; and

(2) shall include—

(A) 1 individual who is an elected public official at the State or local level;

(B) 1 individual who is a distinguished academic engaged in teaching or research;

(C) 1 individual who is a business leader, financial officer, management or accounting expert.

In selecting members of the Commission for appointment, the individuals appointing shall ensure that the members selected can analyze the Federal assisted housing programs (as such term is defined in section 604(a)) on an objective basis and that no member of the Commission has a personal financial or business interest in any such program.

SEC. 603. ORGANIZATION.

(a) CHAIRPERSON.—The Commission shall elect a chairperson from among members of the Commission.

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

(c) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(d) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(e) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation.

(f) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 604. FUNCTIONS.

(a) IN GENERAL.—The Commission shall —

(1) analyze the full cost to the Federal Government, public housing agencies, State and local governments, and other parties, per assisted household, of the Federal assisted housing programs, and shall conduct the analysis on a nationwide and regional basis and in a manner such that accurate per unit cost comparisons may be made between Federal assisted housing programs; and

(2) estimate the future liability that will be borne by taxpayers as a result of activities under the Federal assisted housing programs before the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term ''Federal assisted housing programs'' means—

(1) the public housing program under the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act);

(2) the public housing program under title II of this Act;

(3) the certificate program for rental assistance under section 8(b)(1) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act);

(4) the voucher program for rental assistance under section 8(o) of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act);

(5) the programs for project-based assistance under section 8 of the United States Housing Act of 1937 (as in effect before the date of the enactment of this Act);

(6) the rental assistance payments program under section 521(a)(2)(A) of the Housing Act of 1949;

(7) the program for housing for the elderly under section 202 of the Housing Act of 1959;

(8) the program for housing for persons with disabilities under section 811 of the Cranston-Gonzalez National Affordable Housing Act;

(9) the program for financing housing by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(10) the program under section 236 of the National Housing Act;

(11) the program for constructed or substantial rehabilitation under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983; and

(12) any other program for housing assistance administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture, under which occupancy in the housing assisted or housing assistance provided is based on income, as the Commission may determine.

(c) FINAL REPORT.—Not later than 18 months after the Commission is established pursuant to section 602(a), the Commission shall submit to the Secretary and to the Congress a final report which shall contain the results of the analysis and estimates required under subsection (a).

(d) LIMITATION.—The Commission may not make any recommendations regarding Federal housing policy.

SEC. 605. POWERS.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from any department or agency of the United States, and such department or agency shall provide to the Commission in a timely fashion, such data and information as the Commission may require for carrying out this title, including—

(A) local housing management plans submitted to the Secretary of Housing and Urban Development under section 107;

(B) block grant contracts under title II;

(C) contracts under section 302 for assistance amounts under title III; and

(D) audits submitted to the Secretary of Housing and Urban Development under section 432.

(2) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) PERSONNEL DETAILS AND TECHNICAL ASSISTANCE.—Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary—

(A) detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this title; and

(B) provide the Commission with technical assistance in carrying out its duties under this title.

(d) INFORMATION FROM LOCAL HOUSING AND MANAGEMENT AUTHORITIES.—The Commission shall have access, for the purpose of carrying out its functions under this title, to any books, documents, papers, and records of a local housing and management authority that are pertinent to this Act and assistance received pursuant to this Act.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(f) CONTRACTING.—The Commission may, to the extent and in such amounts as are provided in appropriations Acts, enter into contracts necessary to carry out its duties under this title.

(g) STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

(2) PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(3) LIMITATION.—Paragraphs (1) and (2) shall be effective only to the extent and in such amounts as are provided in appropriations Acts.

(4) SELECTION CRITERIA.—In appointing an executive director and staff, the Commission shall ensure that the individuals appointed can conduct any functions they may have regarding the Federal assisted housing programs (as such term is defined in section 604(a)) on an objective basis and that no such individual has a personal financial or business interest in any such program.

(h) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 606. FUNDING.

Of any amounts made available for policy, research, and development activities of the Department of Housing and Urban Development, there shall be available for carrying out this title $750,000, for fiscal year 1997. Any such amounts so appropriated shall remain available until expended.

SEC. 607. SUNSET.

The Commission shall terminate upon the expiration of the 18-month period beginning upon the date that the Commission is established pursuant to section 602(a).

TITLE VII—NATIVE AMERICAN HOUSING ASSISTANCE

SECTION 701. SHORT TITLE.

This title may be cited as the ''Native American Housing Assistance and Self-Determination Act of 1996''.

SEC. 702. CONGRESSIONAL FINDINGS.

The Congress hereby finds that—

(1) the Federal Government has a responsibility to promote the general welfare of the Nation—

(A) by using Federal resources to aid families and individuals seeking affordable homes that are safe, clean, and healthy and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control;

(B) by working to ensure a thriving national economy and a strong private housing market; and

(C) by developing effective partnerships among the Federal Government, State and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities;

(2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people;

(3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a trust responsibility to protect Indian tribes;

(4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their socio-economic status so that they are able to take greater responsibility for their own economic condition;

(5) providing affordable and healthy homes is an essential element in the special role of the United States in helping tribes and their members to achieve a socio-economic status comparable to their non-Indian neighbors;

(6) the need for affordable and healthy homes on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the

Federal Government should work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and

(7) Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of tribal self-governance by making such assistance available directly to the tribes or tribally designated entities.

SEC. 703. ADMINISTRATION THROUGH OFFICE OF NATIVE AMERICAN PROGRAMS.

The Secretary of Housing and Urban Development shall carry out this title through the Office of Native American Programs of the Department of Housing and Urban Development.

SEC. 704. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) AFFORDABLE HOUSING.—The term ''affordable housing'' means housing that complies with the requirements for affordable housing under subtitle B. The term includes permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

(2) FAMILIES AND PERSONS.—

(A) SINGLE PERSONS.—The term ''families'' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining members of a tenant family, and (v) any other single persons.

(B) FAMILIES.—The term ''families'' includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size for purposes of this title.

(D) ELDERLY PERSON.—The term ''elderly person'' means a person who is at least 62 years of age.

(E) PERSON WITH DISABILITIES.—The term ''person with disabilities'' means a person who—

(i) has a disability as defined in section 223 of the Social Security Act,

(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(F) DISPLACED PERSON.—The term ''displaced person'' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

(G) NEAR-ELDERLY PERSON.—The term ''near-elderly person'' means a person who is at least 50 years of age but below the age of 62.

(3) GRANT BENEFICIARY.—The term ''grant beneficiary'' means the Indian tribe or tribes on behalf of which a grant is made under this title to a recipient.

(4) INDIAN.—The term ''Indian'' means any person who is a member of an Indian tribe.

(5) INDIAN AREA.—The term ''Indian area'' means the area within which a tribally designated housing entity is authorized to provide assistance under this title for affordable housing.

(6) INDIAN TRIBE.—The term ''Indian tribe'' means—

(A) any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975; and

(B) any tribe, band, nation, pueblo, village, or community that—

(i) has been recognized as an Indian tribe by any State; and

(ii) for which an Indian housing authority is eligible, on the date of the enactment of this title, to enter into a contract with the Secretary pursuant to the United States Housing Act of 1937.

(7) LOCAL HOUSING PLAN.—The term ''local housing plan'' means a plan under section 712.

(8) LOW-INCOME FAMILY.—The term ''low-income family'' means a family whose income does not exceed 80 percent of the median income for the area, except that the Secretary may, for purposes of this paragraph, establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the authority's findings that such variations are necessary because of unusually high or low family incomes.

(9) MEDIAN INCOME.—The term ''median income'' means, with respect to an area that is an Indian area, the greater of—

(A) the median income for the Indian area, which the Secretary shall determine; or

(B) the median income for the United States.

(10) RECIPIENT.—The term ''recipient'' means the entity for an Indian tribe that is authorized to receive grant amounts under this title on behalf of the tribe, which may only be the tribe or the tribally designated housing entity for the tribe.

(11) TRIBALLY DESIGNATED HOUSING ENTITY.—The terms ''tribally designated housing entity'' and ''housing entity'' have the following meaning:

(A) EXISTING IHA'S.—For any Indian tribe that has not taken action under subparagraph (B) and for which an Indian housing authority—

(i) was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this title that meets the requirements under the United States Housing Act of 1937,

(ii) is acting upon such date of enactment as the Indian housing authority for the tribe, and

(iii) is not an Indian tribe for purposes of this title,

the terms mean such Indian housing authority.

(B) OTHER ENTITIES.—For any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this title for affordable housing for Indians, which entity is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law, or

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska,

the terms mean such entity.

A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity. Nothing in this title may be construed to affect the existence, or the ability to operate, of any Indian housing authority established before the date of the enactment of this title by a State-recognized tribe, band, nation, pueblo, village, or community of Indian or Alaska Natives that is not an Indian tribe for purposes of this title.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development, except as otherwise specified in this title.

Subtitle A—Block Grants and Grant Requirements

SEC. 711. BLOCK GRANTS.

(a) AUTHORITY.—For each fiscal year, the Secretary shall (to the extent amounts are made available to carry out this title) make grants under this section on behalf of Indian tribes to carry out affordable housing activities. Under such a grant on behalf of an Indian tribe, the Secretary shall provide the grant amounts for the tribe directly to the recipient for the tribe.

(b) CONDITION OF GRANT.—

(1) IN GENERAL.—The Secretary may make a grant under this title on behalf of an Indian tribe for a fiscal year only if—

(A) the Indian tribe has submitted to the Secretary a local housing plan for such fiscal year under section 712; and

(B) the plan has been determined under section 713 to comply with the requirements of section 712.

(2) WAIVER.—The Secretary may waive the applicability of the requirements under paragraph (1), in whole or in part, if the Secretary finds that an Indian tribe has not complied or can not complied with such requirements because of circumstances beyond the control of the tribe.

(c) AMOUNT.—Except as otherwise provided under subtitle B, the amount of a grant under this section to a recipient for a fiscal year shall be—

(1) in the case of a recipient whose grant beneficiary is a single Indian tribe, the amount of the allocation under section 741 for the Indian tribe; and

(2) in the case of a recipient whose grant beneficiary is more than 1 Indian tribe, the sum of the amounts of the allocations under section 741 for each such Indian tribe.

(d) USE FOR AFFORDABLE HOUSING ACTIVITIES.—Except as provided in subsection (f), amounts provided under a grant under this section may be used only for affordable housing activities under subtitle B.

(e) EFFECTUATION OF LHP.—Except as provided in subsection (f), amounts provided under a grant under this section may be used only for affordable housing activities that are consistent with the approved local housing plan under section 713 for the grant beneficiary on whose behalf the grant is made.

(f) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this title for any administrative and planning expenses of the recipient relating to carrying out this title and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this title and expenses of preparing a local housing plan under section 712.

(2) CONTENTS OF REGULATIONS.—The regulations referred to in paragraph (1) shall provide that—

(A) the Secretary shall, for each recipient, establish a percentage referred to in paragraph (1) based on the specific circumstances of the recipient and the tribes served by the recipient; and

(B) the Secretary may review the percentage for a recipient upon the written request of the recipient specifying the need for such review or

the initiative of the Secretary and, pursuant to such review, may revise the percentage established for the recipient.

(g) PUBLIC-PRIVATE PARTNERSHIPS.—Each recipient shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in implementing the approved local housing plan for the tribe that is the grant beneficiary.

SEC. 712. LOCAL HOUSING PLANS.

(a) IN GENERAL.—

(1) SUBMISSION.—The Secretary shall provide for an Indian tribe to submit to the Secretary, for each fiscal year, a local housing plan under this section for the tribe (or for the tribally designated housing entity for a tribe to submit the plan under subsection (e) for the tribe) and for the review of such plans.

(2) LOCALLY DRIVEN NATIONAL OBJECTIVES.—A local housing plan shall describe—

(A) the mission of the tribe with respect to affordable housing or, in the case of a recipient that is a tribally designated housing entity, the mission of the housing entity;

(B) the goals, objectives, and policies of the recipient to meet the housing needs of low-income families in the jurisdiction of the housing entity, which shall be designed to achieve the national objectives under section 721(a); and

(C) how the locally established mission and policies of the recipient are designed to achieve, and are consistent with, the national objectives under section 721(a).

(b) 5-YEAR PLAN.—Each local housing plan under this section for an Indian tribe shall contain, with respect to the 5-year period beginning with the fiscal year for which the plan is submitted, the following information:

(1) LOCALLY DRIVEN NATIONAL OBJECTIVES.—The information described in subsection (a)(2).

(2) CAPITAL IMPROVEMENT OVERVIEW.—If the recipient will provide capital improvements for housing described in subsection (c)(3) during such period, an overview of such improvements, the rationale for such improvements, and an analysis of how such improvements will enable the recipient to meet its goals, objectives, and mission.

(c) 1-YEAR PLAN.—A local housing plan under this section for an Indian tribe shall contain the following information relating to the upcoming fiscal year for which the assistance under this title is to be made available:

(1) FINANCIAL RESOURCES.—An operating budget for the recipient for the tribe that includes—

(A) identification and a description of the financial resources reasonably available to the recipient to carry out the purposes of this title, including an explanation of how amounts made available will leverage such additional resources; and

(B) the uses to which such resources will be committed, including eligible and required affordable housing activities under subtitle B to be assisted and administrative expenses.

(2) AFFORDABLE HOUSING.—For the jurisdiction within which the recipient is authorized to use assistance under this title—

(A) a description of the estimated housing needs and the need for assistance for very low-income and moderate-income families;

(B) a description of the significant characteristics of the housing market, indicating how such characteristics will influence the use of amounts made available under this title for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(C) an description of the structure, means of cooperation, and coordination between the recipient and any units of general local government in the development, submission, and implementation of their housing plans, including a description of the involvement of any private industries, nonprofit organizations, and public institutions;

(D) a description of how the plan will address the housing needs identified pursuant to subparagraph (A), describing the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;

(E) a description of any homeownership programs of the recipient to be carried out with respect to affordable housing assisted under this title and the requirements and assistance available under such programs;

(F) a certification that the recipient will maintain written records of the standards and procedures under which the recipient will monitor activities assisted under this title and ensure long-term compliance with the provisions of this title;

(G) a certification that the recipient will comply with title II of the Civil Rights Act of 1968 in carrying out this title, to the extent that such title is applicable;

(H) a statement of the number of families for whom the recipient will provide affordable housing using grant amounts provided under this title;

(I) a statement of how the goals, programs, and policies for producing and preserving affordable housing will be coordinated with other programs and services for which the recipient is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and

(J) a certification that the recipient has obtain insurance coverage for any housing units that are owned or operated by the tribe or the tribally designated housing entity for the tribe and assisted with amounts provided under this Act, in compliance with such requirements as the Secretary may establish.

(3) INDIAN HOUSING DEVELOPED UNDER UNITED STATES HOUSING ACT OF 1937.—A plan describing how the recipient for the tribe will comply with the requirements under section 723 relating to low-income housing owned or operated by the housing entity that was developed pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937, which shall include—

(A) a certification that the recipient will maintain a written record of the policies of the recipient governing eligibility, admissions, and occupancy of families with respect to dwelling units in such housing;

(B) a certification that the recipient will maintain a written record of policies of the recipient governing rents charged for dwelling units in such housing, including—

(i) the methods by which such rents are determined; and

(ii) an analysis of how such methods affect—

(I) the ability of the recipient to provide affordable housing for low-income families having a broad range of incomes;

(II) the affordability of housing for families having incomes that do not exceed 30 percent of the median family income for the area; and

(III) the availability of other financial resources to the recipient for use for such housing;

(C) a certification that the recipient will maintain a written record of the standards and policies of the recipient governing maintenance and management of such housing, and management of the recipient with respect to administration of such housing, including—

(i) housing quality standards;

(ii) routine and preventative maintenance policies;

(iii) emergency and disaster plans;

(iv) rent collection and security policies;

(v) priorities and improvements for management of the housing; and

(vi) priorities and improvements for management of the recipient, including improvement of electronic information systems to facilitate managerial capacity and efficiency;

(D) a plan describing—

(i) the capital improvements necessary to ensure long-term physical and social viability of such housing; and

(ii) the priorities of the recipient for capital improvements of such housing based on analysis of available financial resources, consultation with residents, and health and safety considerations;

(E) a description of any such housing to be demolished or disposed of, a timetable for such demolition or disposition, and any information required under law with respect to such demolition or disposition;

(F) a description of how the recipient will coordinate with tribal and State welfare agencies to ensure that residents of such housing will be provided with access to resources to assist in obtaining employment and achieving self-sufficiency; and

(G) a description of the requirements established by the recipient that promote the safety of residents of such housing, facilitate the housing entity undertaking crime prevention measures (such as community policing, where appropriate), allow resident input and involvement, and allow for creative methods to increase resident safety by coordinating crime prevention efforts between the recipient and tribal or local law enforcement officials.

(4) INDIAN HOUSING LOAN GUARANTEES AND OTHER HOUSING ASSISTANCE.—A description of how loan guarantees under section 184 of the Housing and Community Development Act of 1992, and other housing assistance provided by the Federal Government for Indian tribes (including grants, loans, and mortgage insurance) will be used to help in meeting the needs for affordable housing in the jurisdiction of the recipient.

(5) DISTRIBUTION OF ASSISTANCE.—A certification that the recipient for the tribe will maintain a written record of—

(A) the geographical distribution (within the jurisdiction of the recipient) of the use of grant amounts and how such geographical distribution is consistent with the geographical distribution of housing need (within such jurisdiction); and

(B) the distribution of the use of such assistance for various categories of housing and how use for such various categories is consistent with the priorities of housing need (within the jurisdiction of the recipient).

(d) PARTICIPATION OF TRIBALLY DESIGNATED HOUSING ENTITY.—A plan under this section for an Indian tribe may be prepared and submitted on behalf of the tribe by the tribally designated housing entity for the tribe, but only if such plan contains a certification by the recognized tribal government of the grant beneficiary that such tribe has had an opportunity to review the plan and has authorized the submission of the plan by the housing entity.

(e) COORDINATION OF PLANS.—A plan under this section may cover more than 1 Indian tribe, but only if the certification requirements under subsection (d) are complied with by each such grant beneficiary covered.

(f) PLANS FOR SMALL TRIBES.—

(1) SEPARATE REQUIREMENTS.—The Secretary shall establish requirements for submission of plans under this section and the information to be included in such plans applicable to small Indian tribes and small tribally designated housing entities. Such requirements shall waive any requirements under this section that the Secretary determines are burdensome or unnecessary for such tribes and housing entities.

(2) SMALL TRIBES.—The Secretary shall define small Indian tribes and small tribally designated housing entities based on the number of dwelling units assisted under this subtitle by the tribe or housing entity or owned or operated pursuant to a contract under the United States Housing Act of 1937 between the Secretary and the Indian housing authority for the tribe.

(g) REGULATIONS.—The requirements relating to the contents of plans under this section shall be established by regulation, pursuant to section 716.

SEC. 713. REVIEW OF PLANS.

(a) REVIEW AND NOTICE.—

(1) REVIEW.—The Secretary shall conduct a limited review of each local housing plan submitted to the Secretary to ensure that the plan complies with the requirements of section 712. The Secretary shall have the discretion to review a plan only to the extent that the Secretary considers review is necessary.

(2) NOTICE.—The Secretary shall notify each Indian tribe for which a plan is submitted and any tribally designated housing entity for the tribe whether the plan complies with such requirements not later than 45 days after receiving the plan. If the Secretary does not notify the Indian tribe, as required under this subsection and subsection (b), the plan shall be considered, for purposes of this title, to have been determined to comply with the requirements under section 712 and the tribe shall be considered to have been notified of compliance upon the expiration of such 45-day period.

(b) NOTICE OF REASONS FOR DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines that a plan, as submitted, does not comply with the requirements under section 712, the Secretary shall specify in the notice under subsection (a) the reasons for the noncompliance and any modifications necessary for the plan to meet the requirements under section 712.

(c) STANDARDS FOR DETERMINATION OF NONCOMPLIANCE.—The Secretary may determine that a plan does not comply with the requirements under section 712 only if—

(1) the plan is not consistent with the national objectives under section 721(a);

(2) the plan is incomplete in significant matters required under such section;

(3) there is evidence available to the Secretary that challenges, in a substantial manner, any information provided in the plan;

(4) the Secretary determines that the plan violates the purposes of this title because it fails to provide affordable housing that will be viable on a long-term basis at a reasonable cost; or

(5) the plan fails to adequately identify the capital improvement needs for low-income housing owned or operated by the Indian tribe that was developed pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937.

(d) TREATMENT OF EXISTING PLANS.—Notwithstanding any other provision of this title, a plan shall be considered to have been submitted for an Indian tribe if the appropriate Indian housing authority has submitted to the Secretary a comprehensive plan under section 14(e) of the United States Housing Act of 1937 (as in effect immediately before the enactment of this title) or under the comprehensive improvement assistance program under such section 14, and the Secretary has approved such plan, before January 1, 1997. The Secretary shall provide specific procedures and requirements for such tribes to amend such plans by submitting only such additional information as is necessary to comply with the requirements of section 712.

(e) UPDATES TO PLAN.—After a plan under section 712 has been submitted for an Indian tribe for any fiscal year, the tribe may comply with the provisions of such section for any succeeding fiscal year (with respect to information included for the 5-year period under section 712(b) or the 1-year period under section 712(c)) by submitting only such information regarding such changes as may be necessary to update the plan previously submitted.

SEC. 714. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

(a) PROGRAM INCOME.—

(1) AUTHORITY TO RETAIN.—Notwithstanding any other provision of law, a recipient may retain any program income that is realized from any grant amounts under this title if—

(A) such income was realized after the initial disbursement of the grant amounts received by the recipient; and

(B) the recipient has agreed that it will utilize the program income for affordable housing activities in accordance with the provisions of this title.

(2) PROHIBITION OF REDUCTION OF GRANT.—The Secretary may not reduce the grant amount for any Indian tribe based solely on (1) whether the recipient for the tribe retains program income under paragraph (1), or (2) the amount of any such program income retained.

(3) EXCLUSION OF AMOUNTS.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the requirements of this subsection would create an unreasonable administrative burden on the recipient.

(b)(1) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with grant amounts made available under this Act shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a–5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and recipients shall require certification as to the compliance with the provisions of this section prior to making any payment under such contract.

(2) EXCEPTIONS.—Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

(3) WAIVER.—The Secretary may waive the provisions of this subsection.

SEC. 715. ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—In order to ensure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of grant amounts provided under this title, and to ensure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of amounts for particular projects to recipients of assistance under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were the Secretary to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. The regulations shall provide—

(1) for the monitoring of the environmental reviews performed under this section;

(2) in the discretion of the Secretary, to facilitate training for the performance of such reviews; and

(3) for the suspension or termination of the assumption of responsibilities under this section.

The Secretary's duty under the preceding sentence shall not be construed to limit or reduce any responsibility assumed by a recipient of grant amounts with respect to any particular release of funds.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the recipient of grant amounts has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(3) specify that the recipient has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the recipient of assistance and such officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities as such an official.

SEC. 716. REGULATIONS.

(a) INTERIM REQUIREMENTS.—Not later than 90 days after the date of the enactment of this title, the Secretary shall, by notice issued in the Federal Register, establish any requirements necessary to carry out this title in the manner provided in section 717(b), which shall be effective only for fiscal year 1997. The notice shall invite public comments regarding such interim requirements and final regulations to carry out this title and shall include general notice of proposed rulemaking (for purposes of section 564(a) of title 5, United States Code) of the final regulations under paragraph (2).

(b) FINAL REGULATIONS.—

(1) TIMING.—The Secretary shall issue final regulations necessary to carry out this title not later than September 1, 1997, and such regulations shall take effect not later than the effective date under section 717(a).

(2) NEGOTIATED RULEMAKING.—Notwithstanding sections 563(a) and 565(a) of title 5, United States Code, the final regulations required under paragraph (1) shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code. The Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations, which shall include representatives of Indian tribes.

SEC. 717. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) and as otherwise specifically provided in this title, this title shall take effect on October 1, 1997.

(b) INTERIM APPLICABILITY.—For fiscal year 1997, this title shall apply to any Indian tribe that requests the Secretary to apply this title to such tribe, subject to the provisions of this subsection, but only if the Secretary determines that the tribe has the capacity to carry out the responsibilities under this title during such fiscal year. For fiscal year 1997, this title shall apply to any such tribe subject to the following limitations:

(1) USE OF ASSISTANCE AMOUNTS AS BLOCK GRANT.—Amounts shall not be made available pursuant to this title for grants under this title for such fiscal year, but any amounts made available for the tribe under the United States Housing Act of 1937, title II or subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993 shall be considered grant amounts under this title and shall be used subject to the provisions of this title relating to such grant amounts.

(2) LOCAL HOUSING PLAN.—Notwithstanding section 713 of this title, a local housing plan shall be considered to have been submitted for the tribe for fiscal year 1997 for purposes of this title only if—

(A) the appropriate Indian housing authority has submitted to the Secretary a comprehensive plan under section 14(e) of the United States Housing Act of 1937 or under the comprehensive improvement assistance program under such section 14;

(B) the Secretary has approved such plan before January 1, 1996; and

(C) the tribe complies with specific procedures and requirements for amending such plan as the Secretary may establish to carry out this subsection.

(c) ASSISTANCE UNDER EXISTING PROGRAM DURING FISCAL YEAR 1997.—Notwithstanding the repeal of any provision of law under section 501(a) and with respect only to Indian tribes not provided assistance pursuant to subsection (b), during fiscal year 1997—

(1) the Secretary shall carry out programs to provide low-income housing assistance on Indian reservations and other Indian areas in accordance with the provisions of title II of the United States Housing Act of 1937 and related provisions of law, as in effect immediately before the enactment of this Act;

(2) except to the extent otherwise provided in the provisions of such title II (as so in effect), the provisions of title I of such Act (as so in effect) and such related provisions of law shall apply to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority; and

(3) none of the provisions of title I, II, III, or IV, or of any other law specifically modifying the public housing program that is enacted after the date of the enactment of this Act, shall apply to public housing operated pursuant to a contract between the Secretary and an Indian housing authority, unless the provision explicitly provides for such applicability.

SEC. 718. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for grants under subtitle A $650,000,000, for each of fiscal years 1998, 1999, 2000, and 2001.

Subtitle B—Affordable Housing Activities

SEC. 721. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.

(a) PRIMARY OBJECTIVE.—The national objectives of this title are—

(1) to assist and promote affordable housing activities to develop, maintain, and operate safe, clean, and healthy affordable housing on Indian reservations and in other Indian areas for occupancy by low-income Indian families;

(2) to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;

(3) to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;

(4) to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and

(5) to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

(b) ELIGIBLE FAMILIES.—

(1) IN GENERAL.—Except as provided under paragraph (2), assistance under eligible housing activities under this title shall be limited to low-income Indian families on Indian reservations and other Indian areas.

(2) EXCEPTION TO LOW-INCOME REQUIREMENT.—A recipient may provide assistance for model activities under section 722(6) to families who are not low-income families, if the Secretary approves the activities pursuant to such subsection because there is a need for housing for such families that cannot reasonably be met without such assistance. The Secretary shall establish limits on the amount of assistance that may be provided under this title for activities for families who are not low-income families.

(3) NON-INDIAN FAMILIES.—A recipient may provide housing or housing assistance provided through affordable housing activities assisted with grant amounts under this title for a non-Indian family on an Indian reservation or other Indian area if the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

(4) PREFERENCE FOR INDIAN FAMILIES.—The local housing plan for an Indian tribe may require preference, for housing or housing assistance provided through affordable housing activities assisted with grant amounts provided under this title on behalf of such tribe, to be given (to the extent practicable) to Indian families who are members of such tribe, or to other Indian families. In any case in which the applicable local housing plan for an Indian tribe provides for preference under this subsection, the recipient for the tribe shall ensure that housing activities that are assisted with grant amounts under this title for such tribe are subject to such preference.

(5) EXEMPTION.—Title VI of the Civil Rights Act of 1964 and title VIII of the Civil Rights Act of 1968 shall not apply to actions by Indian tribes under this subsection.

SEC. 722. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

Affordable housing activities under this subtitle are activities, in accordance with the requirements of this subtitle, to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

(1) INDIAN HOUSING ASSISTANCE.—The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) DEVELOPMENT.—The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities.

(3) HOUSING SERVICES.—The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, energy auditing, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

(4) HOUSING MANAGEMENT SERVICES.—The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and management of affordable housing projects.

(5) CRIME PREVENTION AND SAFETY ACTIVITIES.—The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

(6) MODEL ACTIVITIES.—Housing activities under model programs that are designed to carry out the purposes of this title and are specifically approved by the Secretary as appropriate for such purpose.

SEC. 723. REQUIRED AFFORDABLE HOUSING ACTIVITIES.

(a) MAINTENANCE OF OPERATING ASSISTANCE FOR INDIAN HOUSING.—Any recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall, using amounts of any grants received under this title, reserve and use for operating assistance under section 722(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.

(b) DEMOLITION AND DISPOSITION.—This title may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in such subsection. Notwithstanding section 116, section 261 shall apply to the demolition or disposition of Indian housing referred to in subsection (a).

SEC. 724. TYPES OF INVESTMENTS.

(a) IN GENERAL.—Subject to section 723 and the local housing plan for an Indian tribe, the recipient for such tribe shall have—

(1) the discretion to use grant amounts for affordable housing activities through equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments under subsection (b), or any other form of assistance that the Secretary has determined to be consistent with the purposes of this title; and

(2) the right to establish the terms of assistance.

(b) LEVERAGING PRIVATE INVESTMENT.—A recipient may leverage private investments in affordable housing activities by pledging existing or future grant amounts to assure the repayment of notes and other obligations of the recipient issued for purposes of carrying out affordable housing activities.

SEC. 725. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

Housing shall qualify as affordable housing for purposes of this title only if—

(1) each dwelling unit in the housing—

(A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit; and

(B) in the case of housing for homeownership, is made available for purchase only by a family that is a low-income family at the time of purchase; and

(2) except for housing assisted under section 202 of the United States Housing Act of 1937 (as in effect before the enactment of this Act), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this title, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

SEC. 726. CERTIFICATION OF COMPLIANCE WITH SUBSIDY LAYERING REQUIREMENTS.

With respect to housing assisted with grant amounts provided under this title, the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be considered to be satisfied upon certification by the recipient of the assistance to the Secretary that the combination of Federal assistance provided to any housing project is not any more than is necessary to provide affordable housing.

SEC. 727. LEASE REQUIREMENTS AND TENANT SELECTION.

(a) LEASES.—Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this

title, the owner or manager of the housing shall utilize leases that—

(1) do not contain unreasonable terms and conditions;

(2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;

(3) require the owner or manager to give adequate written notice of termination of the lease, which shall not be less than—

(A) the period provided under the applicable law of the jurisdiction or 14 days, whichever is less, in the case of nonpayment of rent;

(B) a reasonable period of time, but not to exceed 14 days, when the health or safety of other residents or employees of the owner or manager is threatened; and

(C) the period of time provided under the applicable law of the jurisdiction, in any other case;

(4) require that the owner or manager may not terminate the tenancy except for violation of the terms or conditions of the lease, violation of applicable Federal, tribal, State, or local law, or for other good cause; and

(5) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the resident's household, or any guest or other person under the resident's control, that—

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity).

(b) TENANT SELECTION.—The owner or manager of affordable rental housing assisted under with grant amounts provided under this title shall adopt and utilize written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease; and

(3) provide for (A) the selection of tenants from a written waiting list in accordance with the policies and goals set forth in the local housing plan for the tribe that is the grant beneficiary of such grant amounts, and (B) the prompt notification in writing of any rejected applicant of the grounds for any rejection.

SEC. 728. REPAYMENT.

If a recipient uses grant amounts to provide affordable housing under activities under this subtitle and, at any time during the useful life of the housing the housing does not comply with the requirement under section 725(a)(2), the Secretary shall reduce future grant payments on behalf of the grant beneficiary by an amount equal to the grant amounts used for such housing (under the authority under section 751(a)(2)) or require repayment to the Secretary of an amount equal to such grant amounts.

SEC. 729. CONTINUED USE OF AMOUNTS FOR AFFORDABLE HOUSING.

Any funds for programs for low-income housing under the United States Housing Act of 1937 that, on the date of the applicability of this title to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this title and subject to the provisions of this title relating to use of such assistance.

Subtitle C—Allocation of Grant Amounts

SEC. 741. ANNUAL ALLOCATION.

For each fiscal year, the Secretary shall allocate any amounts made available for assistance under this title for the fiscal year, in accordance with the formula established pursuant to section 742, among Indian tribes that comply with the requirements under this title for a grant under this title.

SEC. 742. ALLOCATION FORMULA.

The Secretary shall, by regulations issued in the manner provided under section 716, establish a formula to provide for allocating amounts available for a fiscal year for block grants under this title among Indian tribes. The formula shall be based on factors that reflect the need of the Indian tribes and the Indian areas of the tribes for assistance for affordable housing activities, including the following factors:

(1) The number of low-income housing dwelling units owned or operated at the time pursuant to a contract between an Indian housing authority for the tribe and the Secretary.

(2) The extent of poverty and economic distress within Indian areas of the tribe.

(3) Other objectively measurable conditions as the Secretary may specify.

The regulations establishing the formula shall be issued not later than the expiration of the 12-month period beginning on the date of the enactment of this title.

Subtitle D—Compliance, Audits, and Reports

SEC. 751. REMEDIES FOR NONCOMPLIANCE.

(a) ACTIONS BY SECRETARY AFFECTING GRANT AMOUNTS.—Except as provided in subsection (b), if the Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this title has failed to comply substantially with any provision of this title, the Secretary shall—

(1) terminate payments under this title to the recipient;

(2) reduce payments under this title to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this title;

(3) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply; or

(4) in the case of noncompliance described in section 752(b), provide a replacement tribally designated housing entity for the recipient, under section 752.

If the Secretary takes an action under paragraph (1), (2), or (3), the Secretary shall continue such action until the Secretary determines that the failure to comply has ceased.

(b) NONCOMPLIANCE BECAUSE OF TECHNICAL INCAPACITY.—If the Secretary makes a finding under subsection (a), but determines that the failure to comply substantially with the provisions of this title—

(1) is not a pattern or practice of activities constituting willful noncompliance, and

(2) is a result of the limited capability or capacity of the recipient,

the Secretary may provide technical assistance for the recipient (directly or indirectly) that is designed to increase the capability and capacity of the recipient to administer assistance provided under this title in compliance with the requirements under this title.

(c) REFERRAL FOR CIVIL ACTION.—

(1) AUTHORITY.—In lieu of, or in addition to, any action authorized by subsection (a), the Secretary may, if the Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this title, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) CIVIL ACTION.—Upon such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this title which was not expended in accordance with it, or for mandatory or injunctive relief.

(d) REVIEW.—

(1) IN GENERAL.—Any recipient who receives notice under subsection (a) of the termination, reduction, or limitation of payments under this title may, within 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who shall represent the Secretary in the litigation.

(2) PROCEDURE.—The Secretary shall file in the court record of the proceeding on which the Secretary based the action, as provided in section 2112 of title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(3) DISPOSITION.—The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify the Secretary's findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and the Secretary shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file the Secretary's recommendation, if any, for the modification or setting aside of the Secretary's original action.

(4) FINALITY.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United State Code.

SEC. 752. REPLACEMENT OF RECIPIENT.

(a) AUTHORITY.—As a condition of the Secretary making a grant under this title on behalf of an Indian tribe, the tribe shall agree that, notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in subsection (b), require that a replacement tribally designated housing entity serve as the recipient for the tribe, in accordance with subsection (c).

(b) CONDITIONS OF REMOVAL.—The Secretary may require such replacement tribally designated housing entity for a tribe only upon a determination by the Secretary on the record after opportunity for a hearing that the recipient for the tribe has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the requirements under this title.

(c) CHOICE AND TERM OF REPLACEMENT.—If the Secretary requires that a replacement tribally designated housing entity serve as the recipient for a tribe (or tribes)—

(1) the replacement entity shall be an entity mutually agreed upon by the Secretary and the tribe (or tribes) for which the recipient was authorized to act, except that if no such entity is agreed upon before the expiration of the 60-day period beginning upon the date that the Secretary makes the determination under subsection (b), the Secretary shall act as the replacement entity until agreement is reached upon a replacement entity; and

(2) the replacement entity (or the Secretary, as provided in paragraph (1)) shall act as the tribally designated housing entity for the tribe (or tribes) for a period that expires upon—

(A) a date certain, which shall be specified by the Secretary upon making the determination under subsection (b); or

(B) the occurrence of specific conditions, which conditions shall be specified in written

notice provided by the Secretary to the tribe upon making the determination under subsection (b).

SEC. 753. MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—Each recipient, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the grant beneficiary or by recipients and other intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Not less frequently than annually, each recipient shall review the activities conducted and housing assisted under this title to assess compliance with the requirements of this title. Such review shall include on-site inspection of housing to determine compliance with applicable requirements. The results of each review shall be included in the performance report of the recipient submitted to the Secretary under section 754 and made available to the public.

SEC. 754. PERFORMANCE REPORTS.

(a) REQUIREMENT.—For each fiscal year, each recipient shall—

(1) review the progress it has made during such fiscal year in carrying out the local housing plan (or plans) for the Indian tribes for which it administers grant amounts; and

(2) submit a report to the Secretary (in a form acceptable to the Secretary) describing the conclusions of the review.

(b) CONTENT.—Each report under this section for a fiscal year shall—

(1) describe the use of grant amounts provided to the recipient for such fiscal year;

(2) assess the relationship of such use to the goals identified in the local housing plan of the grant beneficiary;

(3) indicate the recipient's programmatic accomplishments; and

(4) describe how the recipient would change its programs as a result of its experiences.

(c) SUBMISSION.—The Secretary shall establish dates for submission of reports under this section, and review such reports and make such recommendations as the Secretary considers appropriate to carry out the purposes of this title.

(d) PUBLIC AVAILABILITY.—A recipient preparing a report under this section shall make the report publicly available to the citizens in the recipient's jurisdiction in sufficient time to permit such citizens to comment on such report prior to its submission to the Secretary, and in such manner and at such times as the recipient may determine. The report shall include a summary of any comments received by the grant beneficiary or recipient from citizens in its jurisdiction regarding its program.

SEC. 755. REVIEW AND AUDIT BY SECRETARY.

(a) ANNUAL REVIEW.—The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine—

(1) whether the recipient has carried out its eligible activities in a timely manner, has carried out its eligible activities and certifications in accordance with the requirements and the primary objectives of this title and with other applicable laws, and has a continuing capacity to carry out those activities in a timely manner;

(2) whether the recipient has complied with the local housing plan of the grant beneficiary; and

(3) whether the performance reports under section 754 of the recipient are accurate.

Reviews under this section shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development.

(b) REPORT BY SECRETARY.—The Secretary shall submit a written report to the Congress regarding each review under subsection (a). The Secretary shall give a recipient not less than 30 days to review and comment on a report under this subsection. After taking into consideration the comments of the recipient, the Secretary may revise the report and shall make the recipient's comments and the report, with any revisions, readily available to the public not later than 30 days after receipt of the recipient's comments.

(c) EFFECT OF REVIEWS.—The Secretary may make appropriate adjustments in the amount of the annual grants under this title in accordance with the Secretary's findings pursuant to reviews and audits under this section. The Secretary may adjust, reduce, or withdraw grant amounts, or take other action as appropriate in accordance with the Secretary's reviews and audits under this section, except that grant amounts already expended on affordable housing activities may not be recaptured or deducted from future assistance provided on behalf of an Indian tribe.

SEC. 756. GAO AUDITS.

To the extent that the financial transactions of Indian tribes and recipients of grant amounts under this title relate to amounts provided under this title, such transactions may be audited by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such tribes and recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 757. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 90 days after the conclusion of each fiscal year in which assistance under this title is made available, the Secretary shall submit to the Congress a report that contains—

(1) a description of the progress made in accomplishing the objectives of this title; and

(2) a summary of the use of such funds during the preceding fiscal year.

(b) RELATED REPORTS.—The Secretary may require recipients of grant amounts under this title to submit to the Secretary such reports and other information as may be necessary in order for the Secretary to make the report required by subsection (a).

Subtitle E—Termination of Assistance for Indian Tribes under Incorporated Programs

SEC. 761. TERMINATION OF INDIAN PUBLIC HOUSING ASSISTANCE UNDER UNITED STATES HOUSING ACT OF 1937.

(a) IN GENERAL.—After September 30, 1997, financial assistance may not be provided under the United States Housing Act of 1937 or pursuant to any commitment entered into under such Act, for Indian housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless such assistance is provided from amounts made available for fiscal year 1997 and pursuant to a commitment entered into before September 30, 1997.

(b) TERMINATION OF RESTRICTIONS ON USE OF INDIAN HOUSING.—Except as provided in section 723(b) of this title, any housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 shall not be subject to any provision of such Act or any annual contributions contract or other agreement pursuant to such Act, but shall be considered and maintained as affordable housing for purposes of this title.

SEC. 762. TERMINATION OF NEW COMMITMENTS FOR RENTAL ASSISTANCE.

After September 30, 1997, financial assistance for rental housing assistance under the United States Housing Act of 1937 may not be provided to any Indian housing authority or tribally designated housing entity, unless such assistance is provided pursuant to a contract for such assistance entered into by the Secretary and the Indian housing authority before such date.

SEC. 763. TERMINATION OF YOUTHBUILD PROGRAM ASSISTANCE.

(a) IN GENERAL.—Subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.) is amended—

(1) by redesignating section 460 as section 461; and

(2) by inserting after section 459 the following new section:

"SEC. 460. INELIGIBILITY OF INDIAN TRIBES.

''Indian tribes, Indian housing authorities, and other agencies primarily serving Indians or Indian areas shall not be eligible applicants for amounts made available for assistance under this subtitle for fiscal year 1997 and fiscal years thereafter.''.

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendments under subsection (a) shall be made on October 1, 1997, and shall apply with respect to amounts made available for assistance under subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

SEC. 764. TERMINATION OF HOME PROGRAM ASSISTANCE.

(a) IN GENERAL.—Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12721 et seq.) is amended—

(1) in section 217(a)—

(A) in paragraph (1), by striking ''reserving amounts under paragraph (2) for Indian tribes and after''; and

(B) by striking paragraph (2); and

(2) in section 288—

(A) in subsection (a), by striking '', Indian tribes,'';

(B) in subsection (b), by striking '', Indian tribe,''; and

(C) in subsection (c)(4), by striking '', Indian tribe,''.

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendments under subsection (a) shall be made on October 1, 1997, and shall apply with respect to amounts made available for assistance under title II of the Cranston-Gonzalez National Affordable Housing Act for fiscal year 1998 and fiscal years thereafter.

SEC. 765. TERMINATION OF HOUSING ASSISTANCE FOR THE HOMELESS.

(a) MCKINNEY ACT PROGRAMS.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) in section 411, by striking paragraph (10);

(2) in section 412, by striking '', and for Indian tribes,'';

(3) in section 413—

(A) in subsection (a)—

(i) by striking '', and to Indian tribes,''; and

(ii) by striking '', or for Indian tribes'' each place it appears;

(B) in subsection (c), by striking ''or Indian tribe''; and

(C) in subsection (d)(3)—

(i) by striking '', or Indian tribe'' each place it appears; and

(ii) by striking '', or other Indian tribes,'';

(4) in section 414(a)—

(A) by striking 'or Indian tribe'' each place it appears; and

(B) by striking '', local government,'' each place it appears and inserting ''or local government'';

(5) in section 415(c)(4), by striking ''Indian tribes,'';

(6) in section 416(b), by striking ''Indian tribe,'';

(7) in section 422—

(A) in by striking ''Indian tribe,''; and

(B) by striking paragraph (3);

(8) in section 441—

(A) by striking subsection (g);

(B) in subsection (h), by striking ''or Indian housing authority''; and

(C) in subsection (j)(1), by striking '', Indian housing authority'';

(9) in section 462—

(A) in paragraph (2), by striking '', Indian tribe,''; and

(B) by striking paragraph (4); and

(10) in section 491(e), by striking '', Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974),''.

(b) INNOVATIVE HOMELESS DEMONSTRATION.—Section 2(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 11301 note) is amended—

(1) in paragraph (3), by striking '' 'unit of general local government', and 'Indian tribe' '' and inserting ''and 'unit of general local government' ''; and

(2) in paragraph (4), by striking ''unit of general local government (including units in rural areas), or Indian tribe'' and inserting ''or unit of general local government''.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments under subsections (a) and (b) shall be made on October 1, 1997, and shall apply with respect to amounts made available for assistance under title IV of the Stewart B. McKinney Homeless Assistance Act and section 2 of the HUD Demonstration Act of 1993, respectively, for fiscal year 1998 and fiscal years thereafter.

SEC. 766. SAVINGS PROVISION.

Except as provided in sections 761 and 762, this title may not be construed to affect the validity of any right, duty, or obligation of the United States or other person arising under or pursuant to any commitment or agreement lawfully entered into before October 1, 1997, under the United States Housing Act of 1937, subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, title II of the Cranston-Gonzalez National Affordable Housing Act, title IV of the Stewart B. McKinney Homeless Assistance Act, or section 2 of the HUD Demonstration Act of 1993.

SEC. 767. EFFECTIVE DATE.

Sections 761, 762, and 766 shall take effect on the date of the enactment of this title.

Subtitle F—Loan Guarantees for Affordable Housing Activities

SEC. 771. AUTHORITY AND REQUIREMENTS.

(a) AUTHORITY.—To such extent or in such amounts as provided in appropriation Acts, the Secretary may, subject to the limitations of this subtitle and upon such terms and conditions as the Secretary may prescribe, guarantee and make commitments to guarantee, the notes or other obligations issued by Indian tribes or tribally designated housing entities, for the purposes of financing affordable housing activities described in section 722.

(b) LACK OF FINANCING ELSEWHERE.—A guarantee under this subtitle may be used to assist an Indian tribe or housing entity in obtaining financing only if the Indian tribe or housing entity has made efforts to obtain such financing without the use of such guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

(c) TERMS OF LOANS.—Notes or other obligations guaranteed pursuant to this subtitle shall be in such form and denominations, have such maturities, and be subject to such conditions as may be prescribed by regulations issued by the Secretary. The Secretary may not deny a guarantee under this subtitle on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.

(d) LIMITATION ON OUTSTANDING GUARANTEES.—No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the issuer's total outstanding notes or obligations guaranteed under this subtitle (excluding any amount defeased under the contract entered into under section 772(a)(1)) would thereby exceed an amount equal to 5 times the amount of the grant approval for the issuer pursuant to title III.

(e) PROHIBITION OF PURCHASE BY FFB.—Notes or other obligations guaranteed under this subtitle may not be purchased by the Federal Financing Bank.

(f) PROHIBITION OF GUARANTEE FEES.—No fee or charge may be imposed by the Secretary or any other Federal agency on or with respect to a guarantee made by the Secretary under this subtitle.

SEC. 772. SECURITY AND REPAYMENT.

(a) REQUIREMENTS ON ISSUER.—To assure the repayment of notes or other obligations and charges incurred under this subtitle and as a condition for receiving such guarantees, the Secretary shall require the Indian tribe or housing entity issuing such notes or obligations to—

(1) enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this subtitle;

(2) pledge any grant for which the issuer may become eligible under this title;

(3) demonstrate that the extent of such issuance and guarantee under this title is within the financial capacity of the tribe and is not likely to impairment the ability to use of grant amounts under subtitle A, taking into consideration the requirements under section 723(a); and

(4) furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this title or dispositions proceeds from the sale of land or rehabilitated property.

(b) REPAYMENT FROM GRANT AMOUNTS.—Notwithstanding any other provision of this title—

(1) the Secretary may apply grants pledged pursuant to subsection (a)(2) to any repayments due the United States as a result of such guarantees; and

(2) grants allocated under this title for an Indian tribe or housing entity (including program income derived therefrom) may be used to pay principal and interest due (including such servicing, underwriting, and other costs as may be specified in regulations issued by the Secretary) on notes or other obligations guaranteed pursuant to this subtitle.

(c) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this subtitle. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

SEC. 773. PAYMENT OF INTEREST.

The Secretary may make, and contract to make, grants, in such amounts as may be approved in appropriations Acts, to or on behalf of an Indian tribe or housing entity issuing notes or other obligations guaranteed under this subtitle, to cover not to exceed 30 percent of the net interest cost (including such servicing, underwriting, or other costs as may be specified in regulations of the Secretary) to the borrowing entity or agency of such obligations. The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this subtitle in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.

SEC. 774. TREASURY BORROWING.

The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out the obligations of the Secretary under guarantees authorized by this subtitle. The obligations issued under this section shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this section, and for such purposes 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, and the purposes for which such securities may be issued under such chapter are extended to include the purchases of the Secretary's obligations hereunder.

SEC. 775. TRAINING AND INFORMATION.

The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this subtitle.

SEC. 776. LIMITATIONS ON AMOUNT OF GUARANTEES.

(a) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this subtitle, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this subtitle with an aggregate principal amount of $400,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There is authorized to be appropriated to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees under this subtitle, $40,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

(c) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this subtitle shall not at any time exceed $2,000,000,000 or such higher amount as may be authorized to be appropriated for this subtitle for any fiscal year.

(d) FISCAL YEAR LIMITATIONS ON TRIBES.—The Secretary shall monitor the use of guarantees under this subtitle by Indian tribes. If the Secretary finds that 50 percent of the aggregate guarantee authority under subsection (c) has been committed, the Secretary may—

(1) impose limitations on the amount of guarantees any one Indian tribe may receive in any fiscal year of $50,000,000; or

(2) request the enactment of legislation increasing the aggregate limitation on guarantees under this subtitle.

SEC. 777. EFFECTIVE DATE.

This subtitle shall take effect upon the enactment of this title.

Subtitle G—Other Housing Assistance for Native Americans

SEC. 781. LOAN GUARANTEES FOR INDIAN HOUSING.

(a) DEFINITION OF ELIGIBLE BORROWERS TO INCLUDE INDIAN TRIBES.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1515z–13a) is amended—

(1) in subsection (a)—

(A) by striking ''and Indian housing authorities'' and inserting '', Indian housing authorities, and Indian tribes,''; and

(B) by striking ''or Indian housing authority'' and inserting '', Indian housing authority, or Indian tribe''; and

(2) in subsection (b)(1), by striking ''or Indian housing authorities'' and inserting '', Indian housing authorities, or Indian tribes''.

(b) NEED FOR LOAN GUARANTEE.—Section 184(a) of the Housing and Community Development Act of 1992 is amended by striking ''trust land'' and inserting ''lands or as a result of a lack of access to private financial markets''.

(c) LHP REQUIREMENT.—Section 184(b)(2) of the Housing and Community Development Act of 1992 is amended by inserting before the period at the end the following: ''that is under the jurisdiction of an Indian tribe for which a local housing plan has been submitted and approved pursuant to sections 712 and 713 of the Native American Housing Assistance and Self-Determination Act of 1996 that provides for the use of

loan guarantees under this section to provide affordable homeownership housing in such areas''.

(d) LENDER OPTION TO OBTAIN PAYMENT UPON DEFAULT WITHOUT FORECLOSURE.—Section 184(h) of the Housing and Community Development Act of 1992 is amended—

(1) in paragraph (1)(A)—

(A) in the first sentence of clause (i), by striking ''in a court of competent jurisdiction''; and

(B) by striking clause (ii) and inserting the following new clause:

''(ii) NO FORECLOSURE.—Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.'';

(2) by striking paragraph (2); and

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

(e) LIMITATION OF MORTGAGEE AUTHORITY.—Section 184(h)(2) of the Housing and Community Development Act of 1992, as so redesignated by subsection (e)(3) of this section, is amended—

(1) in the first sentence, by striking ''tribal allotted or trust land,'' and inserting ''restricted Indian land, the mortgagee or''; and

(B) in the second sentence, by striking ''Secretary'' each place it appears, and inserting ''mortgagee or the Secretary''.

(f) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 is amended by striking ''1993'' and all that follows through ''such year'' and inserting ''1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount note exceeding $400,000,000 for each such fiscal year''.

(g) AUTHORIZATION OF APPROPRIATIONS FOR GUARANTEE FUND.—Section 184(i)(7) of the Housing and Community Development Act of 1992 is amended by striking ''such sums'' and all that follows through ''1994'' and inserting ''$30,000,000 for each of fiscal years 1997, 1998, 1999, 2000, and 2001''.

(h) DEFINITIONS.—Section 184(k) of the Housing and Community Development Act of 1992 is amended—

(1) in paragraph (4), by inserting after ''authority'' the following: ''or Indian tribe'';

(2) in paragraph (5)—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) is authorized to engage in or assist in the development or operation of—

''(i) low-income housing for Indians; or

''(ii) housing subject to the provisions of this section; and''; and

(B) by adding at the end the following:

''The term includes tribally designated housing entities under the Native American Housing Assistance and Self-Determination Act of 1996.''; and

(3) by striking paragraph (8) and inserting the following new paragraph:

''(8) The term 'tribe' or 'Indian tribe' means any Indian tribe, band, notation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

(i) PRINCIPAL OBLIGATION AMOUNTS.—Section 184(b)(5)(C) of the Housing and Community Development Act of 1992 is amended by striking clause (i) and inserting the following new clause:

''(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is $50,000 or less); and''.

(j) AVAILABILITY OF AMOUNTS.—

(1) REQUIREMENT OF APPROPRIATIONS.—Section 184(i)(5) of the Housing and Community Development Act of 1992 is amended by striking subparagraph (A) and inserting the following new subparagraph:

''(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.''.

(2) COSTS.—Section 184(i)(5)(B) of the Housing and Community Development Act of 1992 is amended by adding at the end the following new sentence: ''Any amounts appropriated pursuant to this subparagraph shall remain available until expended.''.

(k) GNMA AUTHORITY.—The first sentence of section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting before the period at the end the following: ''; or guaranteed under section 184 of the Housing and Community Development Act of 1992''.

SEC. 782. 50-YEAR LEASEHOLD INTEREST IN TRUST OR RESTRICTED LANDS FOR HOUSING PURPOSES.

(a) AUTHORITY TO LEASE.—Notwithstanding any other provision of law, any restricted Indian lands, whether tribally or individually owned, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for residential purposes.

(b) TERM.—Each lease pursuant to subsection (a) shall be for a term not exceeding 50 years.

(c) OTHER CONDITIONS.—Each lease pursuant to subsection (a) and each renewal of such a lease shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior.

(d) RULE OF CONSTRUCTION.—This section may not be construed to repeal, limit, or affect any authority to lease any restricted Indian lands that—

(1) is conferred by or pursuant to any other provision of law; or

(2) provides for leases for any period exceeding 50 years.

SEC. 783. TRAINING AND TECHNICAL ASSISTANCE.

There is authorized to be appropriated for assistance for the a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and tribally designated housing entities $2,000,000, for each of fiscal years 1997, 1998, 1999, 2000, and 2001.

SEC. 784. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect upon the enactment of this title.

TITLE VIII—NATIONAL MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CONSENSUS COMMITTEE

SEC. 801. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This title may be cited as the ''National Manufactured Housing Construction and Safety Standards Act of 1996''.

(b) REFERENCE.—Whenever in this title an amendment 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 that section or other provision of the Housing and Community Development Act of 1974.

SEC. 802. STATEMENT OF PURPOSE.

Section 602 (42 U.S.C. 5401) is amended by striking the first sentence and inserting the following: ''The Congress declares that the purposes of this title are to reduce the number of personal injuries and deaths and property damage resulting from manufactured home accidents and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction and safety standards for manufactured homes.''.

SEC. 803. DEFINITIONS.

(a) IN GENERAL.—Section 703 (42 U.S.C. 5402) is amended—

(1) in paragraph (2), by striking ''dealer'' and inserting ''retailer'';

(2) in paragraph (12), by striking ''and'' at the end;

(3) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

''(14) 'consensus committee' means the committee established under section 604(a)(7); and

''(15) 'consensus standards development process' means the process by which additions and revisions to the Federal manufactured home construction and safety standards shall be developed and recommended to the Secretary by the consensus committee.''.

(b) CONFORMING AMENDMENTS.—

(1) OCCURRENCES OF ''DEALER''.—The Act (42 U.S.C. 5401 et seq.) is amended by striking ''dealer'' and inserting ''retailer'' in each of the following provisions:

(A) In section 613, each place such term appears.

(B) In section 614(f), each place such term appears.

(C) In section 615(b)(1).

(D) In section 616.

(2) OTHER AMENDMENTS.—The Act (42 U.S.C. 5401 et seq.) is amended—

(A) in section 615(b)(3), by striking ''dealer or dealers'' and inserting ''retailer or retailers''; and

(B) by striking ''dealers'' and inserting ''retailers'' each place such term appears—

(i) in section 615(d);

(ii) in section 615(f); and

(iii) in section 623(c)(9).

SEC. 804. FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS.

Section 604 (42 U.S.C. 5403) is amended—

(1) by striking subsections (a) and (b) and inserting the following new subsections:

''(a) ESTABLISHMENT.—

''(1) AUTHORITY.—The Secretary shall establish, by order, appropriate Federal manufactured home construction and safety standards. Each such Federal manufactured home standard shall be reasonable and shall meet the highest standards of protection, taking into account existing State and local laws relating to manufactured home safety and construction. The Secretary shall issue all such orders pursuant to the consensus standards development process under this subsection. The Secretary may issue orders which are not part of the consensus standards development process only in accordance with subsection (b).

''(2) CONSENSUS STANDARDS DEVELOPMENT PROCESS.—Not later than 180 days after the date of enactment of the National Manufactured Housing Construction and Safety Standards Act of 1996, the Secretary shall enter into a cooperative agreement or establish a relationship with a qualified technical or building code organization to administer the consensus standards development process and establish a consensus committee under paragraph (7). Periodically, the Secretary shall review such organization's performance and may replace the organization upon a finding of need.

''(3) REVISIONS.—The consensus committee established under paragraph (7) shall consider revisions to the Federal manufactured home construction and safety standards and shall submit revised standards to the Secretary at least once during every 2-year period, the first such 2-year period beginning upon the appointment of the consensus committee under paragraph (7). Before submitting proposed revised standards to the Secretary, the consensus committee shall cause the proposed revised standards to be published in the Federal Register, together with a description of the consensus committee's considerations and decisions under subsection (e), and shall provide an opportunity for public comment. Public views and objections shall be presented to the consensus committee in accordance with American National Standards Institute procedures. After such notice and opportunity public comment, the consensus committee shall cause the recommended revisions to the standards and notice of its submission to the Secretary to be published in the Federal Register. Such notice shall describe the circumstances under which the proposed revised standards could become effective.

''(4) REVIEW BY SECRETARY.—The Secretary shall either adopt, modify, or reject the standards submitted by the consensus committee. A final order adopting the standards shall be issued by the Secretary not later than 12 months after the date the standards are submitted to the Secretary by the consensus committee, and shall be published in the Federal Register and become effective pursuant to subsection (c). If the Secretary—

''(A) adopts the standards recommended by the consensus committee, the Secretary may issue a final order directly without further rulemaking;

''(B) determines that any portion of the standards should be rejected because it would jeopardize health or safety or is inconsistent with the purposes of this title, a notice to that effect, together with this reason for rejecting the proposed standard, shall be published in the Federal Register no later than 12 months after the date the standards are submitted to the Secretary by the consensus committee;

''(C) determines that any portion of the standard should be modified because it would jeopardize health or safety or is inconsistent with the purposes of this title—

''(i) such determination shall be made no later that 12 months after the date the standards are submitted to the Secretary by the consensus committee;

''(ii) within such 12-month period, the Secretary shall cause the proposed modified standard to be published in the Federal Register, together with an explanation of the reason for the Secretary's determination that the consensus committee recommendation needs to be modified, and shall provide an opportunity for public comment in accordance with the provisions of section 553 of title 5, United States Code; and

''(iii) the final standard shall become effective pursuant to subsection (c).

''(5) FAILURE TO ACT.—If the Secretary fails to take final action under paragraph (4) and publish notice of the action in the Federal Register within the 12-month period under such paragraph, the recommendations of the consensus committee shall be considered to have been adopted by the Secretary and shall take effect upon the expiration of the 180-day period that begins upon the conclusion of the 12-month period. Within 10 days after the expiration of the 12-month period, the Secretary shall cause to be published in the Federal Register notice of the Secretary's failure to act, the revised standards, and the effective date of the revised standards. Such notice shall be deemed an order of the Secretary approving the revised standards proposed by the consensus committee.

''(6) INTERPRETIVE BULLETINS.—The Secretary may issue interpretive bulletins to clarify the meaning of any Federal manufactured home construction and safety standards, subject to the following requirements:

''(A) REVIEW BY CONSENSUS COMMITTEE.—Before issuing an interpretive bulletin, the Secretary shall submit the proposed bulletin to the consensus committee and the consensus committee shall have 90 days to provide written comments thereon to the Secretary. If the consensus committee fails to act or if the Secretary rejects any significant views recommended by the consensus committee, the Secretary shall explain in writing to the consensus committee, before the bulletin becomes effective, the reasons for such rejection.

''(B) PROPOSALS.—The consensus committee may, from time to time, submit to the Secretary proposals for interpretive bulletins under this subsection. If the Secretary fails to issue or rejects a proposed bulletin within 90 days of its receipt, the Secretary shall be considered to have approved the proposed bulletin and shall immediately issue the bulletin.

''(C) EFFECT.—Interpretative bulletins issued under this paragraph shall become binding without rulemaking.

''(7) CONSENSUS COMMITTEE.—

''(A) PURPOSE.—The consensus committee referred to in paragraph (2) shall have as its purpose providing periodic recommendations to the Secretary to revise and interpret the Federal manufactured home construction and safety standards and carrying out such other functions assigned to the committee under this title. The committee shall be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions.

''(B) MEMBERSHIP.—The consensus committee shall be composed of 25 members who shall be appointed as follows:

''(i) APPOINTMENT BY PROCESS ADMINISTRATOR.—Members shall be appointed by the qualified technical or building code organization that administers the consensus standards development process pursuant to paragraph (2), subject to the approval of the Secretary.

''(ii) BALANCED MEMBERSHIP.—Members shall be appointed in a manner designed to include all interested parties without domination by any single interest category.

''(iii) SELECTION PROCEDURES AND REQUIREMENTS.—Members shall be appointed in accordance with selection procedures for consensus committees promulgated by the American National Standards Institute, except that the American National Standards Institute interest categories shall be modified to ensure representation on the committee by individuals representing the following fields, in equal numbers under each of the following subclauses:

''(I) Manufacturers.

''(II) Retailers, insurers, suppliers, lenders, community owners and private inspection agencies which have a financial interest in the industry.

''(III) Homeowners and consumer representatives.

''(IV) Public officials, such as those from State or local building code enforcement and inspection agencies.

''(V) General interest, including academicians, researchers, architects, engineers, private inspection agencies, and others.

Members of the consensus committee shall be qualified by background and experience to participate in the work of the committee, but members by reason of subclauses (III), (IV), and (V), except the private inspection agencies, may not have a financial interest in the manufactured home industry, unless such bar to participation is waived by the Secretary. The number of members by reason of subclause (V) who represent private inspection agencies may not constitute more than 20 percent of the total number of members by reason of subclause (V). Notwithstanding any other provision of this paragraph, the Secretary shall appoint a member of the consensus committee, who shall not have voting privileges.

''(C) MEETINGS.—The consensus committee shall cause advance notice of all meetings to be published in the Federal Register and all meetings of the committee shall be open to the public.

''(D) AUTHORITY.—Sections 203, 205, 207, and 208 of title 18, United States Code, shall not apply to the members of the consensus committee. Members shall not be considered to be special government employees for purposes of part 2634 of title 5, Code of Federal Regulations. The consensus committee shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act.

''(E) ADMINISTRATION.—The consensus committee and the administering organization shall operate in conformance with American National Standards Institute procedures for the development and coordination of American National Standards and shall apply to such Institute to obtain accreditation.

''(F) STAFF.—The consensus committee shall be provided reasonable staff resources by the administering organization. Upon a showing of need and subject to the approval of the Secretary, the administering organization shall furnish technical support to any of the various interest categories on the consensus committee.

''(b) OTHER ORDERS.—The Secretary may issue orders that are not developed under the procedures set forth in subsection (a) in order to respond to an emergency health or safety issue, or to address issues on which the Secretary determines the consensus committee will not make timely recommendations, but only if the proposed order is first submitted by the Secretary to the consensus committee for review and the committee is afforded 90 days to provide its views on the proposed order to the Secretary. If the consensus committee fails to act within such period or if the Secretary rejects any significant change recommended by the consensus committee, the public notice of the order shall include an explanation of the reasons for the Secretary's action. The Secretary may issue such orders only in accordance with the provisions of section 553 of title 5, United States Code.'';

(2) by striking subsection (e);

(3) in subsection (f), by striking the matter preceding paragraph (1) and inserting the following:

''(e) CONSIDERATIONS IN ESTABLISHING AND INTERPRETING STANDARDS.—The consensus committee, in recommending standards and interpretations, and the Secretary, in establishing standards or issuing interpretations under this section, shall—'';

(4) by striking subsection (g);

(5) in the first sentence of subsection (j), by striking ''subsection (f)'' and inserting ''subsection (e)''; and

(6) by redesignating subsections (h), (i), and (j) as subsections (f), (g), and (h), respectively.

SEC. 805. ABOLISHMENT OF NATIONAL MANUFACTURED HOME ADVISORY COUNCIL.

Section 605 (42 U.S.C. 5404) is hereby repealed.

SEC. 806. PUBLIC INFORMATION.

Section 607 (42 U.S.C. 5406) is amended—

(1) in subsection (a)—

(A) by inserting ''to the Secretary'' after ''submit''; and

(B) by adding at the end the following new sentence: ''Such cost and other information shall be submitted to the consensus committee by the Secretary for its evaluation.'';

(2) in subsection (d), by inserting '', the consensus committee,'' after ''public,''; and

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 807. INSPECTION FEES.

Section 620 (42 U.S.C. 5419) is amended to read as follows:

''SEC. 620. (a) AUTHORITY TO ESTABLISH FEES.—In carrying out the inspections required under this title and in developing standards

pursuant to section 604, the Secretary may establish and impose on manufactured home manufacturers, distributors, and retailers such reasonable fees as may be necessary to offset the expenses incurred by the Secretary in conducting such inspections and administering the consensus standards development process and for developing standards pursuant to section 604(b), and the Secretary may use any fees so collected to pay expenses incurred in connection therewith. Such fees shall only be modified pursuant to rulemaking in accordance with the provisions of section 553 of title 5, United States Code.

''(b) DEPOSIT OF FEES.—Fees collected pursuant to this title shall be deposited in a fund, which is hereby established in the Treasury for deposit of such fees. Amounts in the fund are hereby available for use by the Secretary pursuant to subsection (a). The use of these fees by the Secretary shall not be subject to general or specific limitations on appropriated funds unless use of these fees is specifically addressed in any future appropriations legislation. The Secretary shall provide an annual report to Congress indicating expenditures under this section. The Secretary shall also make available to the public, in accordance with all applicable disclosure laws, regulations, orders, and directives, information pertaining to such funds, including information pertaining to amounts collected, amounts disbursed, and the fund balance.''.

SEC. 808. ELIMINATION OF ANNUAL REPORT REQUIREMENT.

Section 626 (42 U.S.C. 5425) is hereby repealed.

SEC. 809. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of enactment of this Act, except that the amendments shall have no effect on any order or interpretative bulletin that is published as a proposed rule pursuant to the provisions of section 553 of title 5, United States Code, on or before that date.

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate disagree to the amendments of the House, the Senate agree to the request for a conference, and the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer appointed Mr. D'AMATO, Mr. MACK, Mr. FAIRCLOTH, Mr. BOND, Mr. SARBANES, Mr. KERRY and Ms. MOSELEY-BRAUN conferees on the part of the Senate.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nomination on the Executive Calendar: No. 586. I further ask unanimous consent the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nomination considered and confirmed is as follows:

THE JUDICIARY

Nina Gershon, of New York, to be United States District Judge for the Eastern District of New York.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY ACT OF 1996

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3663, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (H.R. 3663) to amend the District of Columbia Self-Government and Governmental Reorganization Act to permit the Council of the District of Columbia to authorize the issuance of revenue bonds with respect to water and sewer facilities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 3663) was deemed read the third time and passed.

ORDERS FOR WEDNESDAY, JULY 31, 1996

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. on Wednesday, July 31; further, that immediately following the prayer, the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate immediately proceed to the consideration of S. 1936, the Nuclear Waste Policy Act.

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

PROGRAM

Mr. GRASSLEY. Mr. President, S. 1936 will be considered under the parameters of a unanimous consent agreement that limits the number of first-degree amendments in order to the bill to eight, with each limited to 1 hour of debate equally divided. Following disposition of S. 1936, the Senate will resume consideration of the transportation appropriations bill. Therefore, rollcall votes can be expected to occur throughout the day and into the evening on Wednesday to complete action on the Nuclear Waste Policy Act and the transportation appropriations bill.

Upon completion of those items just mentioned, the Senate may also be asked to turn to consideration of the VA-HUD appropriations bill. Therefore, a late night session is expected on Wednesday.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate tonight, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:29 p.m., adjourned until Wednesday, July 31, 1996, at 9 a.m.

CONFIRMATION

Executive Nomination Confirmed by the Senate July 30, 1996:

THE JUDICIARY

NINA GERSHON, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.